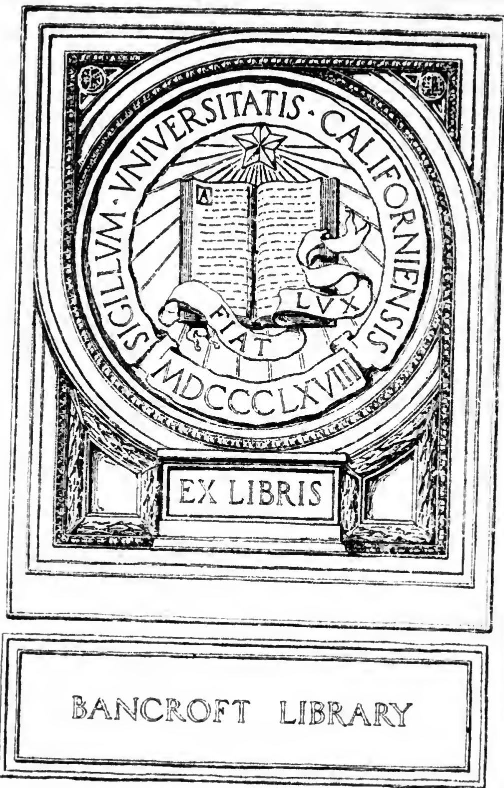

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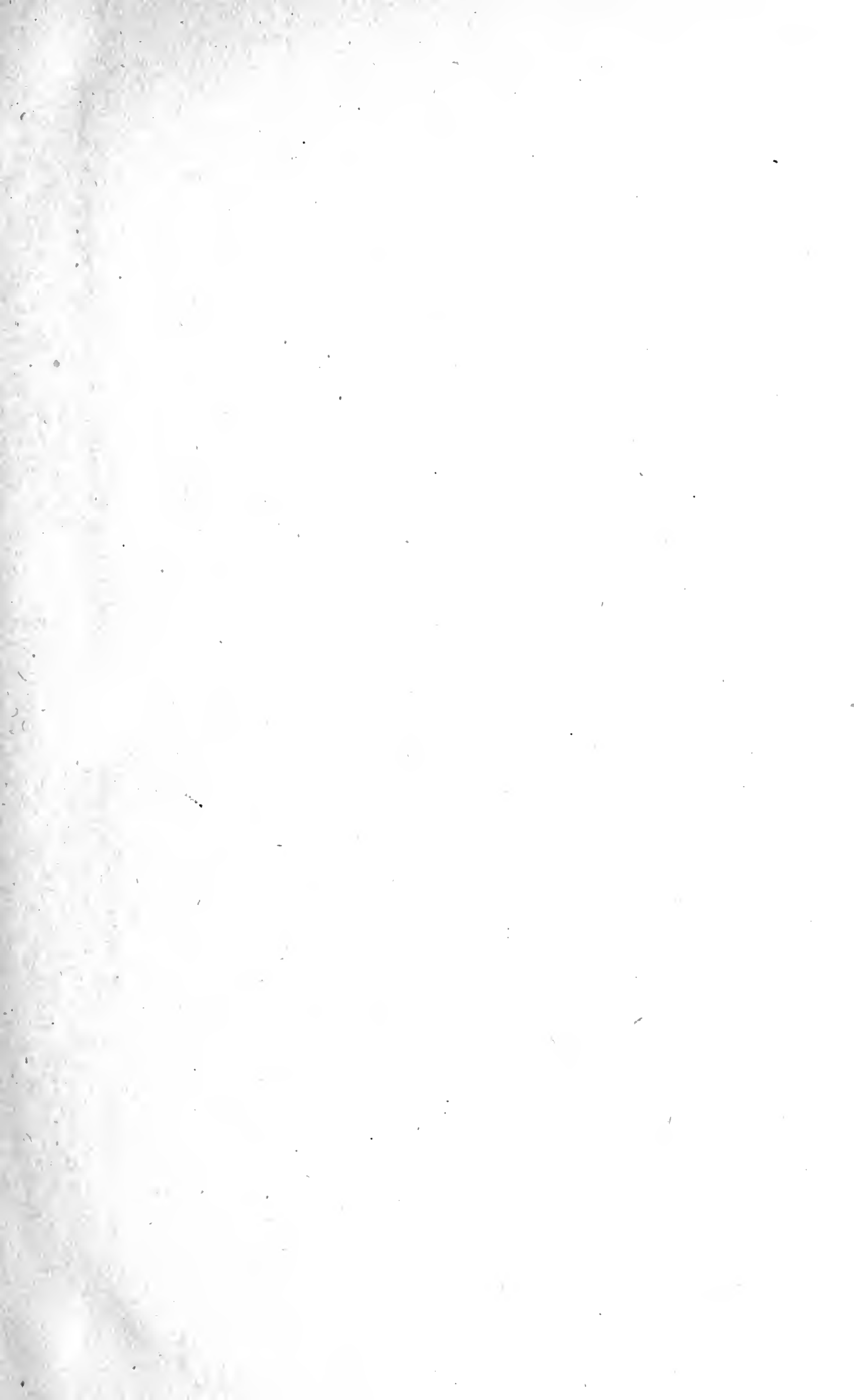

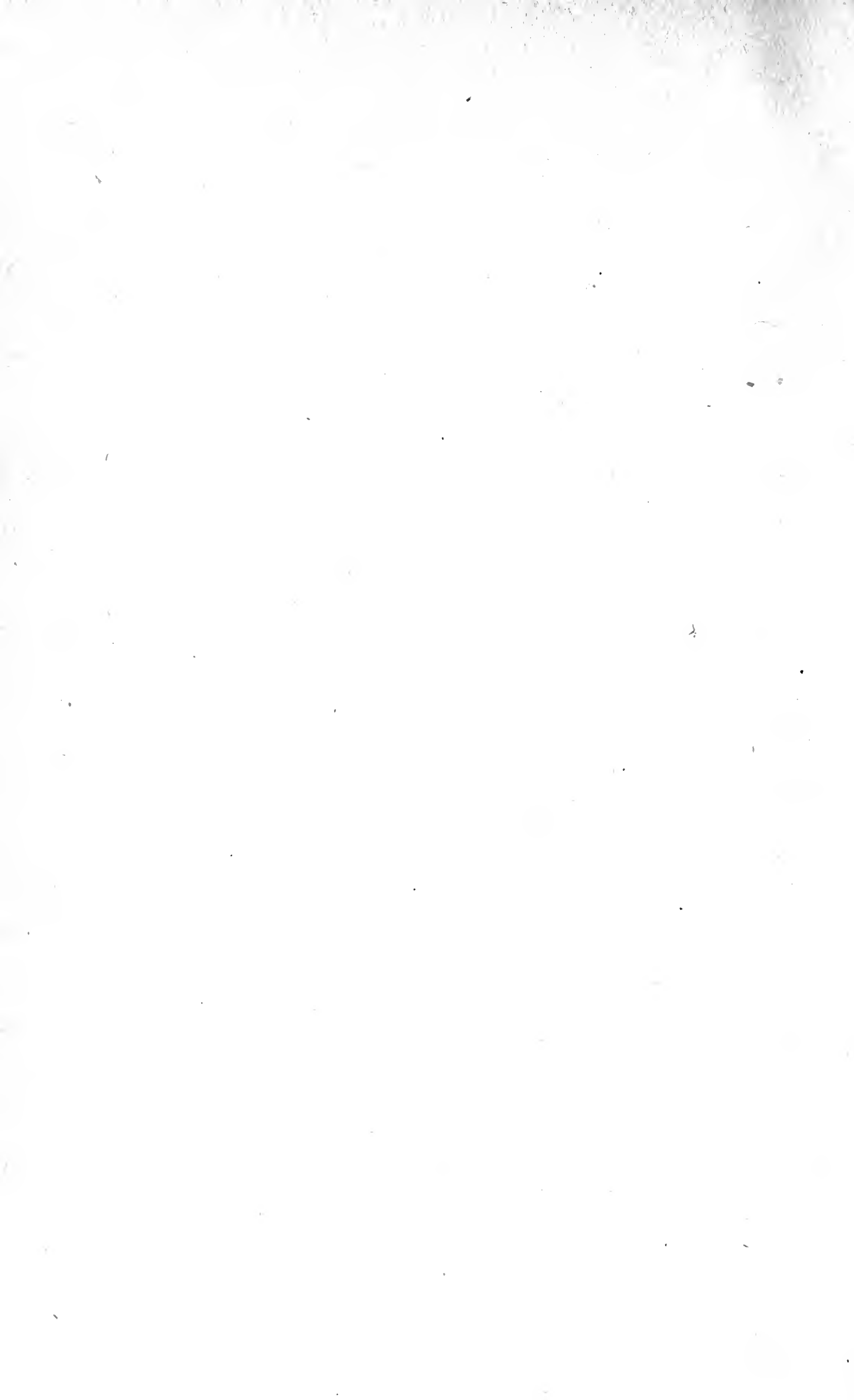

AMERICAN SUPREMACY

VOL. II

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AMERICAN SUPREMACY

THE RISE AND PROGRESS
OF THE LATIN AMERICAN REPUBLICS AND THEIR
RELATIONS TO THE UNITED STATES
UNDER THE MONROE DOCTRINE

BY

GEORGE W. CRICHFIELD

IN TWO VOLUMES

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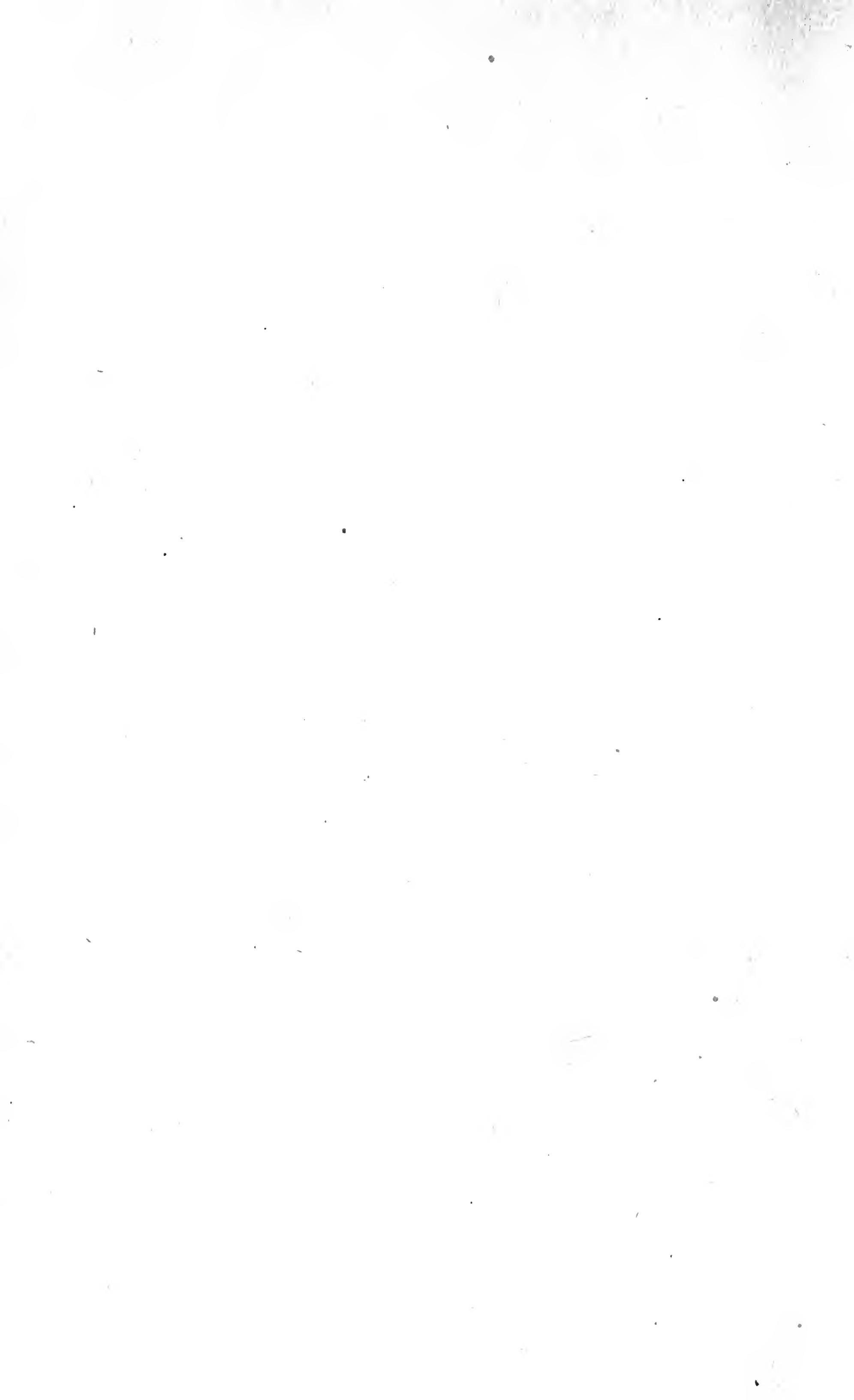

AMERICAN SUPREMACY

Book II

FOREIGNERS IN LATIN AMERICA AND RELATIONS WITH FOREIGN GOVERNMENTS

PART I — THE UNITED STATES ENCOURAGES INVESTMENTS IN LATIN AMERICA

CHAPTER I

AMERICANS IN LATIN AMERICA

THE United States encourages immigration into Latin America, and the making of investments there, yet views with indifference the murder, robbery, imprisonment, or expulsion of its own citizens, and because of the Monroe Doctrine prevents other civilized powers from protecting their own.

ILLUSTRATIVE CASES

From the Government Printing Office at Washington is published what is known as the "Monthly Bulletin of the International Bureau of American Republics — International Union of American Republics." Under the direction and authority of this bureau a large number of other books, reports, pamphlets, etc., are issued relating to Latin-American countries. The "laws" and "constitutions" of the Latin-American countries are set forth in those works with all apparent seriousness, and an important part of the "Monthly Bulletin" is devoted to a description of the alleged "Trade Opportunities in Latin America."

Through these publications and in many other ways American business men are led to infer that the communities of which they treat are republics, like our own, where life and property are safe, and where there is no possibility of usurpation by the executive.

Let us suppose that an American business man, relying upon the good faith of these publications, invests his money in one of these countries, under and by virtue of a most definite contract with the so-called government; let us assume he has studied all the "laws" and the "constitution" of that country, as published by the Bureau of American Republics, and finds these laws to be excellent and a guarantee of security; let us further suppose that under these circumstances he risks his fortune in a "sister" republic. The questions to be asked are: Will his legal and equitable personal and property rights be preserved, and if not, has he any method of defending them? When the day comes in which he finds himself unable to yield further to the repeated levies made upon him by the government; when his property has been destroyed by the revolutionists or by the government itself; when the most clear, explicit, and unmistakable contracts which he had with the government have been violated and tram-

pled upon by the military Jefe, or whoever runs things there; when he himself has been thrown into jail or expelled from the country, — what will the government of the United States do for him?

These are important considerations and questions. The answers to them, drawn from unhappy experience, is — Nothing. The United States government may hold out false hopes, but the redress will never be realized. The Solicitor of our State Department will tell him, with all gravity, that the courts of Venezuela, Colombia, Santo Domingo, etc., are entitled to as much faith and credit as the courts of England, and he will be told to go back and seek relief in the courts of our Sister Republic.

Seek relief in the courts of our Sister Republic! The credulity of government officials is infinite! If our worthy Solicitor really believes that the courts of Venezuela, Santo Domingo, and Colombia are entitled to as full faith and credit as the courts of England, then it would be time to call in the services of an alienist. If he does not believe it, he has no right or business to make the statement he does.

And yet our Solicitor has accurately expressed the policy of the United States government towards these aggregations. Through various methods our government inveigles our citizens into the meshes of bandit chiefs, leaves them there without protection, claiming by a cruel mockery that their courts are "entitled to full faith and credit," while privately the officials of the State Department will say that the American was a d——d fool and ought to have known better than to go there.

If our business man — and this is not an imaginary case — should lay before our State Department the copy of the contract signed between his company and this Sister Republic — a contract in virtue of which his company has spent hundreds of thousands or perhaps millions of dollars in good faith, a contract reasonable in its terms and fair in its provisions, a contract, let us say, authorizing the building of a railway to its own mine or a wharf for its own use, the stipulation being that the company shall not be interfered with nor hampered by government contributions beyond a certain per cent for a given period of years, — and then show our State Department that the military bosses of our Sister have violated every provision of this contract, and after inducing him to invest his money have confiscated his property and ruined him, on the most trivial pretexts or on none at all, — what answer does our State Department make to all this?

These are its precise words in an actual instance of this character: "The government of the United States cannot undertake to compel foreign governments to live up to contracts which they make with our citizens."

Now, taking into account the whole situation, our Monroe Doctrine, the conditions in Latin America, the vast balance of trade against us there, the care and protection we have afforded them and

the ungrateful recompense we have received, the wrecks of our own investments there, the cool and comfortable indifference of our own State Department to the unnumbered outrages on our own citizens as well as on other civilized men, is it too severe to characterize the policy of our government, as expressed in the Monroe Doctrine, towards our own citizens in Latin America, as inconsistent with national honor and self-respect?

I. No Redress for Revolutionary Outrages

The case of the United States *v.* Salvador, decided on May 2, 1902, by the arbitrators, Sir Henry Strong, Chief Justice of Canada, Don M. Dickinson, of Michigan, and Señor Don José Rosa Pacas, of Santa Anna, Salvador, illustrates the treatment accorded the foreigner in these dictatorships. The opinion was rendered by Sir Henry Strong, as follows:

"In 1898 Maurice Gelbtrunk & Co., a partnership firm composed of Maurice Gelbtrunk and Isidore Gelbtrunk, both of whom were American citizens, were engaged in carrying on a mercantile business in the Central American Republic of Salvador.

"In November, 1898, there was a revolution in Salvador, and a revolutionary force occupied the city of Sensuntepeque, where a quantity of merchandise of the value, in silver, of $22,000 and upward belonging to the firm of Gelbtrunk & Co. was stored. There is no dispute as to the value of these goods, or as to the fact of their being the property of Gelbtrunk & Co. The soldiers of the revolutionary army possessed themselves of the goods — looted them, in short — and sold, appropriated, or destroyed them. It does not appear that this was done in carrying out the orders of any officer in authority, or as an act of military necessity, but, so far as it appears, it was an act of lawless violence on the part of the soldiery. . . .

"There is no dispute as to the facts. It is admitted, or cannot be denied, that the members of the firm of Gelbtrunk & Co. were American citizens; that the merchandise looted or destroyed, in respect of which the claim is made, was of the actual value stated; and, further, that it was stolen or destroyed by the soldiers as alleged. The only point for decision is that principally argued, namely, the right, upon established principles of international law, of the United States to reclaim indemnity for a loss accruing to its citizens upon the facts stated.

"The principle which I hold to be applicable to the present case may be thus stated: A citizen or subject of one nation who, in the pursuit of commercial enterprises, carries on trade within the territory and under the protection of the sovereignty of a nation other than his own is to be considered as having cast in his lot with the subjects or citizens of the State in which he resides and carries on business. Whilst on the one hand he enjoys the protection of that State, so far as the police regulations and other advantages are concerned, on the other hand he becomes liable to the political vicissitudes of the country in which he has a commercial domicile, in the same manner as the subject or citizens of that State are liable to the same. The State to which he owes national

allegiance has no right to claim for him as against the nation in which he is resident any other or different treatment, in case of loss by war, — either foreign or civil, — revolution, insurrection, or other internal disturbance caused by organized military force, or by soldiers, than that which the latter country metes out to its own subjects or citizens."

Sir Henry Strong, with the concurrence of both the other Commissioners, disallowed the claim entirely on these grounds.

It is difficult to discuss dispassionately the cold-blooded technical decisions of the Mixed Commissions, where the foreigner in every case gets the worst of it. The Commissions are established to decide in accordance with justice and equity — they forget the rights or wrongs of the case, and get lost in a maze of "international law."

At the outset, it must be evident that international law was never designed to meet the abnormal and anarchistic conditions existing in Latin America. It is more in the nature of "senatorial courtesy," which is a good enough code among high-class gentlemen; and so is "international law" among civilized nations.

Whenever conditions exist for shielding murder, robbery, and extortion, it is time to pause and re-examine the foundations on which these rest. It may be quite correct to say that England or France or Germany would not be responsible for the pillage of revolutionary bodies, because such conduct would not occur once in a century; but to apply the same doctrine to Salvador is the extreme of folly. The American people should know and realize that our fellow citizens cannot be protected in the Latin-American dictatorships under the rules of international law.

Let it be known — for such is indeed the fact, as Sir Henry Strong's decision demonstrates — that when our property is seized, burned, or destroyed by revolutionary bands, there is absolutely no redress. International law should have nothing to say in the matter. "An ounce of prevention is worth a pound of cure," and the best way to obtain redress is to prevent the perpetration of the outrage. In other words, the United States should establish civilized governments in those countries, which would make pillage by revolutionary bands impossible. Until that is done, if international law is not adequate to protect our citizens in Salvador, protection should be afforded them by some other method.

II. Chronic Antagonism displayed towards America

The Latin Americans, whether in Brazil or Costa Rica, whether in Chili or Santo Domingo, are constantly looking for trouble. One would suppose that Brazil would have a different feeling. We pour about $60,000,000 of gold every year into her lap, and it might be supposed that the people would at least be decent towards us. But Brazil is like all our other Sister Republics; only with difficulty does

she restrain her exhibitions of hostility towards our high officials, while our private citizens are as unsafe in Brazil as in Haiti.

An illustration of this inherent trait in the Latin-American race was displayed on the occasion of a visit made to the Upper Amazon by the U. S. S. Wilmington, in April, 1898.

Commander Todd was making a friendly visit to Brazil. On February 28, 1898, Mr. Dawson, of our legation at Rio de Janeiro, sent a memorandum to the Minister of Foreign Affairs, informing him that the Wilmington would shortly visit Brazilian waters, intending to call in turn at nearly all the ports of Brazil, and added:

"I bespeak for the Wilmington the same cordial reception and courtesy which your Excellency's government has always accorded to the ships of my government, and trust that her visit will still further strengthen the feelings of friendship and good-will existing so happily between the two peoples."

Mr. Charles Page Bryan, American Minister at Petropolis, Brazil, received a telegram, on April 6, from the commander of the Wilmington, saying:

"Wilmington cruising up Amazon. No objection by Governor Para, Amazonas. Obtain permit if necessary. Inform governor."

Mr. Bryan at once went to the Minister of Foreign Affairs and informed him of the telegram, calling his attention to the decree of December 7, 1866, which opened the navigation of the high waters of the Amazon and its tributaries to foreign vessels.

"Dr. Magalhaes said that in answer to a telegram from the Governor of Para, he had, although unnecessarily, telegraphed authorization for the Wilmington to enter the Amazon, which message had not reached its destination before the departure of the American gunboat. The minister expressed gratification at the friendly visit of the Wilmington."

Commander Todd was received with courtesy by the Governor at Pará. The American consul at Pará was informed by the Governor, on March 15, that they would cable to the federal government at Rio de Janeiro the desire of Commander Todd to proceed up the Amazon. On March 19 Commander Todd, supposing that all formalities had been complied with by the Brazilian authorities and that all requisite permissions had been given, started up the river.

A great hue and cry was immediately raised by the newspapers, officials, and finally the people, that Commander Todd had forgotten some ceremony or had not bowed and scraped often enough. He was treated with discourtesy by the Governor of the State of Amazonas, and the American consulate at Manaos was stoned by the inhabitants, in all probability at the instigation of the authorities, to display their displeasure at the visit of the Wilmington.

Secretary Hay very tersely remarked :

"You may assure the government of Brazil that further visits of the public vessels of the United States to the inland waters of Brazil are not to be expected until the assurance of a friendly reception is accorded them. I am confident that when the government of Brazil is made aware of the lack of courtesy with which an American ship on a friendly visit has been treated in Brazilian waters, it cannot fail to regret the action of its agents!"

III. Can murder Americans with Impunity

The difficulty of obtaining evidence on which to convict murderers in Latin America is illustrated by the report of Robert Grant, United States Consular Agent, Florianopolis, Brazil, dated January 24, 1895, in which he described the murder of American sailors from the vessel Isaiah Stetson, at Santa Catharina, Brazil, on December 16, 1894. The sailors were Nils Johnson, Ingvald Ramstad, Charles Jonson, and Fred Jensen. They were on shore leave, and at about dark were attacked by Brazilian soldiers and hacked all to pieces with knives and sabres. No known motive existed for the attack; there was no quarrel or other disturbance preceding the affray. Mr. Grant said, "Ingvald Ramstad had eight wounds, two of which were mortal; Charles Jonson four, one of them being mortal; and Fred Jensen also four dangerous; Nil Johnson had a number of slight cuts in his back."

The captain stated that he had tried to obtain medical aid for the men, but had been unsuccessful; several doctors to whom he applied refused to go with him to see the men. They were finally taken to a hospital, where two of the men died shortly afterward. Mr. Grant states: "During the police investigation further witnesses have been examined. In the beginning the proceedings were very difficult, as the first who were examined, fearing the revenge of the soldiers on the witnesses who should denounce them, denied all knowledge of the affair. Some of them who had seen it all had in fact been threatened with death by the soldiers in case they should make any disclosures. Fortunately indications were discovered which forced some of them to confess that they had witnessed the crime, and to name the perpetrators, who are proved to have been Durval Peixoto, Manoel Cerino, Joad Galdino de Oliveira, and Elias Torquato da Roza, all soldiers of the Seventh Battalion of Infantry, stationed at this city, who seem to have been led to the perpetration of this odious crime only by their perverse instincts, as it has been impossible to discover any other motive."

In this case the courts inflicted a sentence of eight years of imprisonment on some of the criminals, but whether it was ever carried out is unknown.

IV. Castro's Savage Decree

To show how extreme is the danger to which foreigners are open in Venezuela, a reference to a typical incident is given which occurred at the commencement of the English-German blockade.

At the moment when John Hay, Secretary of State, was permitting Herbert W. Bowen, United States Minister to Venezuela, to engage in a most blustering and demagogic defence of Castro, and American newspapers were uttering thinly veiled threats of war against the allies, the true nature and character of our Sister Republics was disclosed by the following official orders:

(Official Bulletin of the State of Aragua, December 9, 1902. National Telegraph from Miraflores to La Victoria.)

December 9, 1902—6.40 p.m.

For the President of the State: In the most felonious and unjust manner the German and English ships of war have committed the most unusual assault likely to be recorded in history in the port of La Guaira, having captured, without previous notice of war, the steamers Crespo, Ossun, Totumo, and Margarita. Therefore, if the same thing should take place in that port, proceed so as to be able to prepare yourself immediately to repel force with force, holding myself responsible to all of you, together with your companions, that the national honor shall remain unsullied in every case. Also you shall proceed to take prisoners all the Germans and Englishmen who may be there, *without any exception, in order that if the foreign rapacity should be directed against you they shall be the first to be fired upon. Thus also you will take possession of all their properties.*

Acknowledge receipt and fulfilment.

Cipriano Castro.

(National Telegraph from La Victoria to Caracas.)

December 9, 1902.

For Gen. Cipriano Castro, Caracas: The constitutional President of the State, impressed by the contents of your telegram in which you announced the great assault committed to-day in the port of La Guaira against the national sovereignty by English and German men-of-war, has sent me notice by telegram to notify you that in any case the State of Aragua will show itself equal to its great duties in this new and tremendous test to which the destiny of our beloved Venezuela is subjected.

The Araguan people *en masse*, and as soon as they had notice of the nefarious occurrence, hastened to protest with strong words of devout patriotism against the foreigners who thus trample upon the principles of international law, proclaimed and observed by all the civilized nations of the globe. Likewise the Chief Executive charges me to say to you that he and his companions pledge themselves to you that the national honor will remain unsullied in any case, since they will follow you steadfastly along this line until they show not only to those who spurn our inalienable prerogatives as

citizens of a free and independent nation, but also to the entire world, that we are the worthy descendants of the forefathers who instituted and crowned with success the great national emancipation.

Your positive orders concerning the most important affair to which this telegram relates have been communicated to all the districts of the State.

FRANCISCO E. RANGEL.

(Circular Telegram.)

LA VICTORIA, December 9, 1902.

TO THE CIVIL CHIEFS OF THE STATE: Immediately after receiving this telegram — that is to say, without losing even a single moment — you shall proceed to place under arrest all the Germans and Englishmen who may be domiciled in each and every one of the municipalities which compose the district under your command. *You shall likewise proceed to take possession of the properties which belong to the above-mentioned German and English subjects.*

In order that you may understand the rapid and efficacious way in which you ought to fulfil this order, let it be sufficient for you to know that it has been communicated directly from the worthy President of the Republic, General Castro, as a reprisal of the grave assault committed to-day against the national sovereignty in the port of La Guaira by ships of Germany and England.

God and federation.

FRANCISCO E. RANGEL.

Similar and even more savage orders were given to the authorities of all the other States, and every one was given to understand that in the event of any Venezuelan being injured or killed by the blockading forces, every Englishman and German in Venezuela would be assassinated without further ceremony. The wildest excitement prevailed in all parts of the country. Every Englishman and German was seized and taken to hell-holes called *carceles;* they were surrounded by frenzied mobs both on the way to the jails and after they got there.

Fortunately the State Department at Washington, for once in its history, was aroused to the extreme importance of activity; it feared to be placed before the world as the sponsor for savages engaged in the wholesale butchery of civilized men. The acting American minister in Caracas and every American consul in Venezuela were ordered by cable to take all English and German citizens in Venezuela under the immediate protection of the United States, to hoist the United States flag over all English and German property, and to notify Castro and every official of the Venezuelan government that if they should assassinate any English or German citizen they would do it at their peril. By these energetic and stern measures the English and Germans were released from jail in a few days, although they continued to suffer many indignities.

Secretary Hay seems to have been singularly modest with reference to his part in this memorable affair. While it was doubtless his decisive energy which prevented a massacre which would have shamed the horrors of St. Bartholomew, he does not seem to have even mentioned the matter to the American newspapers, and nothing seems to have been published about it at that time in this country. Doubtless, down deep in his heart, Secretary Hay felt the humiliation of our association with, and moral responsibility for, a dictator who could issue such a decree as that above quoted.

V. Officials of Nicaragua murder American

The following letter from Secretary Gresham to Minister Baker, at Managua, under date of May 12, 1894, explains itself:

"Instructions were addressed to you on the 26th ultimo at Bluefields, directing you to investigate the killing of William Wilson by the Nicaraguan Acting Governor of Rama on the 22d of March last, and to secure, if possible, the arrest and trial of his slayer. Since then the report of Captain Watson, of the San Francisco, on the same subject, has been received, as also your despatch of May 2, on the general situation at Bluefields, in which reference is made to the Wilson murder.

"Captain Watson's report, and the evidence in the case, leave no doubt that Wilson was shot by the Acting Governor of Rama, Norberto Arguello, without provocation; that Noyles, one of his policemen, was accessory to the murder and was himself only prevented from actually despatching Wilson by the snapping of his cartridge; that the dying man was most harshly treated by his unfeeling jailers, and that the promises of the superior agents of Nicaragua touching the arrest and punishment of the murderer have not been kept. Notwithstanding these specific orders, stated to have been given by Señor Madriz to Governor Torres, of Rama, to arrest Arguello and hold him for trial, the Governor has permitted the murderer to go at large. It is notorious and uncontradicted that Arguello has been at liberty in the town of Bluefields under circumstances which establish the culpability of Governor Torres, in sheltering him from the consequences of his crime, and emphasize the indifference of the superior Nicaraguan agents to their plain duty in the matter. More than this, Governor Torres has replaced Arguello's accomplice, Noyles, in active police service, he having been, as you report, promoted to the position of chief of police of the town of Rama.

"The whole business is marked by such contempt for the most obvious dictates of justice, and such disregard of the simplest obligations of international duty, as to call for urgent and solemn protest on the part of this government.

"I am directed by the President to instruct you to demand that the government of Nicaragua shall manifest its disapproval of the conduct of its officers in terms admitting of no misapprehension. You will ask that the culprit, Arguello, be brought to immediate trial, that his protector, Governor Torres, be dismissed from office; that the murderer's accomplice, Noyles, be dealt with according to his deserts, and that besides the atonement so to be made by the government of Nicaragua for the action of its agents in this case, it

shall adopt such measures as will leave no doubt of its sincere purpose and ability to protect the lives and interest of the peaceable citizens of the United States dwelling in the reservation and to punish crimes committed against them."

Mr. Secretary Gresham's manly and straightforward letter produced no result. Arguello the murderer had been in jail, and was purposely permitted to escape; his accomplice had been appointed chief of police.

H. Guzman, Nicaraguan Minister to Washington, took up the matter directly with Secretary Gresham, and on July 9, 1894, wrote him a letter, saying:

"As I have had the honor to state to you orally on more than one occasion, my government is firmly convinced that the government of the United States has received erroneous reports as well relative to the murder of the American citizen Wilson as in regard to the supposed complicity of the Commissioner of Mosquito, Señor Lacayo, in the flight of the criminal Arguello."

Mr. Guzman further claimed that his government had acted in good faith and that it had made all possible efforts to recapture the murderer.

Arguello was not brought to trial; Noyles, the accomplice, was not dealt with according to his just deserts; and the government of Nicaragua has not to this day adopted "such measures as will leave no doubt of its sincere purpose and ability to protect the lives and interests of the peaceable citizens of the United States dwelling there."

VI. An American imprisoned and expelled

Mr. J. H. Hollander, an American citizen, had lived in Central America many years; he owned large coffee plantations, and the finest printing-establishment in Central America, worth fifty or sixty thousand dollars.

What happened to Mr. Hollander is thus succinctly stated by the Secretary of State, on January 30, 1896, in a letter to the American minister, Mr. Young, at Guatemala.

"The admitted facts are, as outlined in the instruction to you of May 6, 1893, as follows:

"In the year 1888 Mr. Hall was the minister of the United States at Guatemala, Mr. Hosmer was the United States consul-general there, and Hollander, an American citizen, was residing there publishing a newspaper by license of the government of Guatemala. During that year Mr. Hollander made affidavit before Mr. Hosmer that Mr. Hall and certain high officials of Guatemala had been beneficiaries of a fraudulent overissue of bonds of that government; that Mr. Hall's participation therein was shown by the books of certain bankers there, and that a certificate of a prominent citizen, Mr. Herrera, showed the complicity of the Guatemalan officials. Hollander filed the alleged certificate with Mr. Hosmer. Mr.

Hall, hearing of these charges, asked Mr. Hosmer for Hollander's affidavits, the alleged certificate of Herrera, etc. These were refused, but copies were given him, and he, Mr. Hall, brought the matter to the attention of the Guatemalan government, asking an investigation. The investigation was held, and resulted in Hollander's arrest and imprisonment on February 8, 1899, on a charge of calumny and forgery. Before Hollander's trial came on, and while he was in prison, he was, on May 14, 1899, expelled from the country by an executive decree. The expulsion followed immediately on the decree, and he was not even allowed to see his family or to make any business arrangements whatever."

Why did American Minister Hall require the man's expulsion from the country without his being given a chance to produce his evidence in court? Would not any honest man want the evidence produced, so that his exoneration might be complete?

If our Sister Republic Guatemala has such a fine and independent judiciary, if everything is so pure there, how does it happen that a Dictator can take a case away from the court, open the doors of a jail, and expel the prisoner from the country? How did it happen that they did not follow their custom and assassinate the man in jail? Was it because the United States government, through Mr. Hosmer, had been apprised of the facts in the case, so that such a proceeding would have involved too much risk?

Mr. Hollander, as stated by Secretary Olney, was held in prison three months awaiting trial. "Then suddenly and without notice the judicial proceeding was abandoned, and the accused was taken from prison, carried under guard to the coast, and put upon an outgoing vessel, under executive decree of expulsion, leaving his family, his business, and his property unprovided for. He was literally hurled out of the country, leaving wife and children behind, business, property, everything dear to him and dependent upon him."

But that is the way they do things in our Sister Republics.

VII. The Honduran Idea of National Honor

Secretary John Hay, November 16, 1899, wrote Minister Hunter at Guatemala:

"The report of Commander Logan, commanding officer of the United States steamship Machias, dated from Puerto Cortez, Honduras, February 21, 1899, conclusively shows that Mr. Frank Pears, an American citizen, was cruelly murdered by a sentinel on post near the office of the Pittsburg and Honduras Timber Company, in San Pedro, Honduras, on the evening of January 31, 1899, while innocently passing between his office and his house."

A pretended court of inquiry of the military examined five witnesses and found the sentry, Cruz Rosalez, not guilty of any crime, and released him. The Mayor de Plaza, Duarte, in command of the troops at San Pedro, approved this finding. In Central America and the more

barbarous South American countries there is "martial law" about half the time, and anarchy the other half. Half-breed soldiers are stationed everywhere as sentinels, by day and night, and a traveller is continually accosted by "*Quien viva,*" from sentinels who habitually point their guns at the person addressed. Frequently the sentinel will shout "*Quien viva*" and shoot at the same instant. A man walking in the street anywhere is liable to be brought to a halt in this manner at any time.

This was what happened to Mr. Frank Pears. He left his office to go to his house, a short distance away, totally unarmed. Only a few moments before, Mr. J. H. Russell had passed twice over the same spot. Mr. Pears came along, and was shot down in cold blood.

Secretary Hay says:

"It is also in evidence that not more than six seconds intervened between the first challenge and the sentry's fatal fire. Mr. Pears made the statement immediately after the shooting: 'I was standing in the light of the street lamp, where the sentinel could see me perfectly well. I did not know what to do, but thought the best thing to do was to stand perfectly still, which I did, facing the sentinel.' He added that when he heard the challenge, he did not think it was meant for him, but thought it best not to move."

Secretary Hay adds:

"It is evident, therefore, that Mr. Frank Pears, unarmed, was shot by the sentinel, Cruz Rosalez, a few seconds after he was first challenged, upon a spot where he had a perfect right to be, neither accompanied nor in the act of flight, and in full light of a street lamp. The act was committed on the evening of January 31, 1899, two days after martial law had ceased and the civil law had been restored. . . . Taking into account all of the circumstances that have been recited, the shooting of Mr. Frank Pears can be regarded as nothing short of a cruel murder of a defenceless man, innocently passing from his office to his house."

Secretary Hay demanded that the government of Honduras arrest and punish the murderer, and pay the family of the deceased $10,000 indemnity.

"President" Terencia Sierra wanted to "arbitrate." Of course, this would put the thing off for ten or fifteen years, so that some other Dictator would have to pay the bill.

On May 11, 1899, Dr. Angel Ugarte, Foreign Minister of Honduras, presented to American Minister W. Godfrey Hunter a letter from the "President," expressing the utmost surprise that the American government should refuse to arbitrate; that "the government of Honduras is friendly to the United States and animated by sentiments of sympathy toward the Americans resident here; that the actual President uses his influence to a very marked degree for the protection of American interests in Honduras, and furthers their development to

the utmost limit; . . . and that other American interests which have taken root in Honduras would be notably injured by any precipitate and undue action on the part of that government." Those who are interested in following the intolerable quibbling, the lying statements, the depraved reasoning, the abominable subterfuges, which the officials of our Sister Republics can resort to to justify the cold-blooded assassination of an unarmed, innocent man, should read the replies made by Cæsar Bonilla, Minister of Foreign Affairs of Honduras, to Mr. Hunter (printed on pages 679 to 685, House Documents, Vol. I, 1900, 56th Congress, 2d Session) enclosing the iniquitous findings of their alleged courts.

Suffice it to say that on July 6, 1899, Minister Hunter reported, in regard to the Pears case, that the government of Honduras has replied with a denial of responsibility and a refusal of his demand.

We now arrive at the stage of vacillation. Washington has made a peremptory demand, and the dictatorship of Bonilla has defied Washington. What does Washington do?

John Hay, the Secretary of State, waits nine months, and then recollects the Pears case. He writes a letter to Mr. Hunter, dated March 20, 1900, — a long letter, a convincing letter, in good literary style, perfect in diction and in argument. He concludes:

"But that Pears was wantonly shot through the sentinel's gross ignorance of his duty, and through the gross ignorance or negligence of the officers of the guard and of the post, in failing properly to instruct him, cannot be doubted. Either this is true, or the alternative conclusion is inevitable, that he was intentionally shot. In either case it was done in violation of the military ordinance. And there has appeared no serious purpose on the part of the Honduran government to punish either the sentinel or his superiors. Under all the circumstances the government of Honduras ought in equity to pay the indemnity demanded."

To this lame, halt, blind, and impotent conclusion have we come! In "equity" the Honduras "government" "ought" to pay. A year ago we demanded the punishment of the assassin and the payment of damages; when the threat was made that if we did not "go slow," our other interests there would suffer, we went slow. Now we have got to the point where we fondly hope that our Sister Republic will in "equity," or in some other way, pay something.

On July 22, 1900, Mr. Hay wrote Mr. Hunter:

"The Department is not disposed to require the punishment of the sentinel who killed Pears. His punishment was not mentioned in instruction No. 236, of March 20, last. But delay in responding to the demand for indemnity should not be allowed to pass unnoticed."

Indemnity! The very word fills one with deep disgust. What we want in Honduras is safety, not indemnity. To imprison the black

wretch who shot Pears, for say twenty years, in company with a lot of his superior officers, would have done more to render the lives of foreigners safe in Honduras than forty thousand demands for indemnity. But there can never be real safety until a civilized government is established.

In the mean time certain members of the Pears family who had financial interests in Tegucigalpa, Honduras, and lived there, saw that the Quixotic performance of the State Department was doing them vastly more harm than good. It accomplished absolutely nothing, it made no pretence of doing anything, it afforded no protection whatever to them. The men saw that their only safety lay in kneeling to the Dictator of Honduras, or their own lives might be sacrificed, as had been that of their brother, Frank, while Washington continued its prating about ethics. So B. B. Pears, W. W. Pears, and Harry P. Pears signed a statement requesting the State Department to suspend action, and stating: "We make this request especially in view of the friendly disposition manifested by President Sierra to us personally and to our business interests here."

Translated into plain English:

> "We make this request especially in view of the disposition manifested by President Sierra to have every one of us assassinated the same as our brother Frank was, if the State Department says anything more about the matter; and knowing that the only protection that will be afforded us by the United States government will be a gust of hot air, we adopt the only available method of obviating new and more terrible disasters, by professing sentiments of veneration and affection for the ruling Dictator, though we feel them not."

The mother and seven children of the Pears family were not satisfied with the suspension of the claim. Secretary Hay thereupon made a new demand for $10,000 indemnity. Sidney B. Everett, Chargé d'Affaires ad interim, who seems to have understood the code of honor of our Sister Republic pretty thoroughly, wrote, October 12, 1900:

> "I have demanded the immediate payment of $10,000 United States gold to be paid through this legation, in order that there may be no trick used of extorting receipts from representatives of the Pears family."

The indemnity was finally paid, after much more of balderdash had been written by the Honduran officials about their rights under "international law," etc.

The so-called President of Honduras, in decreeing the payment, said, among other things:

> "Whereas it is true that even if we have been unsuccessful in reducing the sum of the indemnity claimed, yet we have still obtained definitely that the

demand be abandoned for the punishment of the sentry, Cruz Rosalez, which was the most dangerous portion of the claim set forth; in that way the honor of the country remaining untouched."

"Honor," indeed! A civilized government would have punished the murderer without being asked; but the "honor" of Honduras finds its highest ideal in the protection of assassins, especially if the victims of the assassins be Americans.

VIII. Murderers of Americans escape

On September 3, 1903, Ambassador Powell Clayton, from the city of Mexico, wrote Secretary Hay:

"I have the honor to transmit herewith a copy of my note of the 7th instant to the foreign office, relating to the murder of the American citizen, John E. Week, at Zamora, State of Michoacan, about March 3d last. . . .

"In connection with this subject, I respectfully invite the attention of the Department to the following cases where American citizens were murdered, resulting in the non-apprehension of the murderers: Benjamin Y. Garcia, Victor Gerster, J. S. Stanfield, Philip Nesdal, J. W. Cullen, and William Savage.

"In the case of J. S. Stanfield, although his supposed murderer, J. H. Greenwell, was arrested by the Mexican authorities, no efficient effort seems to have been made to prosecute the case.

"I consider that the apparent inefficiency on the part of the Mexican officials in the aforesaid cases calls for strong representations to the Mexican government by this embassy, and in view of the fact that the representations that have been made to the foreign office heretofore have been barren of results it is my opinion that the subject in general should be brought to the attention of the President."

Edw. B. Light, United States Consular Agent, Guadalajara, Mexico, September 5, 1903, reported that the murderer of Philip Nesdal, an American, at Navidad, this State, about October 2 last, is still at large.

"I am unable to learn that the murderer of William Savage has been tried for his crime. He was arrested and thrown into jail. While there he killed a companion who occupied the same cell. It was stated that he would be tried, sentenced, and shot for that offence." . . .

Mr. Clayton, on November 17, 1903, reports "that the murderer of William Savage, although heretofore apprehended, has escaped from prison and is still at large."

IX. Haiti vents its Spleen on an American

On November 18, 1892, John B. Terres, Vice-Consul General at Port au Prince, Haiti, wrote Secretary of State John W. Foster, calling

his attention to the imprisonment of Mr. Frederick Mevs, of the American firm, Green, Kenaebel & Co., of Boston, under aggravating circumstances. This firm was doing a big business, and paid to the government of Haiti about $75,000 a year in duties.

On the 12th of November, at about seven o'clock P. M., Mr. Mevs left his store carrying a small parcel, and proceeded to the wharf to send a letter by one of the boats. Arriving at the private house of the Secretary of the Port, near by, he left the package. Returning he secured the package, and himself and the Secretary of the Port proceeded to a neighboring inn for a drink. He then started home, when on one of the principal streets he was surrounded by an armed force of guards, accompanied by an aide-de-camp of the President of Haiti, a man who had recently been tried in the courts of assassination. Mr. Mevs was thrown into a filthy, vermin-infested cell among criminals of the lowest grade.

Under the Haitian law a person accused of crime must be given a hearing within forty-eight hours; but in spite of every effort which the United States Vice-Consul General could make, Mr. Mevs was kept in this Haitian hell-hole for twenty-two days, held without bail, without benefit of trial, on the allegation of having smuggled a package, worth not to exceed two dollars, when every official in Haiti knew the accusation to be a wilful lie.

Mr. Terres said regarding the arrest: "It was only a pretext to show their animosity against an American. The night of his arrest Mr. Mevs offered the Commissaire of the government $200 as a deposit for his appearance the next day. The reply was, 'No; not for a million,' and he was sent to prison."

On November 25 Mr. Terres wrote to Secretary Foster: "I have never known of a case of a person accused of smuggling, except the case of Captain Potter, where they were confined in prison, and it is my conviction that it is not for the crime committed that our citizen is held in prison, but to show a disrespect for our citizens and government."

On December 1 the trial of Mr. Mevs was held, and not the slightest evidence was produced against him. The President's aide-de-camp was the only prosecuting witness, and even he, self-evident liar, made no pretence that he had seen Mr. Mevs smuggling, — he was simply suspicious. Half a dozen reputable witnesses swore that they had seen Mr. Mevs leave his own store with the parcel in question.

United States Minister John S. Durham was sent to investigate the matter. He reported that Haiti had not treated Dr. Terres, our Vice-Consul General, with proper courtesy, in ignoring his official communications, and that "a gross outrage had been perpetrated upon Mr. Mevs." He endeavored to secure some satisfaction from the Haitian Dictator, but met with the usual subterfuges, and on January 6 1893, asked for the U. S. S. Atlanta to be sent to Haiti to co-operate with him.

On February 9, 1893, "Mr. Foster informs Mr. Durham that while diplomatic settlement may be hoped for, the President does not wish to use naval force to enforce reparation. He instructs him to continue a firm course diplomatically, and to suggest that negotiations should not be embarrassed by the question of amount, which if reasonable, would be acceptable."

The above instructions from Secretary Foster aptly illustrate the impotency of American diplomacy in these countries to date. United States Minister John S. Durham replied as follows, on February 11, 1893:

"You instruct me to continue my efforts in the case of Mr. Mevs, using diplomatic means, as the President is unwilling to resort to naval force while there seems to be hope of an amicable arrangement. You also say that the principle involved is more important, and you suggest that a hint to that effect might be advisable.

"From the beginning of my work on this case, except in making the request, I have dealt entirely with the principle. In the absence of instructions from the Department, I asked for the sum named by Mr. Mevs in his letter transmitted to you by Dr. Terres in December. Thus far we have received no reply to that despatch from the Vice-Consul General.

"At daylight yesterday the Atlanta was seen to be getting up steam, and immediately it was accepted that you had abandoned the case. To attempt under existing conditions to treat for a small sum of money when the Haitian government declines to pay anything, would only expose the legation to greater humiliation than it has already suffered in this case. In this phase of the matter, affecting my official usefulness and my personal respect, and requiring actual presence here to form an intelligent opinion, I presume you will permit me to exercise some discretion. The two replies of the Minister of Foreign Relations make no reference to the sum of money. The minister says clearly that he decides that Mr. Mevs has no right to reparation.

"To give out the impression that a naval vessel was sent here to support the rights of an American citizen, and to leave the legation without that support at the moment when the Haitian government refuses to do anything and its officials are publicly accused of making 'another bluff,' leaves all American interests in a situation which, in my opinion, deserves your consideration. It was in view of those facts and because I see no dignified way out of the difficulty, except to insist on an immediate settlement, that I sent you my telegram of yesterday that the Haitian government had refused to accept the principle; that I had spared no effort to settle diplomatically; that the withdrawal of the Atlanta is regarded as an abandonment of the case; that the legation's position grows more embarrassing, and that Americans are apprehensive. I urge that the admiral be sent here, on his way North, to settle the case."

It is only fair, however, to the government in Washington, to add that it finally secured the settlement of the case by the payment of $6000 to Mr. Mevs. But the important thing is to establish civilized governments in these barbarous countries; indemnities will not then be necessary. To prevent the outrage is better than all the naval

demonstrations in the world, after the fact. A man, at least an American, cannot do business in Haiti unless he is continually backed up by the United States government and war-ships. That bars out the great mass of small business men who have no influence in Washington, and to whose wrongs no heed is paid, because the amounts involved are relatively small. No man can have the American minister at his heels, to help him out every moment of his time in one of these countries; so that a small man cannot do business there at all, and even the big concerns find it practically impossible.

What is wanted is not indemnity for wrongs done, but security against the perpetration of outrages, — in a word, a civilized government.

X. All Foreigners regarded as Public Enemies

On June 8, 1902, Mr. Beaupré, from Bogotá, wrote to Secretary Hay as follows:

> "Transit in the country is as difficult as ever. In the case of foreigners desiring passports the authorities are very strict indeed. On the appointment of General Fernandez as Minister of War he issued a note stating that all foreigners were to be considered as enemies of the government, and that passports were on no account to be granted to them. This order had the effect to confine foreigners to the capital for a time, although it is a notorious fact that native 'amigos del gobierno' were allowed free transit during that period."

The foreign legations, in order to get foreigners out of the predicament, issued "Certificates of Neutrality" to them, but our State Department condemned these certificates as being incompetent, irresponsible, and absurd, and demanded that the passports of the United States government should be respected by the Colombian authorities. Acting Secretary of State, David J. Hill, under date of July 22, 1902, wrote to Mr. Beaupré:

> "The declaration of the Minister of War that all foreigners should be deemed public enemies cannot but be regarded as gratuitously offensive, and this government must remonstrate against such characterization of its citizens availing themselves of their conventional rights of visit and sojourn in Colombia. . . . The Colombian government should be energetically advised that this government cannot acquiesce in such an extraordinary measure toward citizens of the United States."

XI. Outrage on Shields by Chilian Officials

Patrick Shields, aged thirty, a native of Ireland, was a fireman on the American Steamer Keweenaw, which was at Valparaiso, Chili, in October, 1891. On the 24th of that month, Shields, with other seamen,

obtained twenty-four hours' shore leave. At that time there was great bitterness in Valparaiso against Americans, and Shields was almost immediately arrested, wholly without cause, and taken to prison. He was turned loose the next morning, but immediately rearrested, and subjected to a course of brutal treatment which aptly illustrates the condition of civilization to which our Sister Republic had attained a brief fourteen years ago.

Shields was beaten, knocked down repeatedly, kicked, and maltreated by the policemen and soldiers at the prison, until he was weak and helpless from loss of blood. Andrew McKinstrey, a fellow prisoner, stated that "Shields was struck on the back of the head by the policeman with a broom handle, which knocked him down. On arising from the ground the said Shields was again struck by the same policeman on the head with the broom handle and again felled to the ground, where he remained for about five minutes insensible; when he arose from the ground, he was bleeding from the nose and mouth."

Dr. S. S. White, surgeon on the steamship Baltimore, who gave medical assistance to Shields upon his release from the Chilian prison, reported to William B. McCreery, United States Consul at Valparaiso, under date of November 20, 1891:

> "I examined Patrick Shields, a fireman belonging to the steamer Keweenaw, and found his condition to be as follows: A severe contusion on back of head, a small cut over right eye, and his body severely bruised, both front and back, from nape of neck to end of spine, of such severity as to render him unfit for duty for several weeks. His condition is now somewhat improved, but his nervous system has sustained a shock from which months will be necessary for recovery, if he is ever as physically sound as he was at the time he received the injury."

Captain William H. Jenkins, Master of the Keweenaw, testified that when Shields left the ship, he was a good able-bodied man; as good a man as they had aboard the ship, and bright intellectually; that he came back a physical wreck, black and blue from the nape of his neck down to his hips; that he had lost a great deal of blood, and this had left him in a palsied and stupid condition, and that he did not seem to be in his right mind, and was still in this condition at the date of the captain's testimony, some two months after the maltreatment was inflicted.

The evidence showed that Shields had almost nothing to eat during the seven or eight days he was in prison; that he was denied the privilege of communicating with the captain of his ship or with the American consul, and his pitiable condition was only ascertained and his release secured after repeated inquiries at the prison by his comrades from the ship. Of course, there were some "official reports" on this case, some inquiries by the State Department, a few pages added to this record of wrongs suffered by civilized men in these bloody

Latin-American dictatorships; and that is all. The Chilian authorities made many suave promises to investigate, and then the dreamy mists of *mañana* stole over the scene, and Shields was left with his scars to secure such redress as he may in the next world.

XIII. Albers loses his Tobacco Crop

A press despatch from Washington, dated September 13, 1905, says:

"There is good reason to believe that the State Department has perfected plans for sending a war-ship to assist William L. Merry, United States Minister to Costa Rica and Nicaragua, in securing satisfaction from the Nicaraguan government, which now holds William S. Albers, an American citizen, together with his brother, in prison at Ocotal, on charges believed by the State Department to be thoroughly unfounded.

"Ocotal is a small place in the province of Segovia, Nicaragua, a few miles from the Honduras line. Albers has been in jail there for many weeks on charges of resisting the authorities, defaming the Executive, and threatening to shoot some officials of the government who went to his place of business to carry away unjustly a season's crop of tobacco.

"The Albers case has been before the State Department for several weeks and has now assumed somewhat serious proportions. It has not been established that this country proposes to make a naval demonstration to secure the release of Mr. Albers, but it is believed that a war-ship will be sent to a Costa Rican port, where Mr. Merry will be taken aboard, and set down as near as possible to Ocotal, on the Nicaraguan coast, from where he will travel overland to the two Americans imprisoned. Ocotal is about seventy miles from the coast.

"If this plan is carried out, the gunboat Princeton, now at Panama, will likely be selected for the mission. Mr. Merry is now at San José, the capital of Costa Rica, and from there he has been conducting an investigation of the Albers case. The State Department refuses to make public Mr. Merry's report on the Albers case, and absolutely nothing is forthcoming concerning what this government intends to do about the matter.

"It has been pretty well established, however, that the two Americans are in jail for nothing more than balking the plans of certain government officials interested especially in the government tobacco monopoly. Albers refused to accede to certain demands on the part of these officials, or their hirelings, and the matter was carried to President Zelaya, entirely misrepresented to him, and the arrest of Albers resulted.

"William S. Albers is the manager in Nicaragua of the Limon Company of Philadelphia, which is extensively interested in gold and silver mining and wheat and tobacco growing in Nicaragua. A brother, whose name is not known here, is associated with him and was arrested at the same time. The headquarters of the company are at Jalapa, in the province of Segovia. The Albers brothers were arrested many weeks ago, the exact date not being definitely known. Mrs. William S. Albers, who was in Nicaragua with her husband, is on her way to this country.

"Out of the arrest of Albers grew another involving Chester E. Donaldson,

the American consul at Managua, whose exequatur, when he offered protest against Albers's arrest, was cancelled by the Nicaraguan government. Accordingly Mr. Donaldson's official usefulness at Managua or anywhere else in Nicaragua came to an end, but he has furnished a vivid report of the case to the State Department.

"Much light was thrown on the Albers case by a letter which became public here to-day from an American traveller in Central America, who looked into the case of Albers and wrote to a friend in Baltimore of it. The letter has come to Washington, and its contents became known to-day. The man who wrote the letter is in Central America on a scientific mission. He is of good standing and character, and what he says can be taken as absolutely reliable. The facts set forth in the letter show conclusively that Albers was unjustly thrown into jail. This was weeks ago, and the Nicaraguan government assured the State Department that the man would have an immediate trial, but the State Department is not altogether satisfied with the situation.

"Of the original trouble between Albers and the authorities the writer says:

"'It appears that in March, 1905, a company of armed men, led by one claiming to be a lieutenant in the Nicaraguan army and alleging that they were sent by the government tobacco syndicate, demanded of Albers that he permit them to enter and carry away his stock of tobacco for the season.

"'Albers replied that he had no contraband tobacco; that he had paid the government in full; that he held regular official receipts for all tobacco in his stores. He furthermore said that the first man who tried to enter his store would be shot, but that he would permit the lieutenant to go through with one man and inspect the tobacco in order that his assertions might be proved. This was done, and no contraband tobacco was found.

"'It will be observed in this connection that Nicaragua is a country overburdened with government monopolies, the tobacco monopoly being one of the most unpopular and profitable. In this and in the liquor monopoly it is freely stated that high officials are largely concerned; hence they are naturally interested in protecting them.

"'Following the search of the Limon Company's premises, the Executive at Managua, the capital of Nicaragua, issued a decree ordering that any one holding tobacco in stock should obtain a permit; should he fail to do this, his tobacco would be confiscated, whereupon several Americans holding tobacco applied for permits, but were refused them. These American holders thereupon arranged to sell their tobacco to the syndicate, with the exception of Albers, who had in his place American employees, who could have enforced his threats if necessary. This caused the syndicate managers to misrepresent and exaggerate the action of Albers when they reported it to the President.

"'As a result, charges of resistance to authority and violent abuse of the Executive (which is a serious offence in many Latin-American countries) were made at the court of the district situated at Ocotal. Judicial warrants for arrest were issued, and both the Alberses were taken into custody while peaceably walking the street near their place of business. They were taken to Ocotal, where, as far as is now known to me, they are held in custody pending the verdict of the court, which it may be safely assumed will convict them.'"

It is evident that the Nicaraguan "Generals" undertook to rob Albers of his tobacco crop. To a certainty they will succeed in the end. But if he had corn or cotton or cattle, it would be just the same, — if he had anything, they would extort it out of him on some pretext and lock him up in jail for protesting. The theory that President Zelaya has been misled excites laughter from any one who knows these countries.

The devious methods of the crooked in mind are still further disclosed by later developments in the Albers case. Again, we will let the press despatches tell the story:

WASHINGTON, Sept. 30, 1905. — The relations between this government and Nicaragua concerning the case of William S. Albers, an American imprisoned in Nicaragua, have not been bettered by a recent discovery on the part of the State Department that Señor Corea, the Nicaraguan minister here, is trying to secure facts detrimental to the character of Albers. It is presumed that whatever information the minister can obtain will be presented to the State Department to show that Albers is the sort of man who would be likely to break the laws of Nicaragua and who accordingly should not receive a great deal of consideration by this government.

The new phase of the situation came unexpectedly to the State Department when several letters written by the minister to persons he believed knew Albers were received, saying that any information they had about Albers would be given to the State Department and not to the minister. The minister's letters read about like this:

"Understanding that you have acquaintance with William S. Albers, can you furnish me with information, with regard to his private life or in connection with his business enterprises?"

While the plan adopted by the minister is perhaps thoroughly legitimate, officers of the State Department think it is somewhat below the standard of diplomacy.

What a business in which a minister of a Sister Republic finds himself! A minister is supposed to be a gentleman; he surely wears shoes, and is likely a "Doctor." When the representative of Nicaragua stoops to such methods, how could it be expected that the common people of that Republic — the Spanish-Indian half-breeds, — should respect the amenities of civilization?

Suppose Mr. Albers were as great a miscreant as the minister of Nicaragua seems by his conduct to be, would that excuse the so-called government for robbing him, stealing his tobacco and locking him up in jail?

Mr. Albers was sentenced later to three years' imprisonment, and his property confiscated.

CHAPTER II

IMMIGRATION INTO LATIN AMERICA

I. Increase in Population of the Civilized Powers

THE only hope for the salvation of Latin America lies in immigration from Europe and the United States and in the influx of foreign capital; and these can only be fulfilled when decent, stable governments are established. There is no other hope for progress. Theorists may talk about evolution, and countries working out their own salvation, but such lines of argument do not apply here.

These Spanish-Indian-Negro mixtures would not, in a thousand years, of their own growth or development become civilized.

The increase in population in the great civilized countries of the world is directly due to the facts that their peoples live under good governments, that they are able to devote their attention to the production and distribution of food and raiment, and that they can live in comfortable houses and under decent sanitary conditions. Thus it is that we find in Germany an increase in population from 24,631,396 in 1616, to 56,367,178 in 1900, — an increase of 31,535,782, notwithstanding the enormous number of emigrants who went to the United States and other foreign countries. The annual rate of increase has never been less than .61 per cent (during the war in 1871), and in 1900 it was 1.5 per cent.

In 1801 England and Wales had a population of 8,892,536; in 1901 their population was 32,527,843, and they have sent out millions of emigrants to other countries during this period, among them nearly three millions to the United States.

The increase in the population of the Russian Empire is about two millions a year at the present time.

Europe, as a whole, has more than doubled its population in the past century. Of the 400,000,000 which now inhabit that continent, 225,000,000 have been gained within the past hundred years by natural increase.

The record of the United States is even more wonderful; it has more than trebled its population in fifty years, and its steady growth may be seen from the following table:

Year	Native Born	Foreign Born	Total	Per Cent Foreign Born
1850	20,947,274	2,244,602	23,191,876	9.7
1860	27,304,624	4,138,697	31,443,321	13.2
1870	32,991,142	5,567,229	38,558,371	16.8
1880	43,475,840	6,679,943	50,155,783	13.3
1890	53,761,652	9,308,104	63,069,756	14.7
1900	65,843,302	10,460,085	76,303,387	13.6

There is nothing in the history of the world to compare with the above record. Why this marvellous increase in population? Because we have a good government; because a man here can labor and reap the reward of his efforts; because our people are not killed off by revolutionary bands and bandit governments; because they are not compelled to live in filth and squalor, without sanitary conveniences; because they are given an opportunity to accumulate property so that they can provide their families with proper houses, proper clothing, and necessary medical attendance.

Of our vast population, 22,000,000 have come from Europe within the past century, and are arriving at the rate of nearly a million a year.

IMMIGRATION INTO THE UNITED STATES BY DECENNIAL PERIODS FROM 1821 TO 1900, AND FROM 1901 TO 1903

Period	Number	Annual Average
1789 to 1820 (estimated)	250,000	12,000
1821 to 1830 (decade)	143,439	14,343
1831 to 1840	599,125	59,912
1841 to 1850	1,713,251	171,325
1851 to 1860	2,598,214	259,821
1861 to 1870	2,314,824	231,482
1871 to 1880	2,812,191	281,219
1881 to 1890	5,246,613	524,661
1891 to 1900	3,844,420	384,442
1901 to 1903 (three years)	1,993,707	664,569

Add to the above the immigrants coming from Canada, and we have a grand total of 22,000,000 or more.

It is unnecessary to remind the reader of the great blessing which this immigration as a whole has been to our country, for it is universally recognized and admitted by all intelligent thinkers. Three fourths of these immigrants have settled in twelve States, — Connecticut, Massachusetts, New York, New Jersey, Pennsylvania, Ohio, Illinois, Wisconsin, Michigan, Iowa, Minnesota, and Cali-

fornia. These States contain one half the population of the Union and nearly two thirds of its productive wealth.

If the United States should increase in population for the next fifty years at the same rate as the past fifty, then in 1950 it would have a population of 250,000,000.

II. Immigration into Chili, Brazil, and Argentina

What a different story have we to tell of Latin America! Leaving aside Mexico and Cuba, it is a matter of grave doubt whether the population of the rest of Latin America is greater now than it was fifty years ago. Chili and Argentina would show an increase, and possibly Costa Rica, but there are others that surely have fewer inhabitants now than they had in 1850. It is hard to prove or disprove any assertions which may be made on this subject, because there are no statistics in Latin America worthy of the slightest credence. An analysis of the estimates which the respective governments have furnished may aid us in forming some opinion on this matter.

The returns of an alleged census in Brazil for 1890 showed an area of 3,218,130 square miles and a population of 14,333,915, being 4½ per square mile. In 1900 another "census" was taken, which showed an actual decrease of population. This census was rejected by the government, and its results were never published, but why it should be considered less reliable than that of 1890 is difficult to understand. The figures of 1890 gave 6,302,198 white, 4,638,495 mixed breeds, 2,097,426 negroes, and 1,295,796 Indians, — figures which on their face are wholly unreliable. It is not probable that there are 6,000,000 white people in all Latin America, including Mexico and Cuba, and it is morally certain that there is not the fourth of that number in Brazil.

At one time considerable immigration took place into Brazil from Europe, and from 1871 to 1892 it is stated that 860,991 immigrants entered the country. But the number of immigrants has been steadily decreasing in recent years. There are still considerable numbers of Italians, Portuguese, and Spaniards going into Brazil, but the number of other nationalities is of little importance. In the year 1898 there were 669 Austrians, 477 Germans, 247 French, 137 Russians, 129 Swiss, and not enough English or Americans to be worthy of record.

The area of Argentina is given as 1,135,840 square miles, and its population according to the "census" of 1895 was 3,954,911, or less than 3½ per square mile. An estimate was made by the government in 1902 which gave 5,022,240 as the population; but like all other Latin-American estimates, it is wholly unreliable. It is unquestionably true, however, that Argentina is increasing both in population and wealth. It is beyond doubt the leading country of South America,

and has received more European immigrants in the past hundred years than all the rest of them combined. In 1895 it was stated that there were 886,395 foreigners in Argentina, divided as follows:

Italians	492,636	English	21,788	Portuguese	2,269
Spaniards	198,685	Swiss	14,789	Austrians	12,803
French	94,098	Germans	17,143	Others	32,184

The hope for the future of Argentina is in these people. There are so many of them in proportion to the total population that it is morally certain Argentina will progress and not go backward. It is true that immigration into Argentina appears insignificant in comparison with that of the United States, and it has fallen off in recent years, as the following table shows:

	1898	1899	1900	1901	1902
Immigrants	67,130	84,442	84,851	90,127	57,992
Emigrants	30,802	38,397	38,334	48,697	50,427
Net gain	36,328	46,045	46,517	41,430	7,565

Chili does not receive anything like the immigration of Argentina, but its population is increasing, though at a very slow rate. The "census" of 1885 gave a population of 2,527,320, and in 1895 the figures were 2,712,145, — an increase of 184,825 in ten years. Making allowance for Latin-American figures, it may be said that Chili is probably a little more than holding her own. In 1895 it was stated that there was an European population of 42,000 in Chili, of which 7000 were Germans and 6000 English.

Subsequent chapters will enter into the immigration problem of both Brazil and Chili, from which it will appear that there are grave difficulties confronting the European who goes to those countries. The Colonization Agency of Chili in Europe states that the number of immigrants entering that country has been as follows in the years named: in 1898, 564; 1899, 548; 1900, 936; 1901, 1449; 1902, 864.

III. Immigration into the Northern Part of South America

Leaving out of consideration Brazil, Argentina, and Chili, there is not a South American or Central American country which is receiving any immigration of the slightest consequence.

In Peru, which is the most advanced of the remaining countries, there has been nothing resembling a census since 1876, when the number of inhabitants was given at 2,660,881, of whom 13.8 per cent were alleged to be whites, 1.9 negroes, 57.6 Indians, 24.8 mestizos (mixed breeds), and 1.9 Chinese and other Asiatics. In addition there

are large numbers of uncivilized Indians, but how many is absolutely unknown. The best observers do not believe that the population of Peru has increased at all within the past thirty years.

Everything relating to the population and area of Ecuador is pure guesswork. It is supposed to have an area of 116,000 square miles and a population of 1,200,000, of which about 400,000 are mixed breeds, and nearly all of the balance Indians. There are no Europeans to speak of in Ecuador, perhaps not a baker's dozen of Americans, and no immigration. Colombia, Bolivia, Venezuela — what is the use of discussing them? There are fewer Europeans in them than there were twenty-five years ago, and they are growing fewer. There are strong reasons for believing that the populations of these countries would show an absolute decrease within the past twenty-five years. The birth rate is sufficiently high, — higher perhaps than in any other part of the world, — but they are killed off in the never-ceasing wars, and the unsanitary conditions are almost as fatal as the revolutions.

That the immigration into Paraguay is insignificant is indicated by the returns for the following years: 1897, number of immigrants, 197; 1898, 337; 1899, 340; 1900, 170.

Santo Domingo and Haiti are very poor. Think of a "Republic" where a white man is not allowed to own property! Think of the United States government and its Monroe Doctrine supporting such infamy! Of course there is no immigration to them from Europe or from anywhere else.

Occasionally one of the Central American Republics conceives a desire for immigrants, and offers large inducements, which are promptly heralded broadcast. In 1903 Honduras had one of these spells; it sent word to its consuls everywhere to entice the immigrant and head him in that direction. "Considerando — That the government over which General Manuel Bonilla presides, wishing to further the progress of this Republic," etc., — that is the way they begin. Attached to General Bonilla's "whereases" and "resolves" was a copy of the so-called land laws of Honduras, with glimpses of the beatific bliss awaiting the immigrant when he should apply for a title to his land.

"In order to acquire national lands the party interested, or his representative, presents to the collector of revenue of the department in which the land is situated a denouncement specifying the limits and name of the tract. Upon the determination of the land as national by the duly constituted authority, a surveyor is nominated to measure the denounced land, and after this has been done, the administrator of rents advertises the land for sale at public auction, fixing the day and hour therefor. The party making the denouncement is given the preference at this sale, and if his bid be not accepted as the highest, the party securing the land reimburses the one making the denouncement for the amount of expense incurred in applying for the land. As soon as the sale is approved, the selling price must be paid."

What, for instance, would be the amount of that surveyor's bill? At the least, five hundred dollars, possibly a thousand. Every dollar which the immigrant owned, or which he could obtain, would be taken away from him for stamps, recorder's fees, surveyor's fees, stamps for surveyor's plans, fees for the judge, fees for witnesses, more stamps, fees for advertising in the newspaper, forty more kinds of stamps for forty more kinds of documents for which forty other fees must be paid; and in the end the chances are that the title to the land would be confiscated on some pretext which no one on earth would ever be cunning enough to think of except a half-breed Spanish-Indian.

About the time General Bonilla started his immigration scheme there was a revolution in Honduras. There was some heavy fighting around Tegucigalpa, and it capitulated on April 15, 1903.

Some of the pleasures which the immigrants might anticipate were outlined by a proclamation issued on that date by the Chief of Police, "prescribing the rights and duties of foreigners," as follows:

"The government will continue to guarantee, effectually, the rights of foreigners who comply strictly with their duty of neutrality, to which they are obligated by their situation and nationality. But it is made known to them, nevertheless, that the police and martial laws, together with the law of foreigners in force in the country, apply to them if they fail in their duty of neutrality in violation of this proclamation.

"All tavern or hotel proprietors shall furnish daily lists of the names of the guests at their establishments, and the police shall at all times have access to these hostelries."

Charming! Everywhere you go, be held up with a "*Quien viva*" and a Mauser levelled at you, in the hands of some ignorant black brute of a soldier, who probably got his present job by murdering somebody; passports from the military Jefe for every move you make, and if you and your passport fall into the hands of some opposing military Jefe, you may be shot for not "complying with your duty of neutrality."

And this is the country to invite immigrants!

IV. Great Need of Immigration

Dr. S. Ponce de Leon, in *Estudios Social,* clearly expresses the great need of immigration. He says:

"Immigration will enable the elements of work and good order to overcome the warlike and turbulent habits which we have received as our inheritance from our long fratricidal wars; it will unlock our forests, where a vigorous vegetation guarantees a rich and abundant harvest and seasonable fruits; it will people our extensive coasts, and found cities, emporiums of wealth, where we can reach in a short time the splendor of the flower of the New World; it will cultivate the immense regions of the Orinoco and the Rio Negro, bathed by a hundred navigable rivers, which constitutes our admirable hydrography, one of the best if not the first in the world; it will exploit, also, our mines of

incomparable richness, which even to-day, with imperfect methods, produce pieces of gold of weight and notable purity; it will develop in our country important industries, which will make of Venezuela not only an agricultural nation of the first order, but also industrial in no slight degree; it will increase our national income, because of the prosperity of agriculture and the increased consumption; it will bring, in fine, not alone the capital of labor, order, economy, agricultural knowledge, good habits and physical vigor, but also effective capital, which will augment our wealth and well-being. . . .

"But if, when immigrants arrive, because of their industry and habits of economy they begin to prosper and form an estate, and we see in this prosperity a usurpation of what we think belongs to us by right; if we consider them as rivals who have come to deprive us of property, exploiting our national resources, which we ourselves might have worked; if, instead of following their example, being industrious and economical, we take advantage of their condition as being strangers, and sow obstacles in their path; if our governments, instead of constituting themselves as protectors of those who come with their capital, good order, and industry to aid us in the work of our civilization, leave them abandoned, without knowledge of the country, without friends, exposed to the exploitation of the native inhabitants, — then they have placed an insuperable obstacle in the way of immigration, which will turn aside in its course to seek other countries where it encounters this necessary protection, and those sentiments of fraternity which one desires so much to find, who has abandoned his relatives, his memories of childhood, all which constitutes home and country, which are only abandoned with the heart filled with pain, and the eyes swollen from tears, and the recollection of which fills us with sorrow and homesickness."

V. German Colonies in Southern Brazil

(From United States Consular Clerk Murphy, Frankfort, Germany.)

The *Frankfurter Zeitung*, on July 5, 1903, published a letter from its correspondent at Porto Alegre, Brazil, relative to the colonial enterprises in Southern Brazil in which German capital is invested. The report contains the following information, which may be found of interest:

1. The Hansa Company, successor to a colonization society founded in 1848, has its seat in Hamburg. Its property consists chiefly of fertile territory in the hinterland of Dona Francisca. Dona Francisca is a German-speaking centre of 30,000 souls in the northern half of the State of Santa Catharina. The growth of this colony has been slow, owing to the same small immigration which has impeded the development of all the German colonies in Brazil, the number of the Hansa's immigrants seldom exceeding 1000 in a year.

2. It was intended that the Rio Grande Northwest Company, or, more correctly speaking, the Rio Grande Northwestern Railway Company, should penetrate in a semicircle the wilderness of the northern and northwestern part of the State of Rio Grande do Sul, near the frontier of that State, and the company secured the right to acquire the ownership of all the unoccupied lands for a distance of fifteen kilometres (nine miles) on both sides of its proposed lines. Of the railway lines, only the section Tupaceretam-Sao Borja, connecting the railway system of the East with the traffic centres of the Rio

Uruguay, was expected to prove profitable. The remaining sections, about eight hundred kilometres (four hundred and eighty miles) in length, intersect a wilderness, for the most part uninhabited, and extend not to, but around various traffic centres. It is therefore evident that the original concessionnaires had in mind less the construction of a railway than the acquisition of an extensive tract of fertile territory, which could not have been secured if the proposal to build a railway had not been used as an argument. A clause in the concession provided that, in case the railway was not built, the lands could nevertheless be acquired by the concessionnaires, or by a colonization society formed by them for the purpose, through payment at a small fixed rate. This society was formed and now has its seat in Berlin. The most favorably located lands northeast of Sao Luiz, not far from the Rio Uruguay, have already been acquired, but the number of settlers so far secured has been small. Furthermore, there seems to be a lack of money, and, while the rumors of approaching bankruptcy are no doubt false, it is nevertheless certain that the original paid-in capital of 500,000 marks ($119,000) is insufficient for such a great enterprise. Probably efforts are now being made to attract new investments of capital.

3. Dr. Hermann Meyer's colonization enterprise includes the colony of New Wurttemberg, in the municipality of Cruz Alta, and the colonies of Xingu, Boi Preto, and Guarita, in the municipality of Palmeira. Dr. Meyer himself resides in Germany, and relegates the management of his colonial enterprise to agents. Cruz Alta is a railway station. Of all the important private colonies in Rio Grande do Sul, those of Dr. Meyer have the best location, and, consequently, settlers are arriving in comparatively satisfactory numbers. These settlers are, however, chiefly old colonists or the sons of such colonists. Few immigrants are arriving directly from Germany. According to official statistics, Brazil received altogether in 1902 only 500 new German-speaking immigrants, including Germans from Austria and Switzerland. More than half of these went to Santa Catharina, while the remainder joined the State colonies in Rio Grande do Sul, where assistance is granted to them of a kind which cannot well be offered by private colonizers, — such, for instance, as regular wages for road building and small allowances for the erection of houses and the clearing of forests.

4. The colonization enterprise of Messrs. Doerken & Haeusler has apparently secured, mostly for one year, the refusal of certain lands in the hinterland of the old colonies, and this territory will probably be acquired if the organization of a colonial company can be completed before the expiration of the year. The land in question, it is true, is somewhat distant from the present highways of traffic, and the old and experienced colonists and their sons are apt, in changing their homes, to avoid such regions. But if a strong German emigration to Rio Grande do Sul ever sets in, these districts can also be gradually opened and colonized.

Three circumstances operate unfavorably against the development of German colonization in Southern Brazil: (1) The difficulty of securing sufficient capital; (2) the smallness of immigration from Germany; and (3) the official method of surveying and partitioning the land, which has proved very unsatisfactory.

The difficulty as to capital will no doubt be overcome so soon as one of the present companies succeeds in rapidly settling its lands and thus securing for its stockholders satisfactory profits.

The smallness of immigration results from the withdrawal by the Brazilian government of its offer of free transportation to emigrants from Europe, — a system which enabled even destitute families formerly to settle in Brazil and acquire real estate on credit. The former emigration from Germany, amounting to as much as 5000 persons in a single year, consisted chiefly of such destitute families whose success in the Brazilian colonies was dependent upon the assistance granted to them by the State. Prosperous farmers who were unable or unwilling to engage in rough work, as well as members of the educated classes of Europe, were successfully warned against emigration to Brazil. It must be admitted that this advice was well founded, judging by the results reached under that system of colonization, — a plan which attracted from Germany mostly farm hands, factory employees, and small tradesmen. Those emigrants who met with any degree of success frequently wrote to their friends at home, inviting them to follow, most of the difficulty being removed for them by the offer of free transportation all the way to the chosen colony. As soon, however, as the offer of free transportation was withdrawn, in the ninth decade of the past century, the immigration of destitute and half-destitute families ceased, and, as this was the only class which had been interested in the movement, German emigration to Southern Brazil at once decreased to its present limits, which are so unsatisfactory to the colonization societies.

The fundamental principle of the system formerly employed by the Brazilian government to facilitate the settlement of its uninhabited territories by European emigrants was good, and tens of thousands of German emigrants and their descendants owe to it their relative prosperity at the present time. Not, however, until practical farmers meet with sufficient success to reward their enterprise in trying their fortunes in Southern Brazil will a new impulse be given to emigration from Germany, and even then the mass of the emigrants should not be destitute families, but persons provided with considerable capital.

In this connection it may be of interest to state that the Hamburg-American Line is now offering to German emigrants destined for the German colony Hansa, in the State of Santa Catharina, Southern Brazil, transportation to Sao Francisco for 125 marks ($29.75), which is considerably less than the rate for the much shorter trip to New York.

George H. Murphy, Consular Clerk.

Frankfort, Germany, August 10, 1903.

The statistics of German immigration into South America are as follows for the years named:

Year	Brazil	All Other South America
1898	821	1139
1899	896	997
1900	364	330
1901	402	271
1902	807	263
1903	693	252
1904	355	316

VI. Immigration into Chili

(From Theodore Child's "Spanish-American Republics.")

The documents circulated in Europe by Chilian emigration agents are full of misrepresentations of the most culpable kind. One of these pamphlets, for instance, which I now have before me, states the Chilian dollar to be equivalent to four shillings, whereas it is only equal to two shillings. It speaks of gold and silver coins as the current money, whereas such coins are not to be had, the only current money being nickel and notes. The farm laborer's wages are stated to be £7 to £10 sterling a month, whereas the average throughout the country cannot be put safely at more than 50 or 60 Chilian cents a day, or, in other words, 30 to 32 shillings a month, with the food and lodging described on a previous page. Engine drivers are stated to earn 10 to 16 shillings a day. The payment of drivers on the State railways is as follows: express trains, $6; first-class passenger drivers, $5.50; first-class freight, $5.25; second-class freight, $4.80; third-class freight, $4.20, in Chilian paper. The pamphlet again exaggerates and fails to state that the labor market is overstocked with drivers, mechanics, and artisans of all kinds, who, after having been lured out by the fallacious statements of interested emigration agents, have been glad to get work as waiters, porters, or anything in order not to starve. The same pamphlet affirms that the wages of navvies are from £6 to £8 sterling a month. The wages actually paid to navvies by the State railways are $1 to $1.20 a day in Santiago, and 80 cents, Chilian currency, a day in the country, together with the usual rations of bread and beans. We need not enter further into details. In the way of wages Chili has nothing to offer, and as regards farm laborers and navvies, she has her own peons, who, like their namesakes, the pawns at chess, do a great deal of work and get neither credit nor reward. No European laborers can compete with the native half-Indian Chilian peons, who live on bread, beans, and water, and sleep on the bare ground, deriving no other comfort or privilege than that of getting drunk on Sunday, keeping up the dream on Monday, recovering their senses on Tuesday, and resuming work on Wednesday. Such is the ordinary routine. As for artisans and skilled workmen, let them beware of going out to Chili, unless they have a written contract before they start; and let both skilled and unskilled reflect that Chili is a Spanish country, and that the first thing they have to do on arriving is to learn a new language, otherwise success is impossible. As for actual colonization, the prospects, as far as my inquiries showed, are poor, and unless the immigrant has at least a thousand dollars capital, he would do better not to risk the attempt. Even if he has a little capital he will meet with many disappointments. In the first place, the land to be distributed on certain conditions among colonists is in Araucania, especially in the country around Angol and Traiguen, where there is a very thin coat of black soil on a bed of clay. This soil, after four successive crops, would be absolutely exhausted, and need artificial fertilization, and the only economical way of cultivating it is to grow a crop one year and let the land lie fallow the next. Furthermore, the soil is so light that wherever there is a slope or a plain exposed to the wind, it is necessary to leave the scrub and bushes to hold the land together and prevent it blowing away; hence it is impossible to use machinery, whether for cultivating or harvesting, and hence the persistency of primitive agricultural methods, which astonish the visitor until

he discovers the real reason. Supposing that the immigrant is content to struggle against all these disadvantages, he will still find other disagreeable surprises. As we have said above, the territory of Araucania, having been only recently delivered over to civil authority, is still inadequately policed. There are many bands of brigands, and murders, outrages, and robberies are frequent, while justice is rare and hardly obtained. The colonists in these parts have certainly double cause to complain, for they have been brought out on false pretences by the Chilian government, and the Chilian government fails even to assure them unmolested enjoyment of the poor lot which they have been obliged to accept. From conversation with several of the most intelligent colonists, I learned that one mistake made by the government officials is to treat the colonists as if they were ordinary peons. In no country except England is the distinction of classes more marked than in Chili. There are the white men and the common herd, the creoles and the peons, the former lords and undisputed masters, the latter resigned and unresisting slaves. In Chili it is not the custom even to say "thank you" to a servant or a peon for any service he may render you; he is considered to be an inferior being altogether. The Chilenos, said my immigrant interlocutors, are accustomed to be tyrannized by their superiors in rank; the peons and the common people in general have had their *amour propre* destroyed by years of oppression on the part of the police and of the administration: they bow their heads before the storm, accept any treatment, and eat their beans with stolid resignation. The colonists, whether French, Swiss, German, or English, have different temperaments; they have ideas of justice and reason, and when they protest against obvious tyranny or absurdity of administrative decisions, their attitude is qualified by the government officials as "insolent" and "insubordinate." In short, the poor colonists get robbed and maltreated both by professional brigands and brigandish officials, and when they present their grievances they find neither sympathy nor impartiality on the part of the administration. What do the government employees care about these obstreperous gringos, as the Hispano-American contemptuously calls all European immigrants, both of high and low degree? And so the poor colonists go on living in their wooden houses with corrugated iron roofs in the distant solitudes of Araucania, very few of them having bettered their fortunes by leaving the old country, to say nothing of the undeniable disadvantage of insecurity both of life and property.

In reality, the Chilians, I imagine, do not like foreigners; they are jealous of those who have settled in the country and established profitable industries; but still they solicit immigration because they feel that they must compete with other nations, and especially with their mightily progressive Argentine neighbors. There is now an idea afloat for extending the colonization system and populating the cold southern extremity from Valdivia downward with Scandinavian immigrants, who will develop the timber and the fishing resources of the country. If this project be carried out, the governments of Sweden and Norway will do well to take measures for the proper protection of their subjects. In any case, as things now stand, emigration to Chili is not a safe speculation. The colonization system is badly organized, the temporary accommodation for immigrants on their arrival is worse than inadequate, and the land offered is poor and unremunerative; while, as regards immigrants without capital, Chili requires only agricultural laborers, to whom she offers the same unenviable conditions as the native peons accept.

PART II — HOW FOREIGNERS ARE REGARDED IN LATIN AMERICA

CHAPTER III

FOREIGNERS IN SPANISH AMERICA

TWO facts stand out prominently before the student of Spanish-American affairs. The first is that these so-called governments are entirely in the hands of the Latin Americans. The real power is in the hands of generals, — military Jefes, very few of whom are of pure Spanish blood. The ruling class, the class that actually governs, is the mixture described in the chapter on the classification of the Spanish-American population. The second fact is that the business, the railroading, mining, exporting, importing, — in short, substantially the entire commerce of Spanish America, — is carried on by Europeans and Americans.

These foreigners — Americans, English, Germans, French, Italians, and other Europeans — comprise practically the whole element of Spanish America that is devoted to industry. When we speak of the great export trade of Argentina, do we mean that the Argentines themselves carry it on? By no means. They are engaged in governing. The agricultural work is performed by Italians; but the business and all enterprises of every nature are operated by Europeans and Americans. If we took the foreign enterprises out of Argentina there would remain not one civilizing element worthy ten minutes' serious thought. The railroads of Chili and Peru were built by Europeans and Americans, and the same holds good of the railroads of Venezuela and Colombia. After nearly a century of Monroe Doctrine, we find that no part whatever of the productive industries of Latin America or of the business development of those countries is due to the Latin Americans themselves. If left to the Latin Americans, there would not to-day be one mile of railroad in all Latin America. What little there is has come in spite of them rather than because of them. Are there as many good wagon-roads in all South America as there are in one county of the State of New Jersey? It is doubtful.

When we read or hear of some new industry being developed in Spanish America, we know, without being told, that some European or American is doing it. Whenever we hear of a revolution or of a murder, we know that it is the Latin Americans who are doing it. Take every tariff schedule in Spanish America; who pays it, or at least eighty per cent of it? The Europeans and Americans. Examine all the extravagant disbursements of these dictatorships; who

furnishes that money, or at least eighty per cent of it? Again the foreigners. Have the people of the United States ever thought where the money comes from for running these dictatorships? A vast part of it comes from forced loans on foreign enterprises; other large sums come from import duties, extravagantly high, on goods mostly consumed by foreigners; other sums come from stamps on documents, contracts, checks, and every conceivable transaction of business, — again mostly from foreigners; for it is they who do the business there. Other vast sums come from export taxes, — a form of tax which is not approved by any civilized country and is against the very Constitutions of many of these countries. The Europeans and Americans in Spanish America, and these only, are the wealth producers. They alone create what little industry there is; and it is from them, and from them only, directly or indirectly, that nearly all the money is obtained for running these so-called governments.

How long will this producing element consent to be robbed and plundered? How long will it consent to be extorted, and the money so obtained squandered, diverted from the purposes of good government, and wasted in riot and anarchy? How long will it consent to have no voice in affairs, while furnishing practically all the means? These are questions difficult to answer; but it would seem that this state of things cannot go on forever.

The Italians and French in Argentina outnumber the Spaniards, and a great many of the same nationalities are scattered throughout all South America. They are an industrious, peaceable population, engaged in agriculture and business, and have little or nothing to do with politics. The people and governments of South America are less hostile towards the Italians and French than they are towards Americans, English, or Germans, although they also come in for their share of suffering at the hands both of the revolutionists and of the governments. Like the Spaniards, however, they seem to be regarded more as members of the family, and if there is trouble among them, the element of race hostility is not the real source.

In the affairs of the government no part whatever is taken by the Americans, English, Germans, and Swiss. The number of Americans in South America is so small that they might almost be ignored in discussing the subject; but they are a very important factor in Mexico. Unfortunately countries like Mexico are few in number. If our government continues to send such men as Bowen as its representatives in South America, if it continues to permit the bandit governments to rob and outrage not only other civilized foreigners but also its own citizens, if it continues to defend and sustain those treacherous bandits, there will be still fewer Americans than there are now in South America. Of English there are, comparatively speaking, not many in these countries, excluding Chili and Argentina. In the "lost countries," Venezuela, Colombia, and the others comprising our Group

Three, English are almost as few as Americans. They own and operate some of the principal railroads and a few mines, but always under great difficulties. The Germans are the real pioneers of commerce. They penetrate with their goods into the remotest mountains and into the great forests. They endure almost inconceivable hardships with a stolidity that is marvellous. The people of these countries, as a rule, like the Germans. They are the very best class of business men that are to be found. They are the true representatives of civilization. In every German colony, in every town where there are a few German business houses, there is a saengerfest, perhaps a riding or boating club, certainly a social club with all the paraphernalia of a modern establishment and the many other evidences of civilization which stand out like oases in a great desert. In the greater part of South America Americans do their banking through German houses, and we find them invaluable adjuncts to our commerce.

An old veteran of the Civil War, who had been in forty-seven principal battles, including Gettysburg, was once asked what his feelings were as he went into battle after battle in seemingly endless procession. He answered that he got so he did not care what happened; that it seemed as if hell had broken loose on earth, that there was no God in heaven, but that a demon had taken possession of things. It seemed to him that the war would never end and that men were only born to kill each other. Hope had died out of his heart, and he went into each battle caring little whether he came out alive or not.

The same feeling of pessimistic fatalism is observed among the Germans of South America. They would almost unanimously support the United States as enthusiastically as would Americans, if it would take possession of these countries and establish decency and order. They pray for security no matter under what flag, so long as it comes.

I. San Salvador's Laws regarding Foreigners

On September 27, 1886, the government of San Salvador promulgated a law concerning foreigners, the animus of which may be sensed from the following articles:

"Art. 38. Every foreigner is obliged to obey and respect the institutions, laws, and authorities of the Republic, as prescribed by Article 45 of the Constitution, and to submit to the decisions and sentences of the tribunals without resorting to other recourses than those that the same laws concede to Salvadoreans.

"Art. 39. Only in the event of a denial or of a voluntary retardation in the administration of justice, and after having resorted in vain to all the ordinary means established by the laws of the Republic, may foreigners appeal to the diplomatic recourse.

"Art. 40. It is understood that there is a denial of justice only when the judicial authority refuses to make a formal declaration upon the principal

subject or upon any incident of the suit in which he may have cognizance, or which is submitted to his cognizance. Consequently the fact alone that a judge may have pronounced a decision or sentence, in whatever sense it may be, although it may be said that the decision is iniquitous, or given in express violation of law, cannot be alleged as a denial of justice."

Secretary of State T. F. Bayard, in writing to United States Minister Hall, on November 29, 1886, regarding the above law, called attention to its provisions with disapproval. He showed that it made "the compliance of a foreigner with a municipal regulation a condition precedent to the recognition of his national character," of which the Salvadorean government assumed to be the sole judge; because other sections of the law made it obligatory upon foreigners to matriculate in the books of the municipality, and obtain a certificate from the local officers as to his nationality, — a certificate which might or might not be issued according to the pleasure of his local mightiness.

While Mr. Bayard fully recognized the injustice of this "law," it is not on the records that he ever did more than express a modest opinion on the subject. He did not even instruct our minister to enter a protest against this violation of international law and treaty rights. Here are his instructions:

"Should you find occasion to discuss with the Salvadorean minister for foreign affairs the subjects of this instruction, you will endeavor to impress upon him the views herein stated, in the interest of that complete understanding and friendly intercourse which should subsist between the republics of this continent."

II. Castro's Law against Foreigners

(Gaceta Official, No. 8821, of April 17, 1903.)

The Congress of the United States of Venezuela Decrees:

Art. 1. Foreigners will enjoy in the territory of the United States of Venezuela the same civil rights as are enjoyed by Venezuelans, as is determined by the Constitution of the Republic.

2. Foreigners who are found in the territory of the United States of Venezuela will be considered as domiciled or as transients.

3. Domiciled foreigners are:

(1) Those who may have acquired domicile in conformity with the dispositions of the Civil Code.

(2) Those who may have voluntarily resided in the territory and without interruption, without having a diplomatic character.

(3) Those who own real estate in the territory of the Republic, and who are encountered living in it, with a permanent residence.

(4) Those who may have resided in the territory of the Republic for more than two years, engaged in commercial business, or any other industry, provided that it is established in a permanent manner, even though they be clothed in the character of consul.

4. Transient foreigners are all those who are encountered in the Republic, and who are not comprehended in the clauses of the preceding article.

5. Domiciled foreigners will be subjected to the same obligations as the Venezuelans, not only in their persons, but also in their properties; but they will not be subject to military service, nor to the payment of forced and extraordinary contributions in case of revolutions or internal armed contests.

6. Foreigners, domiciled or transient, must not mix in the political affairs of the Republic, nor in anything concerning them. To this effect, they cannot

(1) Form part of political societies.

(2) Edit political newspapers, nor write regarding the politics of the country, internally, nor its foreign policy, in any newspaper.

(3) Fill any public office or destiny.

(4) Take arms in the domestic contests of the Republic.

(5) Pronounce discourses which in any manner relate to the politics of the country.

7. Domiciled foreigners who violate any of the prescriptions established in Article 6, will lose their condition of foreigner, and will remain, *ipso facto*, subjected to the responsibilities, charges, and obligations that may be occasioned the national citizens by the political exigencies.

8. If, in contravention of the express prohibition of this law, any foreigner shall exercise a public employment without having been qualified in conformity with clause 22 of Article 54 of the Constitution, his acts are null, and the responsibility for them rests solely on such person, and the functionary who nominated him.

9. Transient foreigners who violate the prescriptions established in Article 6 will be immediately expelled from the territory of the Republic.

10. The Presidents of the States, the Governor of the Federal District, and the Governors of the Federal Territories, upon having knowledge that some or any of the domiciled foreigners residing in their respective jurisdictions are mixing in the political affairs of the Republic, will advance before the ordinary tribunals the corresponding complaint, passing the documents which with it is formed to the Federal Executive, for the purpose of the declarative decree which he will dictate in conformity with the dispositions of Article 8.

11. Foreigners, neither domiciled nor transient, have the right to resort to the diplomatic road, except when, having exhausted their legal resources before the competent authorities, it appears clearly that there has been a denial of justice, or notorious injustice, or evident violation of the principles of international right.

12. Domiciled foreigners, those who are domiciled in the future, and transients who have not a diplomatic character, are obliged to declare before the first civil authority where they are, that they submit themselves in every respect to the dispositions of the present law, and to that contained in the decree of the 14th of February, 1873, which governs the indemnization of foreigners. Those who omit to make this declaration will be expelled from the country within the period of time designated by the National Executive.

13. The civil authorities before whom these declarations must be made will use unstamped paper, and will not collect fees. The original copies will be sent to the Minister of the Interior.

14. The National Executive cannot grant any exequatur for the consular, or vice-consular service, to any person who is engaged in commerce.

15. It is absolutely prohibited the establishment in the country of a society of any character whatever which does not have its headquarters or its domicile in it.

16. Foreigners have the right, the same as Venezuelans, to demand of the nation by way of reparation the losses and damages which may have been occasioned them, in times of war, by the civil and military authorities, legitimately constituted, always provided that they were operating in their public character; but they can only make these reclamations along the lines established by the legislation of the country, in order to prove the truth as to the losses and damages suffered, likewise their just value.

17. Foreigners cannot, nor can Venezuelans, reclaim from the government of Venezuela the losses and damages occasioned them by armed groups or peoples, in the service of any revolution; but they can commence a personal action against the authors of the losses and damages suffered.

18. The dispositions of this law are without prejudice to the contracts contained in public treaties.

19. The Presidents of the States, the Governor of the Federal District, and the Governors of the Federal Territories will proceed, immediately after the promulgation of this law, to form a directory of the foreigners domiciled in the territory comprised in their respective jurisdictions, which will be remitted opportunely to the Minister of Exterior Relations.

20. Foreigners who come to the Republic in order to be admitted into its territory will be under the obligation of presenting to the first civil authority of the place where they enter, the documents proving their personal status, and a certificate of good conduct, granted by the authorities of their last domicile, properly legalized.

21. The National Executive will make additional by-laws or regulations for the purpose of giving effect to the present law.

22. This repeals the Executive Decree of the 14th of February, 1873, which determines the duties and rights of foreigners, and the Executive Decree of July 30, 1897, which treats of the interference of foreigners in the election affairs of the country.

Given in the Federal Legislative Palace, in Caracas, April 11, 1903.

III. Decree against Foreigners by Guzman Blanco.

Art. 1. Those who commence reclamations against the nation, whether national citizens or foreigners, because of losses, damages, or forced loans, caused by acts of officials of the nation or of the States, be it in civil war, or in international war, or in time of peace, will make them in the manner which the present law establishes.

2. The reclamation will be made exactly by formal demand before the Alta Corte Federal.

3. In these actions will be cited, in addition to the representative of the nation, the official to whom is imputed the deeds, and the State in which he had authority, if such there be.

4. Before the answer to the demand, the tribunal will cause to be published in some periodical, at the expense of the claimant, a statement of the demand, in which will be set forth the facts, and other evidence in which they support the demand, the name, title, domicile, and profession of the

claimant, and the sum demanded. This will be signed by the secretary of the tribunal.

5. In this action oral evidence will not be admitted, except it is proved that the official who caused the damage or forced loans refused to give a corresponding receipt in writing, or that it appears clearly evident, from the nature and circumstances of the case, that it was from every point of view impossible to obtain such written document.

6. The tribunal can order the production of all the proofs which it thinks necessary for the discovery of the truth, whether upon the petition of the parties, or any other person or authority.

7. The nation will have the right to recoup itself from the official responsible, or from the State to which said functionary belonged at the time of the wrong, for any sums which may be taken from the national treasury in virtue of sentence of judgment.

8. When it appears in a manifest manner that the claimant has exaggerated the amount of damages which he claims to have suffered, he will lose whatever rights he may have had, and will incur a fine of 500 to 3000 venezolanos ($100 to $600 gold) and imprisonment for from three to twelve months. If it should result that the reclamation is entirely false, the one to blame will incur a fine of from 1000 to 5000 venezolanos ($200 to $1000 gold), or imprisonment for from six to twenty-four months.

9. In no case can it be pretended that the nation, or the States, indemnify losses, damages, or forced loans which have not been executed by the legitimate authorities, operating in their public character.

10. The action to reclaim these losses, damages, or forced loans, as established by this law, must be begun within two years.

11. Whoever without having official character decrees contributions, or forced loans, or commits acts of despoliation of whatever nature, and also those who execute them, will be responsible directly and personally to the person damaged.

12. In these actions they will follow the law governing the proceedings of the Alta Corte Federal.

13. The law of the 6th of March, 1854, regarding indemnization to be paid foreigners, is hereby repealed.

Given in Caracas, February 14, 1873. GUZMAN BLANCO.

IV. EXPULSION OF FOREIGNERS BY BRAZIL

On the 7th of January, 1907, the Executive of Brazil promulgated decree No. 1641 providing regulations for the expulsion of foreigners from the territory of that nation. The decree provides as follows:

"ART. 1. The foreigner who, for whatever motive, should compromise the national safety or public tranquillity, may be expelled from a part or the whole of the national territory.

"ART. 2. Are also sufficient causes for expulsion:

"1. The condemnation or action by foreign tribunals for crime or offences of a common nature.

"2. Two condemnations, at least, by Brazilian tribunals for crimes or offences of a common nature.

"3. Vagrancy, beggary, and pandering competently proved."

In the instructions given by the Executive for the execution of this decree it is stated:

"Art. 2. The expulsion provided for in No. 1 of Article 1 may be ordered by the Federal Government upon all occasions in which the individual shows himself, in the exclusive judgment of the Federal Government, prejudicial to the interests of national security or of public order, in any part of the Union."

A large number of provisions are made with reference to the terms and conditions under which foreigners may be expelled, many of whi h appear to be reasonable, and some of which are monstrous. It will be seen from the articles quoted, however, that a foreigner may be expelled, no difference what damage may be done his estate, on any pretext whatever, whenever the Federal Government thinks his presence is prejudicial to the interest of national security or of public order in any part of the country, and on this point the Federal Government reserves to itself the sole and exclusive right of judgment. The foreigner who refuses to give up his tobacco crop, or the product of his mines, to the local military Jefe may be regarded not only as *persona non grata*, but as actually prejudicial to the national security, as in so doing he is setting an example of disobedience to the demands of the self-constituted constitutional authorities which might be followed by the native Brazilians, and thus become a grave menace to public order. It will be observed that the decree does not make it necessary to cite the foreigner for trial, or to give him any notice whatever of the proceedings against him. He may be seized in the twinkling of an eye, his property scattered to the four winds, or confiscated, and his family, if he have any, left to shift for itself.

V. Legal Effect of Latin-American Laws prohibiting to Foreigners the Protection of their own Governments

Secretary of State T. F. Bayard gave the following instructions to Minister Hall, under date February 16, 1887:

"Your numbers 605 and 606, dated January 10, 1887, which relate to the status of foreigners under the laws of Salvador and Costa Rica, respectively, have been received.

"As you are aware, a municipal law excluding foreigners from having recourse to their own sovereign to obtain for them redress for injuries inflicted by the sovereign making the law, has in itself no international effect. The United States, for instance, would not be precluded from calling on Costa Rica for redress for injuries on a citizen of the United States by Costa Rica by the fact that the latter State had adopted a law to the effect that no such claims

are to be entertained. By the law of nations the United States have a right to insist upon such claims wherever they hold that such redress should be given; and they would not regard a statute providing that such redress should not be given; and would not regard a statute providing that such claims were not to be the subject of diplomatic action as in any way an obstacle to their taking such action. And I have further to say that the fact that a citizen of the United States was residing in the territory of a State passing such a statute at the time of an injury inflicted on him, does not preclude him from availing himself of the aid of the government of the United States in obtaining redress; for even were such residence regarded as a tacit acceptance of such a law (which it is not), such acceptance would be inoperative, since no agreement by a citizen to surrender the right to call on his government for protection is valid either in international or municipal law."

It should be stated, however, that the above decrees do not represent the policy of the government of Mexico, where foreigners are on an average as well treated as they are in the United States.

CHAPTER IV

THE CALVO AND DRAGO DOCTRINES

BY every method which ingenuity could devise the Latin-American dictatorships have sought to keep at their own mercy the foreigners among them. The plainest and most elementary precepts of international law are overruled by the decretas of half-breed Dictators, and usually with success. Is not Uncle Sam with his Monroe Doctrine in the background?

Time and space hardly suffice to exhibit all the devious schemes for evading the law of nations in the endeavor to prevent foreign governments from intervening to protect their own citizens. A more brazen record of impudence and effrontery cannot be found in the history of international relations than is exhibited in the attitude of most of the South American Republics. At the outset of the Venezuelan arbitrations of 1903, Mr. Frank Plumley, umpire of the British-Venezuelan Commission, in discussing the Aroa Mines case, made the following remarks on this subject:

"The umpire desires to call attention specifically to the general attitude of the South American and Central American Republics relating to the right of the State by constitutional provision and municipal legislation to cut off the right of the government of the injured citizen to intervene to demand attention to injuries received by their subjects in property and person, who maintain, some of them, that in virtue of such legislation no diplomatic claim can exist, and if one is submitted to an arbitral tribunal a judgment of dismissal must be entered. He assumes, rightfully he believes, that all governments concerned in the matter of which we are now inquiring were fully informed and thoroughly advised concerning the legislation and the attitude to which the umpire refers. That they knew that at the time these protocols were drawn opinions irreconcilable with theirs were held by a very large part of the South American and Central American Republics; that these opinions were strengthening rather than abating; that they had taken form in national constitutions and statutes and in proposed treaties and international agreements.

"They knew that at the Pan-American Conference of 1889–1890, in a majority report of its committee on international law, among other things it was declared 'that foreigners are entitled to enjoy all the civil rights enjoyed by natives, and to all substantive and remedial rights in the same manner as natives,' and 'that a nation has not, nor recognizes in favor of foreigners, any other obligation or responsibilities than those which are established in like

cases in favor of the natives by the Constitution and laws.' That it was there recommended that these resolutions be adopted as 'principles of American international law.' They knew these principles there propounded were in sharp and rugged conflict with the law of nations as understood and accepted by Europe and the United States of America. They knew that at the Pan-American Conference held in the City of Mexico in 1901 the delegates, representing fifteen of the twenty States which were there assembled, reaffirmed the propositions of 1889, and declared again and emphatically that the States do not recognize in favor of foreigners any obligations or responsibilities other than those established by their Constitutions and laws in favor of their own citizens, and that the States are not responsible for damages sustained by aliens originating from acts of war, whether civil or national, 'except in case of failure on the part of the constituted authorities.' From this deliverance both knew that if the Constitution and laws of the given State gave no remedies, or illusive ones, to natives for the wrongful seizure of or injury to property, it would be claimed and urged that foreigners must accept the consequences; and that also where the property of aliens had been seized and confiscated for military use by the military powers of the government, there was no compensation therefor, regardless of the Constitution or laws of the particular State, and in direct contravention to the generally accepted law of nations applicable thereto.

"They knew that there were several treaties projected at this conference all more or less at war with international law as held by Europe; that one country urged a treaty declaring as one of its provisions that 'in all cases where a foreigner has claims or complaints of a civil order, criminal or administrative, against a State, no matter what the ground of his allegations may be, he must address his complaint to the proper judicial authority of the State, without being entitled to claim the diplomatic support of the government of the country to which he belongs to enforce his pretensions, but only when justice shall have failed, or when the principles of international law shall have been violated by the court which took cognizance of the claim'; that 'in every case where a foreigner has claims or complaints of a civil, criminal, or administrative order he shall file his claim with the ordinary courts of such State'; that no government should 'officially support any of those claims which must be brought before a court of the country against which the claim is made, except cases in which the court has shown a denial of justice or extraordinary delay or evident violation of the principles of international law.' They knew that to establish such a principle of action would prevent any government from intervention in any case until there had been an exhaustion of all legal remedies and a palpable denial of justice; and that concerning this it was provided that 'a denial of justice exists only in case the court rejects the claim on the ground of the nationality of the claimant.' A second country would establish an 'international court of equity'; but provided that the claimant must first exhaust all legal remedies before the courts of the defendant State where the nature of the claim permitted it to be adjusted by such courts.

"They knew that at this conference it was proposed by three of the States in conference that a treaty should be made declaring that the responsibility of the State to foreigners is not greater than that assured to natives; that the government should not entertain diplomatically any demand of a citizen in a

foreign country where the claim arises out of a contract entered into between the authorities and the foreigner, or where it has been expressly stipulated in the contract that the government of the foreigner shall not interfere; that the government of a foreigner shall not interfere to support his complaint or claim originating in any civil, penal, or administrative affairs, except for denial or undue delay of justice, or for non-execution of a final judgment of the courts, or when it is shown that all legal remedies have been exhausted, resulting in a violation of express treaty right, or of the precepts of public or private international law '*universally recognized by civilized nations.*' They knew that the words in quote, if agreed to, prevented any intervention, because of the fact that one of the South American States had by statute declared that no judgment rendered against a foreigner could be held as unjust or a denial of justice, even though the decision was iniquitous and against express law. They knew that the South American and Central American Republics, with few, if any, exceptions, were permeated through and through with the seductive doctrines of Calvo, the distinguished Argentine publicist, the fundamental idea of which is that no government may rightfully intervene in aid of its citizens in another country, and that this fundamental doctrine to a greater or less extent had been brought into constitutions and statutes of the different States. They knew that in the Constitution of Venezuela, Title III, Section I, Article 14, there was to be found this provision, namely: 'Foreigners will enjoy all civil rights which are enjoyed by nationals, but the nation does not hold or recognize in favor of foreigners any other obligations or responsibilities than those which have been established in a similar case in the Constitution and in the laws in favor of nationals.' And that in paragraph 2, Article 14, there is to be found this: 'In no case may either nationals or foreigners pretend that either nation or States shall indemnify them for damages, prejudices, or expropriations which have not been executed by legitimate authority operating in its public character.'

"They knew of the Venezuelan law of March 6, 1854, concerning indemnity to foreigners, and the decree of Guzman Blanco of date February 14, 1873, and that it was protested against by many, if not all, of the leading nations of Europe and by the United States of America; that notwithstanding these protests it was republished by order of President Castro, January 24, 1901, and that, as republished, it required 'all who bring claims against the nation, whether nationals or foreigners, by reason of *damages* and *injuries* and *seizures* by acts of national employees or of the States, whether in civil or international war, or in time of peace, will bring them, before the high federal court under the rules of procedure laid down in Articles 3, 4, 5, and 6 of the decree; that Article 8 of the decree provided 'that whoever appears in a manifest manner to have exaggerated the amount of the injuries he may have suffered will lose his right to recover and be subject to fine or imprisonment, and if it be altogether false will be mulcted in a fine or sent to prison'; that Article 9 of the decree provided 'that in no case shall the nation or the State indemnify for losses, *damages*, or *injuries*, or *seizures* which have not been executed by legitimate authorities working in their public character'; that Article 10 set a limitation of two years on all actions permissible under the law; that Article 11 declared 'that all who without public character decree contributions or forced loans or spoliations of any nature, as well as those who execute them, will be directly and personally responsible with their goods for whomever may be prejudiced'; that Article 13 repealed the law of March 8,

1854, relating to indemnities above referred to. They knew that President Castro issued an order, January 24, 1901, creating a junta to examine and determine the damages claimed by nationals and foreigners against the nation on account of the war initiated May 23, 1899, and limiting the time within which claimants must appear to *three months* from the date of the order, and otherwise their demands were to receive no attention 'unless the delay be shown to be occasioned by a superior force.' They knew that there was a law of the same date bearing the approval of President Castro, one article of which defined the losses which might be sustained before said junta, namely: 'Losses during the war to private property *not* proceeding from hostile acts for which no one is responsible, nor for the licentious conduct of soldiers who have taken advantage of moments of contention, unless they have been made voluntarily, intentionally, and deliberately, by order of superior power in charge of belligerent operation.'

"They knew that Article 140 of the Venezuelan Constitution contained this important declaration: 'International law is *supplementary* to national legislation; but it can never be invoked against the provisions of this Constitution and the individual rights which it guarantees.'

"They knew that such laws and Constitution were based on the principle of the duty of nationals and aliens, to obey the laws of the land wherein they dwell; that there was no injury to person or property unless incurred in violation of the national law; that there was no remedy save in manner and means as provided by that national law; that the alien had no recourse to the country of which he was a subject except for the causes recognized by such national law; that the nation whose subject he is has no right of intervention, except for causes prescribed by the law of the nation where he is commorant or domiciled; that all this is a right of each nation to prescribe, and of each alien within its domains scrupulously to obey, and of each mother country to respect, regard, and by it to be controlled; that international law may aid, but can never control, dictate, or determine any matter which is in conflict with its own statute law and the national interpretation thereof; that whereas the generally accepted idea of Europe and the United States of America is the supremacy of international law in international matters, Venezuela and many of the other States of South and Central America of kindred thought maintain the supremacy of their own laws in international matters."

Whether the claimant governments did have the full knowledge which Mr. Plumley imputes to them is doubtful; but certain it is that the Latin-American countries are doing even more than is here shown to prevent foreigners receiving the protection of their governments.

I. The Calvo Doctrine

Any device to enable the Dictators of Central and South America, and their military henchmen, to squeeze and bleed foreigners and then evade all responsibility, is certain to prove very popular; while the inventor of the scheme will be regarded as a great patriot. Blind and deaf, insensible to right, and oblivious to reason, automatic and monstrous as it is in its operations, it would seem that the Monroe

Doctrine scarcely needed any other imp of darkness to aid it in its blighting curse of a continent; but whether needed or not, its South American correlate appeared in the Calvo Doctrine.

Carlos Calvo, an Argentine writer on international law, published a work in the Spanish language in 1868 on "Theoretical and Practical International Law." The body of this work is in harmony with the recognized authorities on this subject. Mr. Calvo, however, sought to introduce a new principle in international law, which no respectable authority has ever recognized and which has been directly or indirectly repudiated by every civilized nation. In spite of this, however, it is cited and adhered to by the military dictatorships in whose interest it was promulgated. The doctrine is thus expressed:

"America as well as Europe is inhabited to-day by free and independent nations, whose sovereign existence has the right to the same respect, and whose internal public law does not admit of intervention of any sort on the part of foreign peoples, whoever they may be." [1]

It is not so much in the phraseology of this doctrine as in the construction which is universally sought to be placed upon it, that its danger lies. Under its alleged authority the most outrageous statutes and decretas against foreigners have sprung up in all quarters, the aim and object being not only to limit and restrict the right and manner of foreigners appealing to their own government for redress, but also to deny the rights of foreign governments to intervene to protect their citizens. The Monroe Doctrine accomplishes the latter object more effectually, but the Calvo Doctrine is more facile in bringing about the former result.

Of course the right of a foreigner to appeal to his own nation for protection, and the right of his government to intervene whenever it sees proper so to do, are fundamental rights in international law, which have always been, and doubtless always will be, recognized among civilized nations. No nation which aspires to be classed in the family of civilized communities can pretend, by municipal law or statutory enactments, to overrule this fundamental principle. What, however, does a military dictator care for a little thing like international law, especially when he may cite the Calvo Doctrine as an authority, and has the Monroe Doctrine to rely upon for a practical defence?

Mr. T. B. Edgington, in his work on "The Monroe Doctrine," has performed a signal public service in pointing out the machinations in the Second International Conference of American States, at the City of Mexico, January 29, 1903, whereby it was sought to have that heresy endorsed by the United States. He says:

"A careful reading of that convention will disclose an evident intent to leave foreigners practically without any redress for wrongs inflicted upon

[1] Calvo's *Droit Internationale*, Paris, 1896, Tome I, sec. 204, p. 350.

their persons or their property in times of revolution and rebellion. The great service which Calvo performed for the American Republics was to convey the intimation to them that they could enact nearly all kinds of laws affecting the rights of foreigners and that they would be valid and binding."

Mr. Edgington cites various hostile statutes, and continues:

"Without debating the question, it is proper to state that if these statutes are valid, then the foreigners are left absolutely without any remedy except such as these Republics will administer to them, and they are cut off from any right to lay their grievances before their own governments. The conferring on foreigners of the same rights as are enjoyed by citizens has a very comical side to it when its meaning is fathomed. These Republics do not hold themselves liable for any property taken from any citizen by any revolutionary party, and the foreigner enjoys the same inestimable privilege of being thus robbed without redress."

Mr. Edgington further says (page 257):

"These statutes against foreigners are declarations of war against civilization. The original European settlers in Spanish America have largely assimilated to the aborigines and the imported Africans, and they have produced a form of semi-barbarism which now turns to assail North American and European civilization through the operation of statutes which are to be enforced through the most improved system of anarchy, which will retain foreigners within their dominions long enough to rob them of the acquisitions of a lifetime, but not so drastic as to prevent others from coming in to be plundered and turned loose upon the world penniless.

"International law furnishes the rule for the determination of the questions arising where a civil war is being waged, but it furnishes no satisfactory solution of the rights of the parties where anarchy is the rule, and law and order is the exception. All the complicated questions arising from a condition of anarchy are now beginning to be thrust upon the attention of the government of the United States through the complaints of European powers. Much depends on our correct solution of them."

Whatever else may be said about Latin-American diplomats, we must give them credit for being past grand masters of the art of cunning and intrigue. The so-called Pan-American Congresses have afforded an opportunity for displaying their astuteness in a manner which may well cause the government and people of the United States to pause and consider.

Mr. Edgington fully exposes this scheme (pages 263–265):

"We now turn from this condition of isolation of the United States in respect to its traditional foreign policy to consider the manner in which the Calvo Doctrine is growing up as a parasite upon the Monroe Doctrine.

"A convention was signed at the City of Mexico on January 29, 1902, at the Second International Conference of American States, by the Argentine Republic, Bolivia, Colombia, Costa Rica, Chili, Dominican Republic,

Ecuador, Salvador, Guatemala, Honduras, Mexico, Nicaragua, Paraguay, Peru, and Uruguay. The convention recites the fact that the delegates were duly authorized to sign and bind their respective governments with the exception of the United States, Nicaragua, and Paraguay. The two latter signed the convention, but the delegates from the United States did not. The material portion of this convention reads as follows:

"'First: Aliens shall enjoy all civil rights pertaining to citizens, and make use thereof in the substance, form, or procedure, and in the recourses which result therefrom, under exactly the same terms as the said citizens, except as may be otherwise provided by the Constitution of each country.

"'Second: The States do not owe to, nor recognize in favor of foreigners, any obligations or responsibilities other than those established by their Constitutions and laws in favor of their citizens.

"'Therefore the States are not responsible for damages sustained by aliens through acts of rebels or individuals, and, in general, for damages originating from fortuitous causes of any kind, considering as such the acts of war, whether civil or national; except in the case of failure on the part of the constituted authorities to comply with their duties.

"'Third: Whenever an alien shall have claims or complaints of a civil, criminal, or administrative order against a State or its citizens, he shall present his claims to a competent court of the country, and such claims shall not be made, through diplomatic channels, except in the cases where there shall have been, on the part of the court, a manifest denial of justice, or unusual delay, or evident violation of the principles of international law.' [1]

"The Republics which signed the foregoing convention together with the United States signed another convention on January 27, 1902, for the formation of codes on public and private international law. It provided that 'the Secretary of State of the United States and the ministers of the American Republics, accredited in Washington, shall appoint a committee of five American and two European jurists to draft a code of public international law and another of private international law.' [2]

"It will be seen that if the United States should be fortunate enough to be represented on this committee, the disciples of Calvo would still be in the majority, and the majority of the committee would report a code of public and private international law which would embrace the Doctrine of Calvo, with all its deductions and corollaries.

"Another convention was signed, on January 29, 1902, by the United States and other Republics heretofore named, providing for a Third International Conference to meet within five years at the call of the same parties, who were to prepare codes of public and private international law. Article III of the convention for the preparation of the codes required that these codes should be submitted to the respective governments and to the next American International Conference.

"When the fragments are thus gathered together, we find that a system of international law is to be adopted, at least by this hemisphere, which shall embrace all the doctrines of Calvo. The entire scheme is so formed that his doctrines cannot escape adoption if majorities rule. The four Latin Ameri-

[1] Report of Second International Conference of American States, Senate Document 330, pp. 203, 204, 228.

[2] Report of Second International Conference of American States, Senate Document 330, pp. 203, 204, 228.

cans would outvote the two Europeans and the one citizen of the United States. Here is a complete system outlined fraternally and unostentatiously which would cause the most distinguished Oriental diplomat to blush for his own inferiority. It frees the United States from some of its illusions on the subject of American conferences and American tribunals of arbitration. No American international tribunal could be convened which would render its awards in harmony with the public policy of the United States.

"The Calvo Doctrine will furnish the cause for all or nearly all the wars and diplomatic controversies between Latin-American and European powers, while the United States is expected to defend it singly and alone with its army and navy and by means of its diplomacy. In other words, the United States is expected to fight all the battles for both doctrines."

What do the people of the United States think of this scheme? Have we not gone far enough in aiding these dictatorships to oppress and destroy civilized men? Will our government at Washington permit itself to be hoodwinked into becoming a party to this new league of shame? Mr. Edgington deserves public thanks for so clearly explaining the danger. If such men as he were sent to represent our government in these "Pan" Conferences, there would be less champagne and more common sense in the proceedings. It would be still better to abolish them entirely.

II. The Drago Doctrine

Argentina was very anxious to plead the cause of Venezuela at the time of the English-German blockade, and on December 29, 1902, Luis M. Drago, Minister of Foreign Affairs of that country, wrote to Martin Garcia Merou, Argentine Minister to the United States, a letter which was handed to Secretary Hay. In this letter the views of Argentina were expressed. Mr. Drago said:

"According to your Excellency's information, the origin of the disagreement is, in part, the damages suffered by subjects of the claimant nations during the revolutions and wars that have recently occurred within the borders of the Republic mentioned, and in part also the fact that certain payments on the external debt of the nation have not been met at the proper time.

"Leaving out of consideration the first class of claims for the adequate adjustment of which it would be necessary to consult the laws of the several countries, this government has deemed it expedient to transmit to your Excellency some considerations with reference to the forcible collection of the public debt suggested by the events that have taken place.

"At the outset it is to be noted in this connection that the capitalist who lends his money to a foreign State always takes into account the resources of the country, and the probability, greater or less, that the obligations contracted will be fulfilled without delay.

"All governments thus enjoy different credit according to their degree of civilization and culture, and their conduct in business transactions; and these conditions are measured and weighed before making any loan, the terms

being made more or less onerous, in accordance with the precise data concerning them which bankers always have on record.

"In the first place, the lender knows that he is entering into a contract with a sovereign entity, and it is an inherent qualification of all sovereignty that no proceedings for the execution of a judgment may be instituted or carried out against it, since this manner of collection would compromise its very existence and cause the independence and freedom of action of the respective governments to disappear.

"Among the fundamental principles of public international law which humanity has consecrated, one of the most precious is that which decrees that all States, whatever be the force at their disposal, are entities in law, perfectly equal one to another, and mutually entitled in virtue thereof to the same consideration and respect.

"The acknowledgment of the debt, the payment of it in its entirety, can and must be made by the nation without diminution of its inherent rights as a sovereign entity, but the summary and immediate collection at a given moment, by means of force, would occasion nothing less than the ruin of the weakest nations, and the absorption of their governments, together with all the functions inherent in them, by the mighty of the earth. . . .

"What has not been established, what could in no wise be admitted, is that, once the amount for which it may be indebted has been determined by legal judgment, it should be deprived of the right to choose the manner and time of payment, in which it has as much interest as the creditor himself, or more, since its credit and its national honor are involved therein.

"This is in no wise a defence of bad faith, disorder, and deliberate and voluntary insolvency. It is intended merely to preserve the dignity of the public international entity which may not thus be dragged into war with detriment to those high ends which determine the existence and liberty of nations. . . .

"The collection of loans by military means implies territorial occupation to make them effective, and territorial occupation signifies the suppression or subordination of the governments of the countries on which it is imposed.

"Such a situation seems obviously at variance with the principles many times proclaimed by the nations of America, and particularly with the Monroe Doctrine, sustained and defended with so much zeal on all occasions by the United States, — a doctrine to which the Argentine Republic has heretofore solemnly adhered."

Mr. Hay's reply seems very cold when compared with the stuff usually sent out from the State Department on such occasions. He said:

"Without expressing assent to or dissent from the propositions ably set forth in the note of the Argentine Minister of Foreign Relations, dated December 29, 1902, the general position of the government of the United States in this matter is indicated in recent messages of the President.

"The President declared in his message to Congress, December 3, 1901, that by the Monroe Doctrine 'we do not guarantee any State against punishment if it misconducts itself, provided that punishment does not take the form of the acquisition of territory by any non-American power.'

"In harmony with the foregoing language, the President announced in his message of December 2, 1902:

"'No independent nation in America need have the slightest fear of aggression from the United States. It behooves each one to maintain order within its own borders and to discharge its just obligations to foreigners. When this is done, they can rest assured that, be they strong or weak, they have nothing to dread from outside interference.'"

The propositions put forth by the Argentine minister are of that specious character which are always brought forth to shield the military Dictators and their cliques. Mr. Drago seeks to "leave out of consideration" those wrongs committed on foreigners during periods of revolution, whether by government troops or by insurgents. He then tries to make it appear that the debts due are for voluntary loans, made by bankers. The world knows, however, that they were mostly caused by wholesale confiscation of the property of business men, by forced loans, by illegal and violent seizures, and by other torts and crimes of the most aggravating character. He would further have it appear that this blockade was merely an attempt to compel the immediate payment of ordinary debts due in the commonplace transaction of business, where the government stood ready to pay as soon as it could raise the funds. The utter falsity of this is shown in our chapter "Events leading up to the Venezuelan Blockade," 1903, where it is shown that many acts of piracy had been committed by Venezuela against English and German vessels, and numerous outrages committed on their citizens; their flags insulted, and their representatives treated with contumely. Mr. Drago, of course, had in the end to appeal to the sacred Monroe Doctrine to sustain him.

If all the iniquities that have been committed in Central and South America under the protecting folds of that doctrine were painted in one panorama, and held up to the view of the people of the United States, there would be a conscience-stricken nation instantaneously on its knees. But the American people do not know the whole truth.

III. Acceptance of the Drago Doctrine

The final depths of the impotency of the American State Department were sounded in the attitude of Secretary of State Root, and the American delegates to the "Pan" Convention at Rio de Janeiro in August, 1906, on the question of the acceptance of the Drago Doctrine.

This doctrine, like all the other vagaries which have sprung up like poisonous toadstools under the shadow of Monroeism, is designed to deny all redress to foreigners who suffer spoliation at the hands of the governments of Latin America. In diplomatic phraseology, this doctrine denies the right of foreign governments to use force in protecting their citizens in their contractual obligations with other governments. If a Latin-American dictatorship enters into a contract with an American or other foreigner, and in virtue of this contract

induces him to invest large sums, and then when the foreigner's money is securely in the country, the dictatorship should declare the contract void, or "unconstitutional," or should refuse to live up to and abide by it, and if because of this action the foreigner is ruined, — his property confiscated or rendered worthless, — where does the Drago Doctrine come in? It prescribes that the foreigner's own government must not use force in protecting him, — which is equivalent to saying that it must not protect him at all, because most of these Latin-American countries are not amenable to diplomatic representations.

Now, on this shameless doctrine, — a doctrine which makes us mute witnesses of the despoiling of our own citizens by bandit chiefs, — let us see where President Roosevelt's State Department stands, as voiced by Secretary Root. I quote, not from an "anti-imperialist" sheet like the New York "Herald," the New York "Evening Post," or the Memphis "Commercial Appeal," but from a great patriotic daily, usually one of our broadest-minded publications. The New York "Tribune," in its issue of August 21, 1906, said editorially:

"Not often has there been in the international affairs of the American Republics a more interesting, a more dramatic, or a more propitious coincidence than that of Friday last at Rio Janeiro and Buenos Ayres. The full committee of the Pan-American Congress at the Brazilian capital unanimously agreed upon a resolution providing for the submission of the Drago Doctrine to the next conference at the Hague by the various American States, with a request for its consideration and for action upon it. At the same time, in the Argentine capital, ex-Secretary Drago, the author of that doctrine, and Secretary Root met, publicly exchanged views, and disclosed the gratifying fact that upon the question of that doctrine and upon matters in general pertaining to the relations of Anglo-Saxon America with Latin America they were in complete accord.

"It had been said that Señor Drago declined to go as a delegate to the Pan-American Congress because of some notion that Mr. Root or the United States government was antagonistic to the Drago Doctrine. If such was the case, it is evident that the distinguished Argentine statesman labored under a regrettable misapprehension, of which he has now doubtless been entirely disabused. As a matter of fact it was one of the greatest men of his day in the United States, Alexander Hamilton, who first suggested that doctrine; other statesmen of this country, official and unofficial, have from time to time repeated it, not infrequently as a rule of governmental action, so that, as Mr. Root said in his response to Señor Drago's generous toast, the United States has ever acted in accordance with that doctrine, in spirit and in letter, and will doubtless always continue so to do. It is a cardinal principle of American policy, and in support of it Señor Drago could have wished and could have had no more sympathetic and efficient advocate than the American Secretary of State."

When such views are voiced by one of our greatest dailies, what shall we expect from others?

It would seem hopeless to ask the American people to look at this question with any degree of sense or sanity. I sometimes think that nothing but a gigantic war will ever get our people to understand the wickedness of our attitude in this matter.

Why did the New York "Tribune" become imbued with the Drago Doctrine? Because Secretary Root made a profound study of the social and political conditions of South America from the deck of a war-ship; and, after the round of banquets in the dissolute, hysterical capitals of the Southern Continent, came naturally to the conclusion that Monroeism, Calvoism, and Dragoism constitute the real Holy Trinity of statesmanship. Mr. Root on his war-ship, prying into the heart of things social and political in South America through the ship's binoculars, reminds us of Percival Lowell dissecting the inhabitants of Mars from his observatory in Arizona.

Concerning one statement made by the "Tribune," as above quoted, I must enter a stern protest. As I have defended the memory of Thomas Jefferson from the obloquy implied by the laudation of the anti-imperialists, so I must exculpate that other great statesman, Alexander Hamilton, from the contumely sought to be attached to his name by the statement that he was in any wise the progenitor of the Drago Doctrine. If Mr. Hamilton were alive, his great spirit would rebel at such a base calumny. In his writings I find nothing to justify the "Tribune's" dictum. It is high time that anti-imperialist theorists and Drago-Calvo-Monroe Doctrine marplotters should quit lying about two of our greatest statesmen, Thomas Jefferson and Alexander Hamilton.

A distinguished friend of the author, a statesman of wide reputation, in a private letter says, referring to the Drago Doctrine, that it is now "a live issue, and a fraud — and quite misunderstood by nine-tenths of the people of this country. The majority of people seem to think that the 'private claims or debts,' which it refers to, are debts or controversies as between individuals of different nationalities. Even Mr. Carnegie, I am told, thought the German Railway case in Venezuela a matter between private parties, and did not at all grasp the fact that it was a contention between the government of Venezuela and German citizens. We collect debts in this country by all the power and force of the law — why should we not use force in extreme cases in International Law where a nation is clearly trying to play the rôle of swindler? When we pretend to back up the demand of the Latin-American States for the consideration of the Drago Doctrine at the Hague, we are doing a dangerous thing, and making a cheap play for South American favor — a play that you and I both know will avail us nothing in the end. I think neither Mr. Root nor the President believe in the Drago Doctrine. Therefore, I am surprised to see it supported by us. If Mr. Root and the President believe in it, they have changed front in less than a year."

IV. The Drago Doctrine before the Second Peace Conference at the Hague

The Third Conference of the American States, held at Rio de Janeiro, adopted a resolution requesting the several governments represented to invite "the second Peace Conference at the Hague to consider the question of the compulsory collection of public debts, and in general means tending to diminish conflicts having exclusively pecuniary origin." The United States government supported this proposition. The Conference at the Hague met on June 15 and continued until Oct. 19, 1907, a trifle longer than four months. There were delegates from forty-four countries, including the Latin-American representatives. The proceedings of this Conference were in many respects grotesque, and it is to be regretted that there is much truth in the remark of M. W. Hazeltine in a recent magazine article, that "it seems to us that a review of what the spokesmen of the nations accomplished, or what they failed to do, will not tend to encourage those who have looked forward to the promotion of peace and of the humanization of warfare." The representatives of most of these States, particularly from Latin America, devoted themselves to an extravagant and protracted display, involving the expenditure of vast sums of money. About $525,000 were spent in formal dinners, to the great benefit of the champagne industry, while the total sum of money expended by the different delegates in what would seem to be riotous living, closely approximated three million dollars. The gentleman from Brazil seems to have been most successful in squandering the funds of his government in a ridiculous attempt to impress himself upon the other delegates.

Mr. Choate and General Porter, the American delegates, were sincerely desirous of accomplishing some real work. They did not go in their advocacy of Drago's dictum to the extreme which their Latin-American allies desired. They pronounced unequivocally in favor of international arbitration of disputed claims, but they insisted that the respondent nation must agree to submit such claims to such arbitration. Here is the vital issue: the heresy of Drago denies the right of a foreign government to intervene for the protection of its citizens, and gives the world to assume that arbitration is the proper remedy, while as a matter of fact the respondent governments through their statutes, and by means of their diplomatic agencies, refuse unqualifiedly to submit such questions to international arbitration, claiming that their municipal legislation is supreme.

On this phase of the subject a distinguished European publicist, Mr. Dachne van Varick, said: "The Monroe Doctrine is interpreted in this sense, — that Europe cannot enforce its rights acquired in America, even in case of a grave violation. In this fashion the pro-

tectorate of Monroe would deliver letters of marque to the adepts of the Doctrine of Drago."

Mr. M. W. Hazeltine, in discussing certain propositions made by the Hague Conference, says:

> "An influential British newspaper denounces as cynical effrontery the proposal to establish an international prize court which would rob Great Britain, the greatest of maritime nations, of her commanding position by subjecting her captures of contraband to the review of a tribunal, which, as being composed of fifteen judges, would be little better than a juridical ménagerie. We concur in the opinion that the spectacle of a half-breed lawyer from Central or South America deciding upon the justice of a British seizure would be ludicrous in any case; but when it is proposed that he and his colleagues shall administer a law elaborated by them as they go along, based upon precedents of their own creation or upon no precedents at all, the folly of the whole proceeding becomes patent."

Precisely the same argument, or even a stronger one, can be made against the acceptance of the Drago Doctrine in any of its forms. The Hague Conference limited itself in adopting General Porter's proposal, "that force shall not be used for the collection of contractual debts until the justice of the claim shall have been affirmed by an arbitral tribunal." This, on its face, seems reasonable, and if we were dealing with nations which were actuated by good faith, then this proposition would be entirely satisfactory. But where brigand governments in utter bad faith, and with criminal bad intentions, seize or destroy the property of our citizens, or maltreat, murder, or imprison them wrongfully, or permit bands of revolutionists to perform these acts, and when such actions by said so-called governments are perennial and almost universal, shall a civilized government withhold protection from its citizens, and relegate them to the unsatisfactory method of international arbitration, where long-winded lawyers and hair-splitting judges usually finish the work of spoliation commenced by our "Sister Republics"? The fact is that the soundest advice ever given to a nation was contained in Washington's farewell address, in which he urged us to avoid entangling alliances. This advice, after the lapse of one hundred years, is of greater importance than on the day when it was given. Whether alliances made by our government are direct, as through formal treaty such as in the Clayton-Bulwer agreement, or indirect, as in the case of our adhesion to the various Pan-American Conventions and the Conference at the Hague, they should all be looked upon with suspicion, and scrutinized with extreme care. A great and virile nation must have its own policy, both domestic and foreign. Its foreign policy particularly should be dictated by itself exclusively as its own interests may require. Broadly speaking, our national interests require us to deal honestly and justly with all nations. But they also

require us to protect our own citizens in whatever part of the world they may be, in their legal and equitable personal and property rights.

The United States ought to solve its own problems in its own way, and it must do so if it shall ever attain a true standard of greatness. The Congress of the United States, as representing the American people, is the competent authority to prescribe what the government's foreign policy shall be; nor can the public policy of the United States government, either in its domestic or in its foreign relations, be determined by the Hague Conference, the Pan-American Conventions, or any other organization, foreign prince, potentate, or tribunal, unless the Congress of the United States shall abdicate its functions under the Constitution.

CHAPTER V

CASES ILLUSTRATING OUTRAGES COMMITTED ON FOREIGNERS IN VENEZUELA AND GUATEMALA

THE following cases are selected, almost at random, from several hundred similar cases which were before the various Venezuelan Mixed Commissions in 1903. As explained elsewhere, these Commissions were made up of men most of whom were partisan defenders of Venezuela, and, if not openly hostile, were at least querulous and suspicious of the claimants who came before them. Under these circumstances the finding of facts by those Commissions was always toned down to favor Venezuela as much as possible, and no damaging fact was admitted unless the proof was overwhelming. These findings of fact were only made after the most strenuous technical objections by Venezuela's Commissioner. They may therefore be regarded as a very mild statement of the proven truth, and I quote them exactly, as given by the umpire (see Ralston's Report, Ven. Arb., 1903).

I. CASE OF SILVIO AND AMERICO POGGIOLI

RALSTON, *Umpire:*

The above entitled claim for 3,419,223.28 bolivars is referred to the umpire on difference of opinion between the honorable Commissioners for Italy and Venezuela.

Silvio and Americo Poggioli, natives and subjects of Italy, were domiciled in Venezuela long prior to 1892, the period when the larger share of the losses for which claim is made, was experienced. They had been in partnership for many years in the cultivation and sale of agricultural products, being, besides, the owners of considerable mercantile establishments at several points.

In the spring of 1892 the Legalista revolution broke out in the State of Los Andes, and early in its career, on the 26th of April, 1892, General Ferrer, who was the governmental chief in charge of the headquarters at Valera, demanded from the brothers a certain number of mules, which were not furnished, Americo insisting that they were no longer the property of the Poggiolis, but by contract belonged to another firm. He was given three days in which to produce them, at the end of which time, the mules not appearing and the Poggiolis being in Monte Carmelo, about ten leagues away,

some 85 soldiers were sent to that point, and they were put under arrest, retained there for a few days and afterwards transported elsewhere, remaining prisoners for forty-two days, when they were set at liberty.

About the time of their arrest a charge was instituted against them, at the instigation of the highest military officials, of having imported arms and ammunition intended for the use of the revolutionists, and witnesses were, according to the testimony, by subornation, threats, and promises, made to appear to sustain it. This charge, however, after being fully investigated by the court of first instance, was found to be without foundation, both by that court and its superior court.

About the time of the imprisonment of the Poggiolis there were taken from them 95 mules and 100 cattle, of the entire value of 69,400 bolivars.

After the release of the Poggiolis they went to Mendoza to recover their health, which had been injured by imprisonment, but before they were completely restored Silvio was again, in the following month of September, arrested, being kept in confinement this time some fifteen days, when he was released.

The arrest of the Poggiolis was the signal for the destruction of their extensive properties, since we find that by government authorities their sugar-mill and house at San Rafael were at once destroyed, with a loss of 4000 bolivars. Being reconstructed, they were again burned and robberies committed, the additional loss being 4875 bolivars. Heavy losses at San Antonio, San Rafael, San Emigdio, Los Ranchos, and Miraflores were attributed to an understanding between the criminals hereinafter referred to and the authorities, whereby was established a plan with fire and machete to devastate the properties. Ten hectares of sugar cane were destroyed, which, had it been harvested, would have yielded 12,000 bolivars. At San Emigdio there were destroyed coffee and a coffee-mill of a total value of 6900 bolivars. At Miraflores were destroyed banana trees capable of producing to the value of 800 bolivars. At El Pescado a house worth 1000 bolivars was burned by Juan Torres, agent of the government and commissary of the Caserio Cristobal. At Santa Maria and El Pescado coffee-mills worked by water, and worth 7200 bolivars, were destroyed by agents of the government. When the employees of the Poggioli brothers complained to the authorities of the parish, some were recruited in the army and others expelled. At Emigdio 3 cattle were killed and a horse injured, at a total loss of 1728 bolivars. The authorities at Monte Carmelo took and destroyed property to the value of 48,500 bolivars.

It is further stated circumstantially that high government officials convoked the agents and debtors of the Poggiolis, threatening them with all sorts of injuries unless they should give up their management of the properties of the brothers and refuse to pay their debts to them, and in many cases those who continued their friendship were finally driven off by violence. As incidental to the dispersal of their agents and their own enforced absence, the Poggiolis claim to have lost, but without satisfactory details, 100,000 bolivars through neglect of their properties.

While the Poggiolis were prisoners, they had at Monte Carmelo 600 loads of coffee ready for shipment; at San José de Palmira 725 loads, and at San Cristobal de Pinango 250 cargoes; but the port of Buena Vista was closed, and exportation there and at the port of La Dificultad prevented, with a consequent loss of 24,000 bolivars.

Packages of merchandise on the road from Arapuey to Monte Carmelo, valued at 4800 bolivars, were taken by the government troops.

The agents of the civil government, under General Vasques, burned the bodega at Buena Vista and other houses; the total loss of materials and labor at that point amounting to 24,000 bolivars.

The mercantile establishment of the brothers at San José de Palmira, containing a large quantity of merchandise, was completely sacked, and coffee destroyed of a total value of not less than 32,000 bolivars.

The preceding year B. Hernandez, C. Solarte, R. H. Trejo, and F. Suares had attempted the life of Silvio Poggioli, and in consequence were arrested and found guilty. They nevertheless were allowed to enter the army, while the expediente showing their guilt disappeared. The Poggioli brothers repeatedly called the attention of the superior authorities of the State, commencing at least as early as May 12, 1892, to this condition of affairs, insisting that these men should be rearrested, but in vain. So far from being retaken, they seemed to have received the tacit protection of the authorities at Monte Carmelo, who would warn them when there was danger of their being disturbed, and who with other officials joined with them in the larger part of the various offences committed against the Poggiolis, this continuing to be the case until 1895, when the Poggiolis were at last, after repeated efforts, finally assured of a proper administration of justice; competent and reliable authorities at Monte Carmelo replacing those against whom the Poggiolis had protested, even to the Secretary of the Interior of Venezuela.

Until the last of 1894 the Poggiolis were unable to return to their home at Monte Carmelo because of the events narrated, one effort resulting in the attempted assassination of Silvio, and their properties therefore being meanwhile utterly neglected.

That the general condition in Los Andes was bad and a reign of anarchy existed we may readily believe, from the fact that on March 27, 1895, the Minister of Interior Affairs at Caracas refused to favor calling elections because the State of Los Andes was "an eternal slaughter-house," and laws protecting life and property were for the time being non-existent. Another index of the local conditions is afforded in the fact that the officials of Monte Carmelo were changed seven times between April, 1892, and September, 1893.

As late as 1894 the Poggiolis were again called upon to defend themselves against an unfounded charge of introduction of arms, but this claim was quickly disposed of by the intervention of the superior authorities, although for the time being it subjected them to inconvenience and trouble.

They were compelled to expend in defending themselves from the various false charges 7615.34 pesos, and they further expended to send Silvio Poggioli to Caracas to advance their claim the additional amount of 3407 pesos.

As the result of all the acts herein set forth, the Poggiolis fell into a state of bankruptcy.

As early as June, 1893, Silvio Poggioli presented to the Venezuelan government an account of the damages and injuries to which he and his brother had up to that date been subjected, and as a consequence, on June 27, 1903, the Secretary of the Interior wrote to the President of Los Andes, ordering that the criminals be immediately imprisoned and an inquiry had as to the authors of the suppression of the expediente against them, in order to punish them severely. This was regularly transmitted to the authorities of Monte Carmelo, who filed it away without attention.

The foregoing is not a complete statement of the offences and annoyances to which the Poggiolis were subjected, but gives a sufficient and at the same time concise account of their most grievous troubles.

It is urged, by way of excuse or defence, that the Poggiolis were usurers, and had entrapped their neighbors into many contracts extremely disadvantageous to them, and that all of the difficulties to which they were subjected were to be attributed to personal animosities born of their conduct, rather than to the acts of officials for which the government should be liable, and, supporting this, it is said that Hernandez himself lost his property because of an unfair contract executed by him at the instance of the Poggiolis, which they rigidly enforced, and that his activity in the various offences committed against them was to be attributed to personal enmity. In addition, it is to be noted that General Francisco Vasquez, civil and military chief of the Trujillo section of the State of Los Andes, and General Gabriel Briceno, who took part against the Poggiolis, were personal enemies of theirs before the war, while in the letter of Carrasquero, chief of the district of El Pescado in November, 1894, promising protection to the Poggiolis, their difficulties were spoken of as arising from commercial rivalries.

Again, some of their troubles with relation to loss of coffee sent by them to the port of La Dificultad for exportation seem to have relation to the fact that they refused to pay taxes thereon, which had been ordered, apparently illegally, by district councils.

These excuses are not, however, of a character to affect liability if it otherwise existed.

Since the events of which we speak, Americo Poggioli has died, having in fact been killed by a musket-ball fired by one of the garrison stationed at Valera, and, it is suggested, by Solarte, one of the criminals who had assaulted Silvio Poggioli in the year 1901, and who had escaped confinement, practically receiving in fact government protection. However this may be, the claim of Americo Poggioli died with him, so far as this Commission is concerned, as his only heirs consist of his widow and children, all of whom are Venezuelans by birth. The claim of his heirs is therefore Venezuelan, under the rules heretofore adopted by the umpire, particularly in the Brignone and Miliani cases.

Although Mr. Ralston sets forth the facts succinctly in this case, his award of damages seems to have been made on a very narrow-minded basis. He found that the Poggiolis had suffered damages to the amount of 599,291 bolivars, or less than $120,000; but as Americo had been murdered by the Venezuelan authorities themselves, and as his wife was a Venezuelan, Mr. Ralston decided that his claim died with him. It would, therefore, appear as if it would be cheaper for the Venezuelan authorities to assassinate a man while they are about it.

Mr. Ralston's decision cannot be defended in equity or reason. Granting that the Commission had no authority under the protocol to award damages against Venezuela and in favor of Venezuelans, as this was the point on which the decision hinged, and granting that this man's wife and children were Venezuelans, which, as a matter of law, they were not, it yet remains true that an award in favor of this man would have been an award in favor of his estate and for the bene-

fit of his creditors and all of his heirs. If Mr. Ralston's reasoning were correct, then the Commission should not make an award in favor of a man, though he were still alive, if it should appear that some of his heirs were Venezuelans, or likely to become such.

II. Monnot Case

Bainbridge, *Commissioner* (for the Commission):

The claimant is a native citizen of the United States. In November, 1899, he established a store at Amacura, British Guiana, for the purpose of supplying men employed by him in collecting balata gum, as well as for the sale of supplies and a general trading business. The town of Amacura is located in the territory awarded Venezuela by the Paris court of arbitration. On December 4, 1900, during Monnot's absence from Amacura, a commissioner of the collector of customs at Ciudad Bolivar came to Amacura, seized claimant's goods, and closed his store. A suit was initiated against Monnot before the judge of finance in Ciudad Bolivar on the charge of smuggling certain merchandise, but it was shown at the trial that the last shipment of goods received by him was on October 19, 1900, while the territory was still in British possession; whereupon a decree of dismissal was entered in the action on February 8, 1901, and upon appeal to the supreme court of finance in Caracas the judgment of the lower court was affirmed on March 16, 1903. The claimant states that in January, 1901, his representative having been expelled from Amacura, the Venezuelan authorities took and sold the greater part of his goods and removed the balance from his store; that as he had no means of supplying the large gangs of men employed by him with goods, and who were largely indebted to him for advances in cash and supplies, they took advantage of the situation and ran away, taking with them the gum they had gathered. He also claims that he had engaged men for the season of 1901 and was unable to put them to work, and as a consequence lost the profits of that year.

Mr. Monnot summarizes his claim as follows:

1.	Value of goods seized as per inventory	$2,433.97
2.	Amount lost in advances made to balata gatherers who ran away .	5,974.07
3.	Value of the balata gum stolen by said men, 64,800 pounds, at 50 cents per pound	32,400.00
4.	Salaries paid to employees since December, 1900, to February, 1901, three months, at $225 per month	675.00
5.	One breech-loading shotgun and one revolver taken from my representative	135.00
6.	Expenses occasioned by the case, such as travelling	2,500.00
7.	Attorney's fees in Ciudad Bolivar, as per receipt, 7800 bolivars .	1,500.00
8.	Indemnity for personal time, attention, inconvenience, etc., occasioned in defence of the case	10,000.00
9.	Indemnity for the loss of the gathering season 1901, for which arrangements and contracts had been made	52,000.00
10.	Indemnity for the loss of all business prospects of my enterprise at Amacura	100,000.00
		$207,618.04
	Or less amount obtained by sale of goods remaining, sold by order of the court of Hacienda, paid my agent at Ciudad Bolívar, November 4, 1901	936.92
		$206,681.12

The learned counsel for Venezuela interposes as a defence to this claim that the proceeding of the revenue officers in seizing the claimant's goods was in perfect accord with local legislation. But it is evident from the record in the case that a reasonable inquiry would have disclosed the fact that Monnot had imported the goods prior to the time the government of Venezuela took possession of the territory. Mr. Monnot's representative testifies that at the time he made "energetic protests" against the seizure.

Only partial restitution was made to the claimant after the dismissal of the case. He is entitled to compensation for the proximate and direct consequences of the wrongful seizure of his property. In the similar case of Smith *v.* Mexico, decided by the United States and Mexican Commission of 1839 (4 Moore International Arbitrations, 3374), an award was made for the value of property lost or destroyed, pending the judicial proceedings, with a reasonable mercantile profit thereon.

Items 1, 4, and 5 of his claim are allowed. To this amount is added the sum of $2000 for expenses incurred by him in consequence of the suit. From this total of $5233.97 must be deducted the sum of $936.92, the amount obtained by sale of the goods restored by order of the court. Interest is allowed upon the balance of $4297.05, at 3 per cent per annum, from December 4, 1900, to December 31, 1903, the anticipated date of the final award by this Commission.

As to the remaining items of the claim, the evidence is insufficient to establish any liability therefor on the part of the government of Venezuela, and they are hereby disallowed.

In this case Mr. Monnot had been granted a concession by the Venezuelan government to gather balata gum, a kind of rubber, and relying upon the good faith of that concession, Mr. Monnot had invested several thousand dollars. As soon as the Venezuelan generals saw that Mr. Monnot would probably make a small fortune out of his enterprise, they threw him into jail on a trumped-up charge, seized his property, and scattered his employees. These in their flight did not neglect to take all Mr. Monnot's balata gum, worth more than $30,000, as well as the money he had advanced them, about $6000.

These actions of the Venezuelan authorities constitute a cold-blooded outrage against an inoffensive, hard-working man. They took his property, and unquestionably the balata gum which was carried off by the fleeing employees was divided up among the "Generales."

William E. Bainbridge, of Council Bluffs, Iowa, American Commissioner, under oath to decide the cases before him "upon a basis of absolute equity, without regard to objections of a technical nature, or the provisions of local legislation," gave Mr. Monnot the beggarly sum of $4297.05 in this case.

III. Kelly Case

Plumley, *Umpire.*

This is the case of James Nathan Kelly, a native of the island of Trinidad, a British subject, and who for some thirteen years prior to the 12th of March,

1901, had lived near Rio Grande, not far from Guiria, and was a shopkeeper and the owner of a cocoa plantation, and was also the owner of a cutter of about three tons. He complains that in January, 1900, some $100 worth of goods was taken by one Tomasito Guerra, at the head of a regiment, understood by the umpire to have been government troops, and that in January, 1901, the Venezuelan troops under Colonel Rueda, the chief in command being General Faia, came, and this time he was ruined; that he was arrested and taken before a court-martial. While he was gone his shop was broken into, his dwelling-house entered, his furniture destroyed, his clothing and jewels taken, as were 40 bags of cocoa and $947; that, later, to protect his wife from outrage, he sent her under cover of night over the hills and rivers from Rio Grande to Guiria on foot, and that she paid her passage money of $18 and sailed from Guiria to Trinidad; that he himself was concealed in the woods for nearly a month, when he made his escape to Trinidad, where he still remained at the time of giving his affidavit, December 23, 1902. He claims his losses to consist of —

Cash ($150 and $947)	$1097
Cocoa, 40 bags, at 41 per bag (200 pounds)	768
Shop goods	150
Furniture	250

The claimant himself and his wife make their several affidavits. He also introduces the affidavit of one Julio Cortes. By this witness it is stated that the shop was fairly stocked; that Kelly was arrested; that they took away a good deal of cocoa belonging to Mr. Kelly, and that Mr. Kelly had a very fine cocoa estate, which yielded very well. There is no statement by this witness as to the amount, condition, character, or value of the furniture in the house, or that Kelly lost any furniture, and there is no statement by either Mr. Kelly or his wife as to the amount, condition, or character of his furniture or any description of the contents of his shop or what kind of business he was doing as a shopkeeper. . . .

The testimony tending to establish the fact of Mr. Kelly's relation with revolutionary matters is to show that he was assisting in the revolution of General Hernandez, and we have the authority of the honorable Commissioner for Venezuela that this revolution began on the 22d of October, 1899, and ended in June, 1900. This claim for damages is based on the wrongful acts of government troops in January, 1901; and it appears that after these damages occurred Mr. Kelly hid in the woods for a month, and then took boat to Trinidad, where he remained and where he was at the time of giving his affidavit in this case, which was the 23d of December, 1902. So that it is absolutely impossible that the witness can be correct in this statement. He either has mistaken his man or he has mistaken the facts. In either case he becomes a doubtful witness, and his testimony is too badly shaken to place any reliance upon it in a matter so important. In the matter of evidence tending to show that Mr. Kelly made some preparations in association with some of his neighbors to meet with force the anticipated raid from the war-sloop Augusto, it is sufficient to say that it amounted to nothing. Nothing is shown to have been done, excepting that for a few days or nights they were banded together and took turns on sentry duty; but they made no attacks upon any one, and, so far as it appears, were not attacked, and their fears were fortunately groundless and their labors happily fruitless. It does appear that there

were well-grounded fears that the advent of government troops, no less than revolutionary troops, meant pillage, plunder, devastation, destruction, and anticipated outrage of their women, instead of protection, peace, security in property and person, which is the relation that the troops of the government should sustain, so far as possible, in the midst of revolution, and that under such conditions men arm and even shoot in defence of their property and their homes is to be commended, and the umpire finds nothing in this to criticise, and nothing in it to extract a single grain of proof that Mr. Kelly was a revolutionist. Again, the witnesses who claim to connect Mr. Kelly with the army of the revolution attach him to General Ducharme, and make him so intimately connected with this general as to be the bearer of his despatches and his confidential personal oral orders, so that it is impossible not to conclude that if Mr. Kelly had been thus associated with him he would have known of the fact. Hence the importance of his testimony, which is that Mr. Kelly was never engaged in any of the political matters of his district.

Notwithstanding the umpire's admission that a man might be justified in fighting to prevent Venezuelan soldiers from committing rape upon his wife, the honorable gentleman was not disposed to translate his sentiments into a judgment for any considerable sum in cash; he therefore awarded Mr. Kelly £297 sterling, or something over $1400.

IV. Di Caro Case

Ralston, *Umpire:*

The claim of Beatrice di Caro, widow of Giovanni Cammarano, has been submitted to the umpire upon difference of opinion between the honorable Commissioners for Italy and Venezuela, upon the question of the amount of damages.

The admitted facts seem to be that on May 4, 1902, two government soldiers went to the store, or "pulperia," of Giovanni Cammarano in Duaca when he was absent, and, after demanding various articles with which they were supplied, attempted to assault the claimant, Beatrice Di Caro, and her daughter-in-law. The two sons of Giovanni Cammarano struggled with the soldiers, and one son, getting possession of the gun of a soldier, shot and killed him. The remaining soldier escaped. The sons thereupon fled.

A detachment of soldiers in charge of an officer shortly after went to the house, and finding Giovanni Cammarano, who had meanwhile returned, demanded the whereabouts of his sons. This he was unable or unwilling to give. They seized him, conducting him about a square and a half, cut him with a machete, and shot and killed him in the street. Thereafter the soldiers sacked the store, and again, on January 27, 1903, the store having been somewhat replenished, it was plundered by the government forces.

The claimant fixes the value of property taken at 16,468 bolivars and of cash money at 13,554, or at another place at 14,072 bolivars.

The sons of the claimant, shortly after the occurrences first mentioned (and possibly before), joined the revolutionary army, but there is no sufficient reason to believe that claimant's deceased husband took any part in the domestic difficulties of Venezuela.

The first question presenting itself is as to the damages to be awarded

claimant for the unwarranted killing of her husband. The honorable Italian Commissioner would fix this award at a considerable amount. The honorable Commissioner for Venezuela, arguing that the deceased, had he been a young man, could not have earned more than 3 bolivars a day, and that, being 64 years of age, his expectancy of life could not exceed six more years, would award damages for his death at not to exceed 6510 bolivars.

The argument in favor of the sum last named is based exclusively, as appears, upon the theory that the deceased was but a laborer, and that his death only deprived his family of his value as such laborer. But the evidence tends to show that he was a shopkeeper and bought and sold coffee and other productions in considerable quantities, besides apparently cultivating a small piece of land, the extent of which is not given. We may fairly consider, therefore, that his earning power would be much more than 3 bolivars a day.

But while, in establishing the extent of the loss to a wife resultant upon the death of a husband, it is fair and proper to estimate his earning power, his expectation of life, and, as suggested, also to bear in mind his station in life with a view of determining the extent of comforts and amenities of which the wife has been the loser, we would, in the umpire's opinion, seriously err if we ignored the deprivation of personal companionship and cherished associations consequent upon the loss of a husband or wife unexpectedly taken away. Nor can we overlook the strain and shock incident to such violent severing of old relations. For all this no human standard of measurement exists, since affection, devotion, and companionship may not be translated into any certain or ascertainable number of bolivars or pounds sterling. Bearing in mind, however, the elements admitted by the honorable Commissioners as entering into the calculation and the additional elements adverted to, considering the distressing experiences immediately preceding this tragedy, and not ignoring the precedents of other tribunals and of international settlements for violent deaths, it seems to the umpire that an award of 50,000 bolivars would be just.

The next question of difference is as to the award for property taken. The umpire is not disposed to accept the claim for cash money said to have been taken. This, it is alleged, was sent to the decedent by a bank a short time previous to his death, and the sons, for whose benefit the umpire does not feel he can make an allowance because of their revolutionary career, were apparently interested in it. Besides, its existence is not clearly shown; and if it had been received from a bank, this fact was susceptible of definite and disinterested proof, which is lacking. In addition, the amount, considering the claimed value of the deceased's other property, is so unreasonably large that excessive exaggeration may be presumed. The umpire is further satisfied, taking the evidence as a whole, that the value of the contents of the "pulperia" has been grossly overestimated, and that if he allows 1000 bolivars as the value of the widow's interest in all of the personal property, he will be doing full justice.

V. Biajo Cesarino Case

Ralston, *Umpire:*

The foregoing cause was duly referred to the umpire, on difference of opinion between the honorable Commissioners for Italy and Venezuela.

The claim arises because of the killing of Gaetano Cesarino, father of the

claimant, in the town of Tocuyo on the 9th day of April, A. D. 1903, by a shot fired by a police official named Manuel Aguilar. The claimant asks 50,000 bolivars.

From the undisputed facts in the case, it appears that Manuel Aguilar was at the time a police official, and fired upon the deceased, a pedler by occupation, as he was crossing a street of Tocuyo. The first proofs submitted tended to show that Aguilar was about fifty metres from the deceased at the time he shot, but subsequent more exact information places the distance at two hundred metres.

At first it was proven simply that the deceased was killed by the official named, no particulars being furnished, leaving it open to be supposed that the killing might have been accidental or brought about upon sufficient cause. The later evidence, however, demonstrated that the deceased was a peaceful, inoffensive man, who had taken no part whatever in any political questions, and was engaged in no disturbance and furnished no cause for the act against him. The assailant professes entire ignorance of the event, but a man who stood next to him, Giminez, saw him raise his gun and fire at the deceased, and suggests no provocation or excuse.

There is considerable evidence tending to show that there were street fights in Tocuyo on the morning in question between government troops originally in possession and revolutionary troops which were entering, and the testimony of some of the witnesses would seem to indicate that the killing of Cesarino occurred about the time of an exchange of shots. Other papers submitted apparently demonstrate that there was no contest between the contending parties until about an hour after Cesarino was killed. Whatever may be the exact fact as to this point, it does appear that the deceased took no part in the contention, but was shot down in the street unarmed. Nowhere is it suggested that he suffered because believed to be taking part with the revolutionists, and one is unable to determine whether he was killed by Aguilar in a spirit of reckless bravado or in unreasoning panic. Certain it is that the killing was utterly causeless, while deliberate.

The umpire cannot, under all the evidence in the case, accept the theory that the death of Cesarino was one of the incidents of war for which no responsibility exists. True it is that governments are not to be held to too close accountability for the misdirected shots of their soldiers or for every display of lack of judgment, but this is not to say that the existence of war frees them from every responsibility. Cases before the present Commissions in Caracas afford many illustrations of decisions holding the government of Venezuela liable for the wanton or negligent acts of its agents in war and in peace, and, in the judgment of the umpire, the present claim should be added to the list of such cases.

The claimant apparently claims for himself and his mother and a minor child. In the estimation of damages he, being a man of full age and married in Venezuela, will not be recognized. There is no proof of the marriage of his mother or the existence of a minor child, except as he has stated, and, in the opinion of the umpire, the royal Italian legation requesting it, an opportunity to furnish other and more exact proof should be afforded. No award will therefore be made pending the furnishing of fuller proof.

Later an award was made for 40,000 bolivars, a little less than $8000.

VI. Case of William Quirk

Bainbridge, *Commissioner* (for the Commission):

William Quirk, a native citizen of the United States, came to Venezuela in 1867, to engage in the business of raising sea-island cotton. He first rented a small plantation known as Guayabite, which he worked successfully for about eighteen months. Satisfied that the soil and climate of Venezuela were adapted to the culture of a fine quality of cotton, he succeeded, in April, 1869, in interesting several merchants of Caracas, who advanced him money, with the aid of which in that year he raised a profitable crop, and returned the borrowed capital with interest at twelve per cent.

In the latter part of 1869 the firm of H. L. Boulton & Co., of Caracas, contracted with Mr. Quirk to raise sea-island cotton on a larger scale. The agreement was that Boulton & Co. were to provide Quirk with sufficient capital which, added to his own, would enable them to raise the crop and ship it to Liverpool, the net proceeds to be divided equally between them. Pursuant to this agreement a part of the estate known as Tocoron in the State of Aragua was rented. Boulton & Co. state:

"Upon this property we found nothing but a house in a very dilapidated condition, and the lands most suited to us in a state of forest for the most part, and the rest covered with tall grass, called gamblot. The first thing we had to do was to make the house habitable for Quirk and his family, then fence in our property, cut down the forest, pluck up the gamblot by the roots, so that it should not destroy the cotton, and repair to a certain extent, sufficiently to preserve our crop, the watercourses."

They brought from the United States all the necessary implements and machinery and thirty-four laborers familiar with the methods of cotton-raising. The prospects were so favorable that Boulton & Co. finally agreed with Quirk to continue the planting of cotton for three years, two of which they were to participate in and the third to be for Quirk's sole account. On April 19, 1871, they had already taken off the principal part of the crop and were preparing to take in a second, and arrangements were entered into to plant the crop of 1872.

This was the situation when on April 19, 1871, about 300 regular soldiers, under the command of General Rodriguez, and constituting part of the army of General Alcantara, the civil and military governor of the State of Aragua, came to Tocoron; took prisoner and tied with a rope Quirk's book-keeper; took from the stables six horses and a mule belonging to Quirk; entered the dwelling-house, which they searched; used threatening and abusive language toward Quirk and his family; compelled his wife to deliver up claimant's revolver, and then left the premises, threatening to return and kill the claimant and destroy the place. Mr. Quirk claimed the protection of his flag and besought the officer in command to desist, but was told by the latter that he was "carrying out strictly the orders of General Alcantara." After this outrage Quirk considered it unsafe for himself or his family to remain at Tocoron, and he left the next day for Caracas. There he claimed the protection of the President, General Guzman Blanco, who told him that he could not interfere with or control General Alcantara. Quirk then returned to Tocoron, disposed of his household furniture at a sacrifice, and brought to Caracas his machinery, farming utensils, and his American employees. An inventory and appraise-

ment of the immovable property on the plantation was made, on May 5, 1871, by order of the local court, and a valuation placed thereon of 21,265 pesos. The property taken by the troops on April 19 was valued at 1725 pesos. In June, 1871, Mr. Quirk returned with his family to the United States, where he died on May 25, 1896.

For the above-described damages Bainbridge allowed the heir of Quirk the munificent sum of $18,154.61, no part of which she has received yet, although the outrages occurred over thirty years ago.

VII. Topaze Case

This case illustrates the vicissitudes which the captains and crews of vessels frequently have to undergo in Latin-American waters.

Plumley, *Umpire:*

The Topaze, a British steamship, was at Puerto Cabello on the 9th of December, 1902, shortly after the establishment of the British Pacific blockade. At 8 p. m. the captain and crew were taken from the ship by an armed guard to the custom house without opportunity to put on reasonable clothing or to lock up their berths, and at 10 p. m. they were taken under armed guard and imprisoned in a small and badly ventilated cell, and were compelled to sleep on the stone floor. There were ten officers and a crew of twenty. They were thus confined until 10.30 at night of the next day, and, owing to the bad smells and want of ventilation, many of the crew were ill. No food was provided, and what they had was sent in by friends. They were taken back to their ship under an armed guard, and while absent various articles belonging to the crew were stolen. These facts are taken from the memorial in this cause, and there are no contradictory facts alleged by Venezuela.

The umpire awarded the officers £20 sterling and the crew £10 sterling each for damages in this case — perhaps not half enough to pay the lawyers' fees.

Usually, however, they get no damages, and when their home government intervenes, the American newspapers cry aloud about an infringement of the sacred Monroe Doctrine.

VIII. Giacopini Case

Ralston, *Umpire:*

In 1871 Domenico and Giuseppe Giacopini, Italian subjects, were merchants, doing an extensive business at Valera. In November of that year their partnership store was entered by Venezuelan troops, by order of General Pulgar, commanding the right wing, and there was forcibly taken from it property of the value indicated: Coffee, 14,400 fuertes; potatoes, 250 fuertes; cacao, 40 fuertes; fennel, 112 fuertes; general merchandise, 2000 fuertes; personal and household effects, 500 fuertes; figs, 640 fuertes. In addition, mules were taken to the value of 2400 fuertes and oxen worth 100 fuertes. About the same time Domenico Giacopini was arrested on an unfounded charge of complicity in political disturbances, and transported by the army,

in chains, under dangerous conditions, to Maracaibo, where, contrary to the Venezuelan Constitution, he was thrown into prison in association with criminals, and again, contrary to the same instrument, loaded with fetters. After some weeks he was released from prison upon payment of a forced exaction to General Pulgar of 400 fuertes and the execution of a bond requiring his presence in Maracaibo to meet any charge brought against him. None such was ever brought, and after seventy-five days of absence from his business, part in actual and part in virtual captivity, he was restored to his home in Valera. Giuseppe Giacopini also spent some time in prison, but its term is not fixed, and this element of damage is not considered for reasons hereinafter given. . . .

We are brought next to the consideration of an objection to a part of the claim. As before stated, one of the original complainants, Giuseppe Giacopini, is dead. His widow had remarried with a Venezuelan citizen. Giuseppe Giacopini's children were born in Venezuela. By the laws of this country the foreign woman who marries a Venezuelan becomes Venezuelan. Under the decision in the Miliani case, No. 223, the children of a foreigner who are born in Venezuela are Venezuelans. In so far, therefore, as the claim belongs to Venezuelans, it is not considered and must be dismissed without prejudice.

The value of mules, coffee, potatoes, cocoa, fennel, merchandise, household articles, figs, and oxen taken from the firm was 20,442 fuertes, or 102,210 bolivars. Four hundred fuertes, or 2000 bolivars, were paid (apparently in the end by the firm) to General Pulgar, to secure the release of Domenico Giacopini. One half of this amount may be awarded to Domenico Giacopini. For the time he was in constraint, either in prison or in Maracaibo, the average sum of 50 fuertes per day, or a total of 3750 fuertes, will be awarded without interest.

The total award to Domenico Giacopini will therefore be 52,105 bolivars, upon which interest may be calculated since December 1, 1872, approximately the date of the taking of proof, and 3750 fuertes without interest. No award is made of the sufferings of Giuseppe Giacopini nor for money expended by him personally, as only his heirs could possibly be entitled to an interest therein, and they are excluded from this judgment for the reasons hereinbefore set forth.

Mr. Ralston overlooks the fact that there might be creditors of the estate who would be entitled to their share of the amount owed by Venezuela, and the further fact that there might be heirs who were not Venezuelans.

The above are only a few of thousands of similar cases occurring in every Latin-American country, except Mexico. Their occurrence in Argentina, Chili, Peru, and Costa Rica is not so frequent. In most of the other countries they are continual. The sufferers in the above cases, often after twenty or thirty years' delay, have been to some extent repaid for their losses, but in thousands of other instances there has been no redress whatever.

IX. One of Guatemala's rather Unique Methods for Robbing Foreigners, which is sustained by our State Department

Guatemala, like several other "Sister Republics," is filled with worthless paper money. In most places a man is compelled by "law" to accept this "stuff" in payment of debts or for merchandise. The military Jefes, Generals, Presidents, and other "authorities," however, prefer silver and gold. The methods adopted for converting the worthless money into the coin owned by others at least deserve the credit of originality. A man can take gold or silver with him into Guatemala, but once there, it is gone forever. He can never take it away with him. The scheme put in operation by Guatemala is worthy of adoption by all our other "Sisters." As it has received the full approval of our State Department, it is one method of robbery by process of law which may be called safe.

The Dictator of Guatemala, José Maria Reyna Barrios, issued a decree on the 27th of January, 1898, prohibiting all persons from exporting silver from Guatemala. He had, on the previous May, issued a decree authorizing the banks to stop the redemption of their notes. As vast quantities of these notes were in circulation, nobody wanted them, particularly no foreign house. Men who sought to buy merchandise in New York or Berlin could not pay for it in the depreciated paper currency of Guatemala, because nobody would accept it; a man about to sell his property and leave that country would naturally want to take the coin; a man leaving Guatemala would have no possible use for their paper currency, it would not even pay hotel bills or travelling expenses in other lands.

Here is where the decree of Dictator Barrios came in handily. It enabled him to confiscate all the coin of every person who attempted to get away from that country, simply by declaring silver "contraband." His decree, after the usual batch of "whereases," provided:

> "Art. 1. From this date the exportation of coined silver is prohibited.
> "Art. 2. The violation of the provision of the foregoing article shall be punished as contraband."

Later Dictator Barrios prohibited the exportation of silver in bars and silver ore.

Contraband is an important word in these dictatorships. New offences are created by the edicts of military Jefes in a most amazing way, and classified as "contraband." Declaring a thing contraband becomes thus one of the simplest ways for taking away from a man that which belongs to him.

Of course, to "smuggle" anything "contraband" is a very serious matter; and under the decree of Dictator Barrios, for a man to carry across the borders of Guatemala his own money, in his own pocket,

with which to pay his travelling expenses home, would be to commit a crime, since silver is contraband.

Other decrees had fixed the penalty in Guatemala for "smuggling" (Decree 497, of February 27, 1894) as follows:

"SECTION 443. Besides the common penalty of confiscation the persons guilty of contraband or defraudation shall be subject to the following penalties:

"When the value of the effects seized, or those that by the procedure may seem to have been the cause of the crime is over $10 and does not exceed $20, the penalty shall be two months' imprisonment.

"In similar cases, if the value is over $20 and does not reach $500, with four months' imprisonment; from $500 to $2000, the penalty shall be one year's imprisonment; from $2000 to $6000, with two years' imprisonment; and exceeding this last sum, with three years' imprisonment."

That is to say, if a man attempts to leave Guatemala and he has with him ten dollars of silver, American or Mexican, with which to pay his travelling expenses, not only is the money confiscated by the so-called government, but he is locked up in jail for two months. Under such "laws" as these the Guatemalan bandit chiefs, styled government authorities, seize all the coin a man has when he is leaving that country, prevent him from sending any coin out of the country, and after robbing him under the charge of "contraband," add outrage to wrong by locking him up in jail.

As an illustration, I quote from a report by United States Minister W. Godfrey Hunter, who cannot surely be accused of over-activity in behalf of American interests, dated Guatemala, March 16, 1901, addressed to Secretary Hay:

"Gustave and Siegfried Koenigsberger, who are brothers, the former a German subject and the latter a naturalized American citizen, have been for the past ten years engaged as partners in the broker business in this city. On the morning of December 7, 1899, these men left here on the Guatemala Central Railroad for the port of San José on the Pacific coast of this Republic, having checked their two valises as baggage through to the pier of said port. On their arrival there in the afternoon they applied for permission to embark on the steamer that evening for Salvador, and having identified their valises, they were requested by the customs authorities to open them, in order to ascertain whether they contained silver intended to be smuggled from the country. As they refused to comply with this request, they were taken ashore with their valises, and detained in the office of the Comandante, where, next morning, December 8, 1899, in the presence of the Messrs. Koenigsberger and our consular agent, Mr. Upton Lorentz, the valises were opened under protest, and found to contain $1792 in silver coins of Guatemala, Peru, and Chili, there being a shortage according to the claims of the Messrs. Koenigsberger of $508, as they affirmed that the valises had contained $2300. The amount found, $1792, however, was confiscated by the authorities, and an investigation ordered with a view of instituting criminal proceedings against them. . . .

"About the same time also Mr. P. Dalgliesh, a British subject, had a sum of $13,000 confiscated, which he was attempting to smuggle out in the same way, and had laid his case before the British minister, who also refused to uphold him in the matter."

Minister Hunter therefore decided that the Koenigsbergers had tried to "smuggle" out of the country the $2300 which they carriedin their valises; that their act was in contravention of the "law" above quoted; that therefore they had no ground of complaint, and were not entitled to recover the silver confiscated, and could consider themselves fortunate in having escaped penal proceedings.

In this opinion Secretary John Hay fully concurred.

Mr. Hay's opinion was of course based upon the strict rules of "International Law." Nevertheless, Mr. Koenigsberger suffered an outrage. He had his savings (probably for his ten years' work), confiscated by a corrupt military Dictator, to his own use, under the pretence of a "law" which had never been passed by any legislature and which is on its face infamous. Ten thousand such cases have occurred in Central and South America.

Civilization is not possible in these countries under present conditions. It is time for the American people to take matters in hand, because no redress or betterment has ever come, or will ever come, on the initiative of our State Department.

Secretary Hay ought to have held that a decree by Dictator Barrios did not have the force of law to bind the United States; and that a law prohibiting a man from carrying enough coin to pay his travelling expenses was void as against public policy, and an unreasonable restriction, such as no civilized government would impose and such as the United States would not recognize.

X. Case of Van Dissel & Co.

Umpire Duffield, of the German-Venezuelan Commission, reluctantly decided that, under the protocol, Venezuela had admitted her liability for revolutionary outrages committed during the "present Venezuelan civil war," which extended from 1900 to 1902. His anxiety to shield Venezuela, however, at the expense of her just creditors, may be shown in the case of Van Dissel & Co.

The Commission agreed that, on July 30 and 31, 1901, a detachment of troops under the orders of General Juan Marquez confiscated from the firm of Van Dissel & Co. at Encontrados six saddle mules and ninety-three pack mules. They had also sacked the mercantile establishment, El Finglado, belonging to Christern & Co., and had committed numerous other depredations. General Marquez was one of the revolutionary party of General Rangel Garbiras, who acted as leader of the so-called Nationalista party during the

imprisonment of "El Mocho" Hernandez. They had about 4000 troops, nearly all Venezuelans, but their rendezvous was on the Colombian side, and they invaded by way of Tachira, and later from Rio Hacha.

Mr. Duffield, in discussing this case, says (Ven. Arb., 1903, p. 568):

"The claimants in this case base their claim upon injuries to and seizures of property belonging to them at their farm, El Azufre, in the jurisdiction of Michelena, State of Los Andes, by the troops of General Garbiras in July, 1901.

"The Commissioner for Germany is of the opinion that the acts complained of occurred during the present Venezuelan civil war, as described in the protocol, while the Commissioner for Venezuela insists that these words in the protocol embrace only the so-called Matos revolution, which originated in or about December, 1901.

"The importance of a correct interpretation of the words 'present Venezuelan civil war' is self-evident. To arrive at a proper interpretation of them it is material and necessary to ascertain the political situation in Venezuela at and prior to the execution of the protocol. The following statement of the various revolts against the government, which was established in October, 1899, by General Castro, is accepted as substantially correct by both Commissioners:

"General Castro entered Caracas October 22, 1899; assumed power October 23, 1899, as 'director y jefe de la revolucion restauradora.' Shortly thereafter he declared himself 'supreme chief of Republic' and appointed a cabinet.

"General Hernandez, on October 27, 1899, secretly left Caracas, and on October 28, 1899, issued a manifesto against the Castro government. He was defeated and captured, and imprisoned until December 11, 1902, when he was released and came to parley with the (then) President Castro.

"General Antonio Paredes, military Governor of Puerto Cabello, initiated a revolt in November, 1899, but on November 11 and 12, 1899, he was completely defeated, captured, and imprisoned until December 11, 1902.

"December 14, 1900, General Celestino Peraza issued a proclamation inciting an insurrection against the Castro government. There was no serious fighting, and he was soon defeated, captured, and imprisoned until December 11, 1902.

"October 24, 1900, General Pedro Julian Acosta revolted in Yrapa, and after a number of minor engagements in the States of Cumaná and Margarita in February, 1901, he was captured and imprisoned and has not been released.

"In July, 1901, General Garbiras, as provisional leader of the nationalist party during the imprisonment of General Hernandez, organized an army of about 4000 Venezuelans and troops of the regular army of Colombia, and invaded Tachira by way of Encontrados and by roads to the city of San Cristobal. A small skirmish took place at Encontrados July 28, 1901, which resulted in favor of the government, but on the 28th and 29th he was defeated in a serious engagement at San Cristobal, lasting from 2 P. M., July 28, until 4 P. M., July 29, between the main body of the Garbiras army and the govern-

ment troops under General Celestino Castro, Commander in Chief of the army under appointment by General Castro.

"August 8, 1901, another armed force invaded Venezuela from Colombia, via San Faustino, but was repulsed at Las Cumbres by General Ruben Cardenas.

"Finally, in February, 1902, General Rangel Garbiras, with other leaders and a Colombian battalion of the line, again invaded Venezuela, via San Antonio, simultaneously with other officers from other points, but they were all defeated with heavy losses.

"During the blockade General Rangel Garbiras issued a manifesto early in 1903, abandoning his pretensions and being still a refugee in Colombia.

"General Horacio Ducharme, nationalist leader in the East, and his brother Alejandro joined in this movement, from September 30, 1901, to the beginning of November, 1901, when the eastern section of the country was pacified.

"In the beginning of October, 1901, General Rafael Montilla revolted in the State of Lara and occupied Coro with a considerable army, but was defeated, October 25, 1901, by General Rafael Gonzales Pacheco, President of the State. He took refuge in the mountains of Guaito until the revolution of Matos gained head, when he joined it and participated until the end.

"At the end of October, 1901, General Juan Pietri issued a revolutionary proclamation, dated at La Sierra, Carabobo, although he had not then reached that point. He was almost immediately captured, brought to Caracas, and set at liberty in the Plaza Bolívar, while the revolutionists were routed at Guigue, in the State of Carabobo. Pietri again left Caracas by stealth toward the end of December, 1901, presumably to join General Matos's army or raise his own standard, but he was again captured December 31, 1901, and imprisoned until the blockade, when he was released.

"November 21, 1901, a number of citizens of Caracas, including General Ramon Guerra, Minister of War and Navy, who had lent their support secretly to General Manuel Antonio Matos, who was then in Paris stirring up and providing means for an insurrection, of which he was to be the head, uniting the liberal elements and the nationalists, whose leader, Hernandez, was still in prison in the fortress of San Carlos.

"December 19 General Luciano Mendoza, whose term as Provisional President of the State of Aragua was drawing to a close, and who was supposed to be about to assume the constitutional presidency of Carabobo, went to Vil de Cura, gathering some 300 men whom he had gotten in readiness. He counted on various uprisings on the same day in Carabobo, Cojedes, Lara, and Coro, but General J. V. Gomez pursued him with vigor and dispersed his forces at or near Cojedes, and drove him into hiding.

"At the end of December, 1901, General Matos circulated a proclamation dated on board the Libertador, formerly the Ban Righ, and declared by the national government to be a pirate vessel. The forces of General Antonio Fernandez in Aragua and the rebels in Coro were defeated and destroyed; but early in January, 1902, bodies of revolutionists began to rise in the East, relying on the Matos support and that of the steamer Libertador with General Matos on board, which on the 7th of February, 1902, engaged and destroyed the national steamer Crespo.

"February 14 General Gregorio Riera landed at Cauca and issued a proclamation, and engaged in battle the government troops under General Ramon-

Ayala. General Gomez came to his assistance, and the revolutionists in Coro were annihilated.

"As early as March, 1903, the eastern portion of Venezuela was in arms in support of the revolution. General Domingo Monagas, in Barcelona, and General Nicolas Rolando, in Maturin and Cumaná, commanded troops. They gained signal victories at La Sutela of Barcelona, March 27, San Augustin del Pilar on April 2, and Guanaguana, April 22. General Calixto Escalante, who conducted the military expedition in the East, was completely routed and with many officers was taken prisoner. Rolando occupied Carupano, and defeated General Gomez in a hard battle. General Matos then came to Carupano and began his march to the centre, via Maturin and Carupano. Meantime, in Lara and Yaracuy, General Amabile Solagure had acquired strength and was enlisting support with southwestern States to the movement in connection with General Montilla in Lara and Generals Mendoza and Batalla in the West.

"By this time the occupation of Ciudad Bolívar by Colonel Ramon Farreras and his possession of the State of Guayana, after serious engagements at Ciudad Bolívar, San Felix, and other points, had occurred.

"While the forces near La Guaira, in the valleys of the Tuy and the Guarico, had been organized in expectation of the coming army of the East in Coro, General Riera obtained decisive victories which made him master of that State, and General Ayala was a captive in Barcelona.

"During these events General Castro sent General Velutini to Barcelona to check the advance of General Matos's army, but the government forces under General M. Castro were defeated by the army of the East under General Rolando. President Castro thereupon took personal command of the army, and on August 18, with a considerable army, started for San Casimiro, where he was joined by other troops, and moved rapidly to Cua, but removed to Ocumare because of the defection of the troops under General P. Perez Crespo, and remained until the beginning of September, 1902, when he returned to Valencia to meet the revolutionist forces from the West, who, by a succession of victories, had control of the States of Coro, Barquisimeto, Cojodes, Portuguesa, and Yaracuy. In spite of General Castro's efforts to prevent it, the revolutionist armies united at San Sebastian, and he fell back to Victoria. The united armies of the insurgents here attacked him vigorously from October 13 to November 2, but were compelled by the strong defence to withdraw from the field, and Matos took passage for Curaçao. Many revolutionists then surrendered themselves, and the government regained its coast and interior towns.

"But in January, 1903, a reorganization of the revolutionists was consummated with considerable forces in Critinuco and Barlereuto under General Ronaldo; in Guarico, General Fernandez; in Coro, General Gregorio S. Riera; in Barquisimeto and Yaracuy, under Generals Penaloza, Solaguie, and Montilla. And after the signing of the protocols with the allied powers, February 13 of the present year, the struggle began again. It was only finally quelled by the taking by General Gomez of Ciudad Bolívar in the closing days of the present month.

"It is claimed by the Commissioner for Venezuela that the words 'the present civil war' in the protocol must refer to the revolution of Matos (so called) only. Is this correct? It is, literally, because at the date of the execution of the protocol there was no other revolution actively and aggressively

prosecuted. But may not the parties to the protocol have used these words in a broader sense to indicate all the revolutions which had broken out against the Castro government?

"From this statement it appears that prior to the Matos revolution a number of separate and disconnected revolts occurred, most of them of comparatively small importance, — two of them in the year 1899, two in 1900, and four, including the Garbiras insurrection, in 1901; but all of these, except the Garbiras movement, were almost immediately suppressed. Of these revolutions that of General Ducharme alone appears to have been in answer to the call of General Garbiras. Of the leaders in these separate revolts, General Hernandez, General Paredes, General Peraza, and General Acosta were captured, and except General Acosta, who is still a prisoner, were imprisoned until December 11, 1902, when they were released by the Venezuelan government at the time of the blockade by the allied forces. General Ducharme, being hard pressed, re-embarked for Trinidad in November, 1901.

"The insurrection headed by General Ramon Garbiras in July, 1901, was organized and set out from the neighboring Republic of Colombia, and contained many troops of the regular Colombian national army. It was believed by the government of Venezuela, and so announced by it in a proclamation addressed to the other nations of the world, dated August 16, 1901, that there was either complicity on the part of the government of Colombia or an entirely unjustifiable lack of effort to prevent participation in it by its regularly enlisted troops. Notwithstanding the fact that General Garbiras had invaded Tachira by way of Encontrados, and thence by road proceeded to the city of San Cristobal with an army of about 4000 Venezuelans and troops of the regular army of Colombia, on the 28th and 29th of the same month he was defeated in a serious battle at San Cristobal by the government troops under General Celestino Castro, Commander in Chief of the Venezuelan Army, and retired to Colombia. It was in this invasion that the injuries complained of occurred.

"The so-called Matos revolution was announced by the proclamation of General Manuel Antonio Matos in December, 1901, dated and issued on board the steamer Libertador, formerly the Ban Righ, then cruising in Venezuelan waters. She was denounced by a decree of the Venezuelan government dated December 30, 1901, and in February, 1902, she engaged and destroyed the government steamer Crespo. This proclamation, which was extensively circulated by General Matos, was the culmination of an agitation begun by him in Paris some months previously, looking to an extensive insurrection which he was to lead. He hoped to unite upon him as their leader the liberal elements, and the followers of General Hernandez, called Nationalistas, whose chief was still a prisoner in the fortress of San Carlos. To this end he had advanced liberally of his means, which were large, and had enlisted the support of the Venezuelan Minister of War and Navy and a number of the citizens of Caracas. He did not profess or declare any connection with a prior insurrection, or any intention to support the cause of any former leader, but to initiate and successfully carry through a new and independent revolution.

"Through the entire period of December, 1901, until his defeat and proclamation of peace, from Curaçao, whither he had fled after his defeat in June, 1903, there is no indication whatever that the movement he was conducting had the slightest connection with any of the previous revolts. Although he naturally hoped and probably expected to bring together all the dissatisfied

elements in the Republic under his banner, it was with a like hope and expectation that they would abandon their former chiefs and adopt him as their leader.

"None of these former revolutions compared with the Matos movement in importance or in their chances of success. None of them were still active. All of them had been suppressed. And with the exception of the followers of Hernandez, who was himself in prison, there were no considerable numbers of organized revolutionists. All of their chiefs were imprisoned. General Garbiras only avoided imprisonment by flight into Colombia.

"It appears, therefore, that at the time of the signing of the protocol there was no existing civil war with any leader or any organization save that of Matos, and that all previous revolts had been put down by August, 1901, except the comparatively insignificant movement of General Ducharme, Nationalist leader in the East, which existed from September 30 to the beginning of November, 1901, at which date the entire eastern section of the country was pacified, and two small desultory events, one by General Rafael Montijo, in the State of Lara, which was quelled in a few weeks by the President of that State, and one by General Pietri, who was defeated and captured before he reached the point from which his proclamation of revolution was dated, and his followers at the same time routed at Guigue, in the State of Carabobo.

"If there were any connection shown between the Matos revolution and these prior ones, there would be much force in the argument of the Commissioner for Germany that the high contracting parties had in contemplation by the words 'present Venezuelan civil war,' all the insurrections against the Castro government, but in the light of the facts stated above it clearly appears that the Matos revolution was independent.

"Taking the words in their literal sense, in which they must be interpreted unless some special reasons require otherwise, they refer to the one civil war then pending in Venezuela.

"The umpire is therefore of the opinion that the admission of Venezuela in the protocol of liability for injuries to and wrongful seizures of property does not embrace the insurrection headed by General Garbiras, in which the claimant suffered from acts of revolutionists. It is true that in February, 1902, General Garbiras, with other leaders and 4000 soldiers, including the Colombian battalion of the line, again invaded Venezuela, via San Antonio, simultaneously with forces from other points, but they were all defeated very soon after.

"As to this claim, therefore, the liability of Venezuela must be determined by the general principles of international law, and under them the umpire is of the opinion that no liability exists."

I have quoted Mr. Duffield in this case at great length for the purpose of allowing him to demonstrate, by his own language, that he was not ignorant of the true situation, so that the quibbling in which he indulges for the purpose of saving Venezuela from paying a just debt may be exhibited. He himself has shown that a continuous and universal state of civil war had existed in Venezuela for a considerable period prior to the date that Castro had proclaimed himself Jefe Supremo, and until long after the date of the Van Dissel injuries. He likewise admitted that the protocol required Venezuela to pay

for damages sustained by German citizens during the "present Venezuelan civil war"; and yet by a disgraceful subterfuge he decided that the "present Venezuelan civil war" meant the Matos revolution only, and therefore damages inflicted by other troops operating concurrently in other parts of the country were to be suffered without redress!

XI. Cobham Case

Umpire Plumley had a "tender regard for the claimant's rights in this matter," for he so confesses (see Ven. Arb., 1903, p. 410). Let us therefore read the facts, as found by him, and his judgment thereon:

"The Commissioners having failed to agree in this case, it has come to the umpire for his determination.

"The evidence shows two distinct instances of losses to property and injury thereto and of gross indignities toward, and injuries of, the person of the claimant.

"Concerning the instance of October 26, 1902, resting upon the acts of Colonel Guillermo Aguilera, Captain Pedro Diaz, and their fifteen soldiers, constituting a part of the army of the revolution libertadora, it is impossible to charge responsibility upon the national government against which these men were at war and over whose conduct it had lost all control. This part of the claim must be disallowed, in accordance with the umpire's opinion of justice and equity and in accordance with his previously expressed judgment before this tribunal. Cruel and unjust as such conduct must appear to all right-minded men, proper reparation is not to be found in mistakenly and therefore wrongfully charging it upon the government.

"Concerning the acts occurring on October 14, 1902, and testified to by H. Fischbach and Ramon Guerra and five others, if these were perpetrated by soldiers and officers forming a part of the army of the government, it is to be regretted that such fact is not clearly in proof. The charges involved are all of too grave and compromising a character to be accepted without clear, definite, and convincing evidence. As the testimony stands, it may or may not mean government troops. The government must not be held responsible for such a serious outrage on property and personal liberty by evidence in which upon this essential fact the language is distinctly ambiguous and indefinite. The injuries to the claimant were incurred in and because of his resolute efforts on behalf of his employer's property; and his personal bravery and his loyalty to his trust incite the umpire to give him all the protection within his power, and had he warrant therefor from the evidence, he would be glad to award him ample indemnity. The ambiguity of the claimant's evidence in that part of it which names the troops who did the injury is such that it would not justify the umpire in making an award against the government in his behalf."

Later, as a mark of Mr. Plumley's "tender regard," this victim was awarded one hundred English pounds sterling. His claim was for 18,180 bolivars, about $3600. The damages inflicted by the army of the "revolution libertadora" were entirely disallowed, and the

paltry sum of $485 is given him as compensation for losses of seven or eight times that amount, to say nothing of the personal indignities suffered.

XII. The Fabiani Case

The Fabiani claim was for 9,509,728 bolivars, or about $1,900,000. It was wholly disallowed by Mr. Plumley.

I am not able to devote the space necessary to a full exposition of this celebrated controversy. The reader who cares to study it in detail is referred to Moore's "International Arbitrations" and to Ralston's "Report of the French Venezuelan Claims Commission," 1902.

Antoine Fabiani, a French citizen, had claims against Venezuela amounting to 46,994,563.17 francs, growing out of outrages and denials of justice by the authorities of Venezuela, extending from 1878 to 1893. France and Venezuela concluded a protocol on February 24, 1891, by which the case was referred to the arbitration of the President of the Swiss Federation. The arbitrator was to decide: "Whether, according to the laws of Venezuela, the general principles of the law of nations and the convention in force between the two contracting powers, the Venezuelan government is responsible for the damages which M. Fabiani says to have sustained through denial of justice."

The Swiss arbitrator decided that the words "denial of justice" applied exclusively to wrongs by the judiciary department of the government. He therefore held that he had no jurisdiction to decide any claims having their origin in executive outrages, or damages inflicted by the legislative or military power of the government. This, of course, was an exceedingly narrow view to take of the meaning of the words "denial of justice." It would seem that these words should be construed to cover any wrong or injustice suffered at the hands of any department of the government.

As most of the damages to Mr. Fabiani had been caused by executive usurpation and at the hands of the military, the redress granted him by the Swiss arbitrator was very small, — less than one tenth of his total claim.

A new protocol was made between France and Venezuela, February 19, 1902, and claims of Fabiani amounting to 9,509,728.30 bolivars against Venezuela were submitted to the Commission, being a portion of the claims disallowed by the Swiss President. The Venezuelan Commissioner denied the claims on the ground that they were *res judicata*. The French Commissioner insisted that, as the Swiss arbitrator had refused to pass upon the claims at all, because of alleged lack of jurisdiction under the protocol of 1891, therefore they were in full vigor; and on a disagreement of these

Commissioners the case was referred to Mr. Plumley as umpire (see Ralston's Report, Venezuelan Claims Commission, 1902, pp. 81–184).

The decision of Mr. Plumley in this case is unique. He holds "that no jurisdictional questions were before the Swiss arbitrator, none were urged by either party, and none in fact were determined; that all claims of Fabiani were in fact submitted by the protocol to the decision of the Swiss arbitrator, and all were in fact decided by him."

This declaration by Mr. Plumley seems extraordinary in view of the very precise and definite statement made by the Swiss arbitrator in his judgment, as follows:

> "Venezuela does not incur any responsibility, according to the agreement, on account of facts foreign to the judicial authority of the defendant State. The claims which the petition bases upon *faits du prince*, which are either changes of legislation, or arbitrary acts of the executive power, are absolutely withdrawn from the decision of the arbitrator, who eliminates from the procedure all the allegations and means of proof relating thereto."

My own opinion is that the Swiss arbitrator was grievously mistaken in his interpretation of the meaning of the words "denial of justice" as used in the protocol, and limiting their application to wrongs committed by the judiciary. This interpretation was strenuously opposed by the French government, while the cabinet of Caracas declared as strongly in support of it, claiming that damages inflicted by other departments of the government were not included in the terms of the protocol, and arguing that "it is absurd and monstrous, from a judicial point of view, to maintain that the party signatory of an agreement, or one of them, have had in view to settle a question outside of the agreement."

In view of this plain decision of the arbitrator, and this unequivocal argument by the respondent government, how is it possible for Mr. Plumley to make the statement above quoted from him?

To follow the tortuous processes of this judge's mind as displayed in this lengthy decision could only interest a student of psychology. Mr. Plumley holds, for instance, that when two governments enter into a protocol touching a given matter, a compromise is thereby effected which shall make any award whatever final and conclusive upon the whole of the original controversy. Where he finds any warrant in law or reason for such a preposterous doctrine, is not stated. It has heretofore been supposed that a contract is limited to the subjects comprised within its express terms; that if there are matters or things not comprehended in such contract, they may be made the subject of additional or future contracts; that because a government makes a protocol on one subject, it is not thereby precluded from making other protocols on other subjects.

Mr. Plumley says, speaking of the governments, parties to a protocol:

"Concerning the meaning, form, and effect of their agreement, they may essentially and antipodally disagree, but that they have agreed that their contention is all included within the terms of the protocol, is not, and never can be, a matter of disagreement."

Is there a sentence or a word or a syllable in the protocol in question which would give the umpire any pretext for such a doctrine as this? Absolutely none.

Pursuing his line of argument, Mr. Plumley holds that the whole Fabiani controversy was obliterated by the decision of the Swiss arbitrator under the protocol of 1891; that those portions of the claims which he refused to consider, as being outside the protocol, died a natural death, or were extinguished by some sort of hocus-pocus, and could not now be resuscitated, even by the new protocol of 1902. Indeed, he was seriously worried and vexed to know how this case ever got before him; but he concluded that bringing it before this tribunal was wholly the work of an individual, and that France had not at all passed upon the claim. The umpire came to this strange conclusion, notwithstanding the fact that the case was strongly presented by the French government, and made the basis of two lengthy and powerful arguments by the French Commissioner.

CHAPTER VI

INDEMNITY CLAIMS FOR OUTRAGES AGAINST FOREIGNERS IN TIMES OF REVOLUTION

AS all Latin America suffers from violent revolutions, occasional in some countries thereof, perennial in others, let us consider what protection or redress, if any, foreign residents or property owners may have against or for the spoliation and destruction that follow in revolution's train.

Latin-American revolutions are *sui generis*. They never originate among the masses, the peons, who know little of the government and care even less than they know. The peon soldiers serve as an unthinking attachment to their immediate leaders, and know nothing of any "principles" involved. They fight as readily on one side as another. As for peons generally, those who are criminals gravitate naturally to the army, but the vast majority go to war only when "recluted."

Revolutions, then, always start among the "generales" and "coroneles." A revolution's only *raison d'etre* is the rapacious longing of a group of military Jefes to get control of the custom houses, and to become intrenched in a position whence they can levy extortion and blackmail upon business enterprises. Each new leader, with his blatant camp-followers and sycophants at his heels, professes a *causa;* and his "revolution" will be given a high-sounding name, from which the neophyte might surmise that principles were at stake, or that a good administration lay in the balance, or that the vociferous professions of patriotism were grounded in some worthy purpose. Men unversed in the Latin-American temperament might attribute at least a grain of good faith to some of these uprisings; but the naked truth is that no beneficial reforms are being contemplated, no patriotic purposes are being cherished, and that every revolutionary movement is but a contest between different flocks of the same feather, — one gang of gambling, murdering, looting, blackmailing swashbucklers on the outside trying to dispossess a similar gang on the inside, with the custom houses and other fat pickings as the stakes.

During these turmoils foreigners are placed in a desperate position. They have as much to fear from troops of the "ins" as from those of the "outs." In most sections they are so few that they are unable to defend themselves against the raids of either side.

If a foreigner resists a predatory attack from revolutionists, he is perhaps shot down. If his heirs claim indemnity before an international mixed commission, the "government" alleges, first, that the man met his end through taking part in the politics of the country; second, that a government is not responsible for the acts of revolutionists.

If the foreigner, under stress of force and to save his life, yields his property to the revolutionists, the so-called government will immediately charge that he has aided the revolution by furnishing it with money and property, and that hence he is liable to have the remainder of his property confiscated; and often he will be committed to jail until he produce additional sums which the government believes it can thus extract from him.

No revolutionary "general" or "coronel," or any other member of the insurrectionary forces, is ever punished by the government, even after cessation of hostilities, for outrages committed by these insurgents against either natives or foreigners. A man's house may be burned, his safe looted, his wife and daughters raped (perhaps in his presence), and he himself shot or thrown into prison. Acts such as these are perpetrated indiscriminately upon native citizens or foreigners by government troops or revolutionists, but the government does not even pretend to punish, either at the time or subsequently, the perpetrators of these crimes. When a revolution is terminated, either by a *transacion*, or because the insurgents have been successful and have hence become the *de facto* government, or because they have been defeated, the slate is wiped clean; and not uncommonly the "general," who but yesterday was fighting the government, to-day divides a portion of his pillage among those so recently his foemen, and receives in return a position in the cabinet, or a presidency of some so-called State.

In most of the Latin-American countries the "laws" — that is, the *decretas* of the Dictators — provide that the persons committing the depredations can be held personally responsible for them, but that the government is under no responsibility save for acts by its own superior authorities within the exercise of their "constitutional" prerogatives. But the rules prescribed for submitting proofs, etc., make the proceedings, even in the cases within the exception, a cruel mockery, — a travesty on justice. To try for justice in the local courts under such conditions is merely to invite more "slings and arrows of outrageous fortune."

I

Strange as it may seem, most of the Arbitral Commissions, in considering claims growing out of these incessant revolutions, have striven to apply the rules of international law which obtain in civilized warfare.

International law is not yet so far developed as is municipal law. Under municipal law the theory is that every wrong shall have a remedy, while under international law many of the rules are arbitrary and have little or no relation to equity, and still retain their pristine harshness, — a legacy from bygone centuries, when the nations one calls civilized found war with one another an engrossing occupation.

In those days arose the doctrine, which survives to this day, that a government is not responsible for damages suffered by the persons or property of non-combatants or foreigners in the wake of war.

Section 223 of Wharton's "Digest of International Law" reads as follows:

> "A sovereign is not ordinarily responsible to alien residents for injuries they receive on his territory from belligerent action, or from insurgents whom he could not control, or whom the claimant government had recognized as belligerents."

This rule bears very harshly upon the alien, even where damage to neutral property is by no means the principal object of the conflict, and where both combatants are fighting for rights or principles in which they honestly believe, and are rigorously respecting the code of civilized warfare.

Harsh at its best, then, the rule becomes a very rack and thumbscrew of injustice when applied to cases arising under the mercenary revolutions of Latin America; and it is regrettable that most of the international arbitral commissions have been blind to the cardinal difference between the normal situation and that in Latin America. They do not seem to have apprehended the philosophy of the rule, or to have appreciated either the *res gestæ* of its adoption or the numerous modifications which should be made of it that it may keep pace with the advance of the modern conception of national duties, or, finally, its total inapplicability to the abnormal and chaotic conditions of Central and South America. Moreover, many of their decisions are the more surprising as one recalls that they solemnly swore, under the terms of the respective protocols, to "decide all claims upon a basis of absolute equity, without regard to objections of a technical nature or of the provisions of local legislation."

II

Admitting that the general rule relative to claims by aliens arising from losses in civilized warfare was as expressed by the negative phrase of Wharton, let us note important modifications or extensions of it made in modern times, before discussing decisions of several mixed commissions in the Venezuelan Arbitration of 1903.

Fiore, a recognized authority on international law, says (chap. iv, sec. 666):

"Let us assume that a government has failed to take proper steps to obviate certain disturbances . . . in these and similar cases justice and equity require that the State be held to an account and compelled to pay the damages."

The same principle was recognized by the Spanish Treaty Claims Commission, under Act of March 2, 1901, Opinion No. 8.

Fiore also says (chap. iv, sec. 672):

"The question of the responsibility of a State is, therefore, a complex one, and requires for its solution not only the principles of law, but an investigation of the facts and an appreciation of the circumstances."

Mr. Robert Bunch, the English minister at Bogotá, and umpire in the claims of the United States *v.* Colombia in the case of the steamer Montijo, stated in his decision that —

"It was, in the opinion of the undersigned, the clear duty of the President of Panama, acting as the constitutional agent of the government of the Union, to recover the Montijo from the revolutionists and return her to her owner. It is true that he had not the means of doing so, there being at hand no naval or military force of Colombia sufficient for such a purpose; but this absence of power does not remove the obligation. The first duty of every government is to make itself respected both at home and abroad.

"Protection is promised to those whom the government has consented to admit to its territory, and means must be found to render such protection effective. If the government fails therein, even though it be through no fault of its own, it must make the only reparation in its power, *i. e.*, it must indemnify the injured party."

The United States demanded, and obtained by arbitral decision of March, 1895, an indemnity for the seizure of the American vessels Hero, San Fernando, and Nutrias, for the unlawful arrest of United States citizens, and for other damages inflicted by the legal government and by revolutionists. (Moore, Hist. and Dig. of International Arbitrations, etc., pp. 1723, 1724.)

In the United States *v.* Peru the claimant country obtained an indemnity of $19,000 in favor of an American citizen, Dr. Charles Easton, for material damages and maltreatment inflicted on him by a band of partisans of a rebel chieftain seeking to overthrow the constitutional government of Peru. (Moore, pp. 1629, 1630.)

In the case of the "Panama riot and other claims" was recognized the "liability, arising out of its privilege and obligation to preserve peace and good order along the transit route," of the government of New Granada (now the Republic of Colombia), which was obliged

to pay an indemnity for the damages inflicted by revolutionists. (Moore, pp. 1361 *et seq.*)

The United States, without objection and without recourse to arbitration, paid damages by way of reparation to the Italian government because of the lynching of Italian citizens at New Orleans. This course on the part of the United States was epoch-making. It was a triumph of equity over the strict rules of international law.

In this case these facts should be borne in mind: (*a*) The mob in New Orleans lynched the Italians in a time of great popular excitement caused by the widespread belief that the Italians were members of a murderous secret society, and had as such recently assassinated a prominent official. (*b*) A stable and efficient government of the highest character existed at the time in New Orleans and in the State of Louisiana; the work of the mob was accomplished secretly and swiftly and without the fault of the local government. (*c*) The administration of the United States government was in no wise to blame for the act of the mob; it had no constitutional authority to intervene, either to prevent such act or to punish the perpetrators of it, such authority being the function exclusively of the state and municipal authorities. (*d*) The act of the mob was a crime committed with the intention of ridding the community of a band of men who were suspected, on good grounds, to be dangerous criminals.

The United States cannot plead its internal organization (*i. e.*, the sovereignty of the individual States *inter se*) in bar of international claims. No separate State of the United States has any international relations whatever. Inasmuch as the federal government is (within the United States) not only the sole source but the sole depository and the exclusive medium of international relations, it must assume all responsibility to foreign countries for acts done on United States soil involving international relations, though the doers of such acts, as between the United States and each of the component States, may be regarded as being within the exclusive jurisdiction of the separate States wherein such acts may be done. The foreign claimant in such a case may look to the federal government, in confidence that he will not be relegated to the specific State wherein the claim may have been grounded.

Moreover, under the rules of international law no well-ordered nation can be held responsible for crimes committed upon the persons or property of foreigners, save in the absence of due diligence in the effort to prevent such crimes; but the United States in the New Orleans case in the interests of equity waived its rights under international law, had no recourse to arbitration, and paid the damages *sponte sua.*

Claims of this class are of those that nations are slowest to recognize; such claims are much less likely to strike a responsive chord in the State appealed to than are claims growing out of revolutions

successful or unsuccessful; and the action of our government in this case has been a great step forward in the progress of civilization toward international justice.

In Germany laws have been passed to indemnify persons who have suffered by reason of revolt or riot. As citizens pay taxes to the body politic for the protection of their persons and their property, and as their natural right to defend themselves *vi et armis* has been largely delegated to the State, which inhibits the carrying of weapons even for self-defence, etc., there are strong reasons for urging the justice of these indemnity laws, which go farther than international law has yet gone, in broadening the sphere of liability to pay indemnity.

The Institute of International Law, a society of jurists enrolling the world's greatest authorities in the law of nations, has formulated and promulgated, after learned discussion and mature consideration, the following regulation:

Text of the Regulation on the Responsibility of States for Damages suffered by Foreigners during Riots, Insurrections, or Civil War, adopted by the Institute of International Law in the Session of September 10, 1900.

1. Independently of cases where indemnity may be due foreigners in virtue of the general laws of the country, foreigners have right to indemnity when they are injured in their person or property in the course of a riot, an insurrection, or a civil war: (*a*) when the act through which they have suffered is directed against foreigners as such, in general, or against them as subject to the jurisdiction of any given State; or (*b*) when the act from which they have suffered consists in the closing of a port without previous notification at a seasonable time, or the retention of foreign vessels in a port; or (*c*) when the damage results from an act contrary to law committed by an agent of the authority; or (*d*) when the obligation to indemnity is founded in virtue of the general principles of the laws of war.

2. The obligation is likewise established when the damage has been committed (No. 1 *a* and *d*) on the territory of an insurrectionary government, either by said government or by one of its functionaries. Nevertheless, demands for indemnity may in certain cases be set aside when they are based on acts which have occurred after the State to which the injured party belongs has recognized the insurrectionary government as a belligerent power, and when the injured party has continued to maintain his domicile or habitation in the territory of the insurrectionary government. So long as this latter is considered by the government of the injured party as a belligerent power, claims contemplated in line 1 of Article 2 may be addressed only to the insurrectionary government, not to the legitimate government.

3. The obligation of indemnity ceases when the injured parties are themselves the cause of the events which have occasioned the injury.

There is evidently no obligation to indemnify those who have entered the country in contravention of a decree of expulsion, or those who go into a country or seek to engage in trade or commerce knowing, or who should have known, that disturbances have broken forth therein, no more than those who establish themselves or sojourn in a land offering no security by reason of the

presence of savage tribes therein, unless the government of said country has given the immigrants assurances of a special character.

4. The government of a federal State composed of several small States represented by it from an international point of view, cannot invoke, in order to escape the responsibility incumbent on it, the fact that the constitution of the federal State confers upon it no control over the several States, or the right to exact of them the satisfaction of their own obligations.

5. The stipulations mutually exempting States from the duty of extending their diplomatic protection must not include cases of a denial of justice, or of evident violation of justice, or of the *jus gentium*.

Conclusions

1. The Institute of International Law expresses the hope that States will refrain from inserting in their treaties clauses of reciprocal irresponsibility. It believes that such clauses are wrong in that they dispense the States from the duty of protecting the foreigner in their territory.

It believes that States which through a series of extraordinary circumstances do not feel themselves to be in a position to insure in a sufficiently effective manner the protection of foreigners on their territory cannot withdraw themselves from the consequences of such a state of things except by a temporary interdiction of their territory to foreigners.

2. Recourse to international commissions of inquest and international tribunals is, in general, recommended for all causes of damages suffered by foreigners in the course of a riot, an insurrection, or a civil war. (*Annuaire de l'Institut de Droit International*, Vol. XVIII, pp. 254 *et seq.*)

III

The once hard and fast rule of international law, that a government is not ordinarily liable to foreign residents or property owners for the acts of revolutionists beyond its control (or recognized as belligerents by the claimant government), or for damages inflicted in the wake of war, not only has been modified or extended as above noted, but also has been qualified, in the Venezuelan Arbitrations of 1903, by the respective protocols, which prescribed that each claim should be decided according to absolute equity, and by the recognition in principle of the claims of the belligerents by the Venezuelan government in the protocols.

Notwithstanding such influences, which should have made for breadth and advance, these Venezuela Arbitration decisions (by the different mixed commissions) on claims growing out of revolutions, have resulted in a very babel of retrogressive confusion; and they form the darkest chapter ever written in the annals of international arbitration. A few decisions were rendered on a basis of equity, but the great majority of them left the victims of revolutionary outrages utterly without redress. "And the last state of that man was worse than the first."

Thus, in a claim before the American-Venezuelan Commission,

it was held by Umpire Harry Barge, the American Commissioner, Bainbridge, concurring, that compensation cannot be demanded for neutral property accidentally destroyed in the course of civil or international war. (Volkmar case, Ven. Arb., 1903, p. 258.)

In a claim before the British-Venezuelan Commission it was held by Umpire Frank Plumley that damages would not be allowed for injury to persons, or for injury to, or wrongful seizure of, property of resident aliens, when such injuries or wrongful seizure had been committed by the troops of unsuccessful rebels. (Aroa Mines case, Ven. Arb., 1903, p. 344.) But the umpire in the Bolivar Railway case (Ven. Arb., 1903, p. 388) declared that a nation is responsible for the acts of a *successful* revolution from its inception.

Before the French-Venezuelan Commission the Venezuelan Commissioner held that a government cannot be held liable to respond in damages for injuries to person or property caused by the acts of revolutionists; but the umpire of the Commission overruled him, and decided that Venezuela should pay. (Acquatella, Bianchi *et al.* case, Ven. Arb., 1903, p. 487.)

The umpire of the German-Venezuelan Commission, Henry M. Duffield of Detroit, decided that —

> "The government of Venezuela is liable, under her admissions in the protocol, for all claims for injuries to, or wrongful seizures of, property by revolutionists resulting from the recent civil war.
>
> "Such admission does not extend to injuries to, or wrongful seizures of, property at any other times or under any other conditions.
>
> "Such admission does not include injuries to the person.
>
> "As to these two last classes of claims, her liability must be determined by general principles of international law, under which she is not liable, because the present civil war from its outset has gone beyond the control of the titular government." (Kummerow *et al.* case, Ven. Arb., 1903, p. 526.)

But the same umpire in the great Venezuela Railroad case (Ven. Arb., 1903, p. 632) held that the government was not responsible for the damages caused by guerrillas.

Mr. Jackson H. Ralston, of Washington, D. C., was the umpire of the Italian-Venezuelan Commission. He held, "flat-footed," that Venezuela was not liable for damages inflicted by revolutionists, whether such damages were sustained through forced loans, destruction or despoliation of property, or personal injuries; that nothing contained in the protocols made it liable; that the clause in the protocols requiring the commissions to decide according to absolute equity, without regard to technicalities or the provisions of local legislation, meant merely that the commissions were to apply the principles of international law to cases under their arbitration.

For Ralston's extraordinary opinions see Ven. Arb., 1903, Sambiaggio case, p. 666, Guastini case, p. 730, and other cases, *passim.*

IV

The umpire of the Spanish-Venezuelan Commission was Mr. Luis Gutierrez-Otero, of the City of Mexico. He seems to have had a profound knowledge of law and equity and a regard for his oath as umpire. His opinion in the Padron case (Ven. Arb., 1903, p. 924) was as follows:

"The protocol of April 2 of the current year, signed at Washington by the plenipotentiaries of Spain and Venezuela, and to which this Commission owes its origin, provides that *each claim* be examined and decided, and textually orders that —

"The Commissioners, or, in case of their disagreement, the Umpire, shall decide all claims *upon a basis of absolute equity* without regard to objections of a *technical nature* or the provisions of local legislation.

"There have, therefore, been imposed on the said Commissioners and on the Umpire the three following rules of an imperative nature, from which, in order not to place themselves in conflict with the instrument which gives them jurisdiction and confers on them their only powers, it is not permissible for them to depart:

"First. Each claim must be specially and separately examined, without it being permissible to pronounce an abstract resolution conceived in general terms by which it might be supposed that, overlooking said consideration and decision of each case, different claims would simultaneously be decided. Therefore, in order to comply with the protocol, in each case the proper attention shall be paid to the general and special considerations which may be fitting and proper; and if it be necessary, the influence which is owed to the former shall be accorded them.

"Second. In exercise of the right which nations naturally enjoy when they agree to create tribunals of arbitration, to establish the principles which must guide them in the decision of the disputed points which they submit to them, it has been made binding with respect to the members of this Commission *that they must found their decisions upon a basis of absolute equity.*

"Third. In order to dispel the least shadow of a doubt with respect to the scope of the preceding rule, and letting it be known that this Commission was created as a tribunal of equity only, it was provided, finally, that objections of a technical nature or provisions of local legislation should not govern or be taken into account as against the spirit and rule that their decisions should be reached in that sense.

"The last of these rules would suffice to make it clear that the principle of the irresponsibility of States for damages which insurgents cause is incapable, unless we attribute to it an absolute force, to determine by itself the decision in the case of Maria Garcia de Padron.

"This principle, like any other similar one, does not support any except a technical objection, and those of this nature are precluded by the protocol, in so far as they are opposed to the criterion of equity which must be the basis of their decisions.

"Moreover, conceding to said principle any abstract force or merit desired,

there is still room to inquire what the concrete force or merits that it has are in a case which must be decided by this tribunal of absolute equity.

"In tribunals of international arbitration the principle of equity holds a most important place, and it is to be borne in mind and applied by all of them, whether or not rules for pronouncing their judgments have been conventionally fixed, since in the many difficulties which may arise they shall resort to the principles of law moderated by equity to decide them, or if no rules have been prescribed for them.

"Because with the soundest reason they can appeal to equity when the *compromis* is mute, says Merignhac, concerning the principles on which they would rely; or, finally, if absolute liberty has been allowed them, since in that case (as the author cited repeats) no rule restrains them in principle, and they are free to render judgment in accordance with their personal conscience. (Merignhac, *L'Arbitrage International*, No. 305 *et seq.*, p. 297.)

"To the provisions which leave the arbitrator at entire liberty, as the same author continues further on, belong those which permit him 'to decide according to justice and equity.' This vague expression operates in effect so as to leave him at absolute liberty.

"The creation of tribunals of equity in which the arbitrator decides according to his conscience has been frequently put into practice; and it has been considered so regular and convenient that the Institute of International Law included it in the rules of August, 1875, which it proposed and recommended for States when they sought to negotiate agreements for arbitration....

"And this character of tribunals of equity is especially adapted to mixed commissions, which are almost always constituted nowadays to decide cases of protection, since amongst other considerations proper for an intimate appreciation of justice, in which that character places them, is found the one that enables them to take into consideration those claims which the States refuse to recognize as not touching the principle nor the pecuniary debt, confusing the two things in the same proposition. . . .

"Pursuing the logical order of ideas concerning the nature of mixed commissions, the Institute of International Law agreed at its session of September, 1900, after having adopted a resolution concerning the responsibility of States on account of damages caused to foreigners during an insurrection or civil war, to unite to it this recommendation:

"'Recourse to international commissions of investigation and to international tribunals is in general recommended for all differences that may arise because of damages suffered by foreigners in the course of a revolt, an insurrection, or a civil war.' (*Annuaire de l'Institut de Droit International*, Vol. XVIII, pp. 254 *et seq.*)

"In discussing this recommendation thus definitely drafted at the request of Mr. Lyon Caen, and as appears in the record of the 10th of September, attention was called to the fact that damages suffered by foreigners could be of two kinds, 'those caused by the authorities and those caused by individuals.' It was then further suggested that if the text did not comprise the second class, it would be better to say 'injuries caused *in the suppression*, and not *in the* course, of a revolt.' The person who drew up the project and he who made the foregoing observation both expressly declared that the object was to exclude indemnities for damages caused by individuals; but after the declaration of the ideas of Mr. Descamps, asserting that while the Institute was considering the proposition and the conclusion it did not intend to exclude re-

sponsibility for damages which individuals might cause, and after the explanations which the writer, Mr. Brusa, repeated, stating that by making no distinction the Commission had intended to include damages caused by individuals as well as the others, — the proposal, such as it was and is drafted, was adopted and approved.

"The Institute relied evidently upon the principle that the tribunals to which they would be referred would be tribunals of equity.

"In a case which occurred years ago, that is, in 1892, and as to which the United States of Venezuela agreed with the United States of America to constitute a mixed commission of arbitration, to which they accorded the attributes of justice and equity, so that in accordance with these and the principles of international law it might decide the claim of the Venezuelan Steam Transportation Company, Mr. Seijas, representative of the first of these powers, being aware of what the inclusion of equity among the considerations of the judgment signified, proposed, at the conference of July 1 of the year mentioned, that 'the word "equity" be stricken out, not only because of the conflict that existed between the doctrines of justice and equity, but also to prevent the Commissioners from believing themselves arbiters and not arbitrators in law, which is what Venezuela intended to name.

"The American plenipotentiary did not consent to the change, and replied 'that, in his opinion, the use of the word "equity" would result more favorably than adversely to Venezuela, because it would enable the Commissioners to better take into consideration all the circumstances of the case.' Thus the protocol was drawn, and accepted as such. The concept of *equity* admitted as a rule to decide in a mixed commission, permits it to do so without conforming to the law, which is what essentially characterizes arbiters.

"And concerning this difference, between what the law does not exact and equity may nevertheless allow, there exists an example most important in its scope, which is the reparation by the State, because of the internal law, of damages caused by revolts or civil wars.

"This example, which has been followed by several nations, emanates from France, where, in consequence of the revolution of 1848, the decree of December 24, 1851, was made, which in the pertinent portion reads as follows (Calvo, 5th ed., vol. III, p. 152, note):

"'Considering that according to the terms of the law of the tenth of Vendemiaire, year 4 (October 1, 1797), communities are responsible for wrongs committed by violence in insurrections, as also for the damages and actions to which they may give rise; . . .

"' . . . Considering that even if the State is not subject to any legal obligation, it is in conformity to the rules of equity and of sound politics to repair unmerited misfortunes and obliterate, as far as may be possible, the sad recollections of our civil discords;

"'It is decreed:

"'Article I. That there be opened in the Ministry of the Interior a credit . . . to pay the indemnities for damages occasioned by the revolution.'

"In that case, as well as in the others of reparation after the war with Germany, the Insurrection, and Commune, said equitable reparations were effected without distinction as to damages inflicted by the authorities or the insurgents, and as well to nationals as to foreigners.

"The foregoing is more than sufficient to show what are the points and attributes of international tribunals of equity, of which sort this mixed com-

mission is, created by a protocol that does honor to the powers that signed it; in doing which they not only gave evidence of a lofty spirit, cutting off recourse from both to any principle or rule which smothers the inspirations of an upright and lofty conscience, but also of the most ardent desire, that they show practically, to foster the institution of international arbitration, conceding to it a broadness of scope that increases its efficacy and augments the number of cases intrusted to its cognizance and decision.

"The umpire, therefore, believes it to be incontrovertible that classifying, as may be desired, the general principle of irresponsibility of States for damages which insurgents cause, — that is to say, as a doctrine which gives rise to technical arguments, or as an inflexible rule of law, — it cannot govern in a positive way the case of Maria Garcia de Padron; and it being far from obligatory to decide it in accordance with the terms thereof, the positive duty of this Commission consists in deciding it without taking into account a necessity which does not exist, resting upon a basis of absolute equity."

V

It would seem unnecessary to enlarge upon or reinforce the convincing logic of this opinion of the umpire of the Spanish-Venezuelan Commission; but on account of the importance of this subject, and in view of numerous contrary decisions — to my mind most unjust — by Umpires Ralston, Plumley, and others, and in view of the general denial, in the decisions of several of the Commissions, of the liability of nations to pay indemnity in the circumstances under discussion, I shall here note the arguments made by the Commissioners of Italy and Germany, claiming that Venezuela was subject to this liability, and the adverse decision of Umpire Ralston in the Sambiaggio case. I may add that the American Commissioner, Bainbridge, of the American-Venezuelan Commission, unlike his colleagues from Italy, France, Spain, and Germany, acquiesced in this theory (especially inequitable when applied under conditions such as prevail in Venezuela) of the non-liability of a government to foreigners for damages resulting from revolutions, or caused in the wake of war.

Hermann Paul Goetsch, the German Commissioner in the Venezuelan Arbitration of 1903, in the case of Kummerow, a German citizen who had met with a property loss at the hands of the revolutionists, reasoned as follows:

"The following reasons exist to sustain the responsibility of the Venezuelan nation as such:

"(*a*) It has forbidden foreigners to mix in political affairs. This has been decreed anew in Venezuela by the law governing foreigners. If they take part in a revolutionary movement, they must suffer severe penalties, and they may even be expelled. They are incapacitated — not so the Venezuelans — from defending their property against losses by force of arms or by their adoption of one of the parties. As a compensation for this the government of Venezuela is under obligation to protect foreigners. If it does not do so, or if it is impos-

sible for it to do so, there is nothing more just and equitable than to indemnify the person for the losses suffered.

"(*b*) The confiscation of foreign property by revolutionists has, as a consequence, the enrichment of the national wealth of Venezuela at the cost of foreign property. The money, the cattle, the thing taken, ought to accumulate somewhere. If the revolutionists surrender, if a reconciliation with the party in power is effected, as usually happens, a general amnesty is decreed, as, for example, in the recent case of the Hernandistas. Frequently it happens that revolutionary leaders surrender themselves to the government and place their troops at the disposition of the latter against the revolution. In this case it never occurs to any one to return the moneys, merchandise, or objects seized in support of the revolution to their rightful owner, nor does the government take any proper means to return to foreigners their property or to co-operate in its return. It is therefore an obligation of the nation, founded upon the principles of equity, to make reparation to foreigners.

"(*c*) But the real reason is the following: If the Commission denies the liability of the government of Venezuela, all the foreign residents in Venezuela will be exposed to the mercy of future revolutionists. The decision in international law, of the Commission which denies the liability of the nation, would have in the future, as a consequence, a complete want of consideration for foreigners. The admissibility of enriching themselves at the cost of foreigners would be converted into a policy for the revolutions to come. The Commission would assume a grave responsibility in the eyes of history if it should determine to deny the liability of the government for damages occasioned by revolutionists."

VI

The arguments of Mr. Rafillo Agnoli, Italian Commissioner, of the Italian-Venezuelan Commission, were similar to the above. In the case of Sambiaggio, an Italian citizen who had suffered at the hands of the revolutionists, he said:

"Requisitions and forced loans exacted from foreigners by the military or administrative authority *à main armée*, and often with threat, are not merely abuses, but constitute crimes which the government of Venezuela is, of its own motion and by the requirements of its internal laws, bound to visit upon the offenders without awaiting report or denunciation from the injured parties. This it has not as yet done, except in rare instances, and then more from a policy of political order than from any desire to punish the perpetrators of illegal acts.

"It is true there have been frequent confiscations of property from revolutionary leaders, but it is not shown that the product of such confiscation has ever been applied to the indemnification of the injured citizens or foreigners.

"If this is always the attitude of the government of Venezuela, it is because such requisitions and forced loans are by it considered as political acts incident to the general condition of the country; and being morally responsible for the consequences, it should be held to a material responsibility therefor.

"That such is the light in which such acts are viewed by the government is shown by the amnesty granted to those revolutionists who lay down their

arms and become reconciled, without any provisions whatever for the restitution of property unlawfully taken by them. It is true that restitution is not made to natives more than to foreigners, but this does not invalidate the principle of right, and it is logical that these latter should invoke diplomatic intervention, which, as well as the protection of local laws, they have an undoubted right to claim. The one in no wise excludes the other, and in this they are on a parity with Venezuelans residing in Italy or other foreign country.

"It is not sought to place in doubt the sincere desire of the Venezuelan government to maintain political order; but judging from the results, it must be admitted that the means employed by it for so doing are, to say the least, inefficient, and from this its responsibility is deduced as a logical sequence, and this is the better established in cases where revolutionists have taken property from and maltreated foreigners within the observation of government authorities or troops who encouraged them thereto.

"The Commissioner for Italy cannot possibly distinguish in any manner between damages caused by the acts of successful revolutionists and by those who failed in their attempt.

"Success is an accident, and in no respect argues the worth of the cause sought for, the only moral element which could possibly justify a difference in the treatment of those who had been injured by a successful party and those who had been despoiled by an unsuccessful one.

"It would be necessary to prove that the revolution broke out in defence of a high humanitarian principle or in vindication of a great political or social idea in order to prove the presence of this moral element.

"The struggle between those in power and those seeking to overthrow it has no monopoly of this characteristic, and triumph depends generally upon the force of arms, the skill and foresight of commanders, as well as on other accidental circumstances.

"It would, besides, furnish to foreigners a strong incentive for violating the laws of neutrality to make the distinction above mentioned, as in such a case it would be to their interest to side with one or the other faction; and, to render more apparent the absurdity of the distinction, they would be inclined to side with their despoilers, since with the success of these latter would lie their own chance for securing future compensation for their losses.

"And even admitting the principle of such distinction, would we not thereby enter into a very labyrinth of difficulties, in cases of sufficient frequency, where this or that group of contestants passes from the side of the revolutionists to that of the government, and *vice versa?* For example, in which category should be classed the damages caused by General Hernandez, who initiated the last successful revolution, then withdrew therefrom, and now is again reconciled with it?

"The government should be stimulated in the adoption of energetic means whereby to establish order in all the provinces of the Republic now in the hands of the revolutionists, and to maintain peace in the future by holding to the principle of its responsibility in case of claims for damages caused by this same revolution.

"It should likewise be considered that on each success of the revolutionists there is established a government *de facto*, which collects taxes and imposes duties and in various other ways harasses both natives and foreigners.

"During the last political crisis there have been several provincial governments which have exercised several, if not all, of the functions of a legal govern-

ment, and as the sums collected by them cannot be demanded from them it is to the government we must look for redress, as it is the only body with which diplomatic relations may be held with regard thereto. It would be unjust that the property of foreigners should be converted without adequate compensation, to the profit of the country, and there would be danger in conceding that future revolutions might with impunity exist at the expense of foreigners.

"These latter may not take part in local politics, and if the principle that they are entitled to compensation for damages inflicted by revolutionists be rejected, they will be in a worse position than the natives, as they will have no means of, or right to, armed defence, and at the same time no one will be held responsible for damages suffered by them from revolutionists.

"It has already been remarked that several localities of the Republic are in the hands of the revolutionists. Let it once be known in those localities that it has been decided that the damages inflicted on foreigners there cannot be made subject to indemnity, and in what a critical position will not those foreigners be placed? What possible guaranty will there be for them against further aggressions?

"The political situation in Venezuela has certain special characteristics which the Commission should duly consider in judging of the consequences from the point of view of the claimants and of the compensation. The Commission is not specially called to decide questions of international law, except as it may do so incidentally. Its principal duty is the consideration of facts from the standpoint of moderation and absolute equity, and to compensate in a reasonable degree the Italians who have been injured from the abnormal political situation of the country, planting itself on the provisions of the Washington protocol, which does not distinguish between damages caused by revolutionists, whether triumphant or not, and those caused by the government; and holding in view the fact that the Venezuelan plenipotentiary has recognized in principle and without reservation or discrimination the justice of claims which the Commission is called upon to decide.

"Resting upon these considerations of law, and especially of fact, the Italian Commissioner insists that the claim of Salvatore Sambiaggio be admitted and the Venezuelan government be held responsible in the sum of 4591.50 bolivars, with the interest accruing thereon."

After Umpire Ralston decided the Sambiaggio case against him, the Italian Commissioner made the following argument in the case of Guastini (Ven. Arb., 1903, p. 730). This argument is worthy of study, though it did not change the attitude of the umpire.

"Let us now examine the question solely from the standpoint of equity.

"It is repugnant to the Umpire to hold the Venezuelan government responsible for damages caused by revolutionists, for the reason that they are the enemies against which Venezuela is fighting. At first this seems plausible, but in fact is not so. It is not a case of foreign enemies penetrating from outside into the national territory and robbing the inhabitants. It is rather a case of damages committed by insubordinate subjects, whose very insubordination must be held as due to a lack of care and provision on the part of the government.

"The Venezuelan revolutionists are not belligerents, and they have not been regarded as such by either Venezuela or the powers. Their repression is wholly a question of internal policy, and Venezuela cannot, in order to escape her responsibility, invoke the rules of international law, applicable only and in a certain measure to damages caused by belligerents.

"For the chronic condition of internal political agitation in Venezuela some one must be found morally responsible, and this some one can be none other than the government, upon whom falls, as a logical consequence, likewise a material responsibility for all damages occasioned by the revolutions.

"In addition to refusing indemnities for damages caused by revolutionists, the honorable Umpire places foreigners in a condition of manifest inferiority to the natives in so far as regards the protection of their persons and property. The latter may defend themselves by force of arms, the former cannot. The natives run the chances of perils or advantages consequent upon the discomfiture or the success of the party to which they belong; but there is nothing for the foreigner but perils and damages. Justice demands, then, that provision be made for a relative indemnity, and thus in favor of the latter the powers have intervened and the protocols of Washington have been framed.

"It is futile to say that the carrying out of these protocols will place the foreigners in better position than that occupied by Venezuelans. Venezuela is under no obligation not to indemnify her citizens, and she can readily place them on a par with the foreigners in this respect, as she has done in certain cases of revolutionary damages. Italy has nothing to do with this phase of the question. She only asks that justice be done her sons, and is in no wise concerned with those whom she is not bound to protect. So that, if any difference of treatment exists, the fault thereof will not lie at her door, nor will her demands on that account be less equitable.

"The refusal to grant indemnity for revolutionary damages will be a grave offence against equity under another point of view. It is a fact that the troops of the government have everywhere defeated those of the revolution, and that all the arms, ammunition, stores, animals, money, etc., in possession of these latter, have passed into the possession of the former, for their use and disposal. Almost all of this property was violently, or at least unduly, taken from the inhabitants, and it is no exaggeration to say that the larger share belonged to foreigners. Were the honorable Umpire to deny indemnity to the foreigners in question, he would be sanctioning an enrichment of the Venezuelan government at their expense, — a thing which to us appears contrary to justice.

"When, therefore, damages have been inflicted upon foreigners simultaneously by government and by revolutionary troops, or successively by either, it has frequently been impossible for claimants, perhaps for a lack of eyewitnesses, easily understood at times of agitation and terror, perhaps because the courts were not in operation for months after the occurrences complained of, to determine what portion of the damages suffered by them were chargeable to one and what to the other party — *i. e.*, government or revolution.

"Now, it may happen that in these cases the honorable Umpire will fail to find elements by which to discriminate between damages entitled to indemnity and those to which he has so far refused it. He must therefore either integrally accept the claims or reject them utterly. In the first hypothesis — the only just and acceptable one — he will run counter to the principles

heretofore laid down by him; in the second he will deny the sacredness of a right admitted without restrictions of any kind by Venezuela herself.

"Let us now cast a look to the future. However optimistic we may choose to be, it would be difficult to believe that revolutions in Venezuela are at an end. Hence future revolutionists (never, according to our experience, promptly suppressed), strong in the decision of the honorable Umpire, may with absolute impunity make themselves masters of the persons or property of Italians, with entire freedom from any obligation to indemnify in the event of their party not being successful. This feeling of security will be a powerful incentive to abuses of every sort, while the assurance that the country would in every instance be held to a strict accountability for damages inflicted upon foreigners could not but act as a salutary check.

"The decision in the Sambiaggio claim, on the other hand, will strongly tend to make Italians heedless of their neutrality, for even the honorable Umpire himself would hardly expect these people to rise to the sublime heroism of allowing themselves with meekness and equanimity to be stripped of their possessions by revolutions, with the certainty that their claims would never be indemnified. They will have to either resort to arms for self-defence, or, making common cause with the revolutionists, assist these latter to attain to power as the only means of securing reimbursement. All of which would injure the peace of the Republic and tend to inaugurate a profoundly immoral and subversive state of affairs.

"Great as may be, therefore, the responsibility which the honorable Umpire seems thus far disposed to assume for past events, a much greater will rest upon him in the future, either on account of attempts upon the life and property of Italian citizens, or the political tranquillity of the Republic, which, in view of its best interests, can hardly be grateful to him should he in this present claim decide not to adopt principles different from those governing his previous decision."

VII

Umpire Ralston's decision (overruling the Italian Commissioner) in the leading case of Sambiaggio (Ven. Arb., 1903, p. 666) was as follows:

"The immediate and most important question presented is as to the liability of the existing government for losses and damages suffered at the hands of revolutionists who failed of success.

"Let us treat the matter first from the standpoint of abstract right, reserving examination of precedents, the treaties between the two countries, and the question whether there be anything to exempt Venezuela from the operation of such general rule as may be found to exist.

"We may premise that the case now under consideration is not one where a State has fallen into anarchy, or the administration of law has been nerveless or inefficient, or the government has failed to grant to a foreigner the protection afforded citizens, or measures within the power of the government have not been taken to protect those under its jurisdiction from the acts of revolutionists; but simply where there exists open, flagrant, bloody, and determined war.

"The ordinary rule is that a government, like an individual, is only to be held responsible for the acts of its agents or for acts the responsibility for which is expressly assumed by it. To apply another doctrine, save under certain exceptional circumstances incident to the peculiar position occupied by a government toward those subject to its power, would be unnatural and illogical.

"But, speaking broadly, are revolutionists and government so related that as between them a general exception should exist to the foregoing apparently axiomatic principle?

"The interest of a government, like that of an individual, lies in its preservation. The presumed interests of revolutionists lie in the destruction of the existing government and the substitution of another of different personnel or controlled by different principles.

"To say that a government is (as it naturally must be) responsible for the acts it commits in an attempt, for instance, to maintain its own existence, and to require it at the same moment to pay for the powder and ball expended and the soldiers engaged in an attempt to destroy its life, is a proposition difficult to maintain, and yet it is to this point we arrive in the last analysis, if governments are to compensate wrongs done by their would-be slayers when engaged in attempts to destroy them.

"A further consideration may be added. Governments are responsible, as a general principle, for the acts of those they control. But the very existence of a flagrant revolution presupposes that a certain set of men have gone temporarily or permanently beyond the power of the authorities; and unless it clearly appear that the government has failed to use promptly and with appropriate force its constituted authority, it cannot reasonably be said that it should be responsible for a condition of affairs created without its volition. When we bear in mind that for six months previous to the taking complained of in the present case a bloody and determined revolution demanding the entire resources of the government to quell it had been raging throughout the larger part of Venezuela, it cannot be determined generally that there was such neglect on the part of the government as to charge it with the offences of the revolutionists whose acts are now in question.

"We find ourselves therefore obliged to conclude, from the standpoint of general principle, that, save under the exceptional circumstances indicated, the government should not be held responsible for the acts of revolutionists because —

"1. Revolutionists are not the agents of government, and a natural responsibility does not exist.

"2. Their acts are committed to destroy the government, and no one should be held responsible for the acts of an enemy attempting his life.

"3. The revolutionists were beyond governmental control, and the government cannot be held responsible for injuries committed by those who have escaped its restraint."

The umpire then quotes numerous decisions showing that under international law the rule above quoted from Wharton, as to the non-liability ordinarily of sovereigns to foreigners for the acts of revolutionists or for injuries to person or property inflicted in the wake of war, is generally recognized by the authorities. This, of course, is not

denied, although there are very many cases to the contrary, or in extension or modification of the rule.

After discussing the protocols between Italy and Venezuela, the umpire continues:

"An interpretation which would extend the liability of Venezuela under her admission to acts of revolutionists would enlarge its limits to include any liability, no matter how generally denied by internationalists, and, whether the damages were the result of private wrongs or unexpected brigandage, were committed by a power invading Venezuela or were the effect of an accident in the international sense as applied to war; in every case must Venezuela pay — a conclusion manifestly impossible. In the umpire's opinion, there must properly be the premise always understood that the claim is of a nature to create liability under international law, — in other words, it must be for a legal injury (see Webster's Dictionary, title "Injury").

"Let us accept for a moment the interpretation insisted upon by Italy and see the result. Venezuela would be bound not alone for her own acts, but generally for all acts, — bound for the acts of those seeking to destroy constituted government as well as to defend it; bound for every claim of damage the royal Italian legation might see fit to present. She would be held to have abandoned the usual position of a contracting party and to have consented to place herself within the judgment of those claiming against her, leaving only the amount of the claim to be determined. The Commission would no longer determine whether the (legal) injury took place, for all claimed offences, no matter by whom committed, would constitute injuries in the eyes of the Commission. To indulge in such supposition is to imagine that the representative of Venezuela had abandoned reason when the protocol was signed; and an interpretation according common sense to both parties signing a contract should always be sought.

"Let us for a moment analyze the language of the protocol in view of the facts. Venezuela had for a long time by her constitution and laws denied her liability for certain classes of acts, and denied that she was responsible anywhere save in her own courts.

"By the protocol she admitted liability for injury to persons and property and wrongful seizure of the latter, and remitted to a mixed commission the questions (*a*) whether the injury took place, and (*b*), if so, what amount of compensation is due. In aid of the sense we may presume that the word 'injury,' when last used, includes injury to person and property and wrongful seizures.

"It has already been pointed out that 'injury' imports a damage inflicted against law. It involves a wrong inflicted on the sufferer and of necessity wrongdoing by the party to be charged, as otherwise it could not be called 'wrongful' as against him. Applying this doctrine, which the umpire believes to be unassailable, by what process of ratiocination can he imply to Venezuela the wrongful intent lodged in the bosoms of those who were at enmity with her and seeking to destroy her established government? And if he may not do so, how can he charge Venezuela with the commission of acts of which she is innocent? And how, under such circumstances, can he find that an injury has been committed with which, by the law of nations, she should be so charged?

"If it be argued that she has admitted liability for the acts of another and therefore she should pay, is it not to be remarked that a promise to pay for the acts of one's enemy engaged in an attempt upon one's own life is so far contrary to the usual practice of mankind that it is only to be believed upon the most direct and express evidence, and beyond all dispute this evidence is lacking?"

The umpire then devotes some pages to a discussion of the treaty between the two countries, the protocol, the most favored nation clause, and other matters, always harking back to the determination that those who suffer from revolutions in Venezuela shall have no redress. He then proceeds thus:

"It is strongly insisted on behalf of the claimant that whatever may be the general rule of international law with respect to the non-liability of governments for the acts of revolutionists, this rule does not find a proper field of operation in Venezuela, the country being subject to frequent revolutions.

"It is true that an exception such as is indicated has on various occasions been maintained by the United States and several European nations in their dealings with certain Central and South American States. But the exception cannot be said to have become a settled feature of international law, not having been accepted by the nations against which it was enforced, and being repudiated by some international writers (Calvo, sec. 1278) and perhaps squarely accepted by none.

"Attorney-General Cushing, a lawyer of deserved eminence in international affairs, remarked nearly fifty years ago (2 Moore, p. 163):

"'Great Britain, France, and the United States had each occasionally assumed in behalf of their subjects or citizens in those countries (South American) rights of interference which neither of them would tolerate at home — in some cases from necessity, in others with questionable discretion or justification. In some cases such interference had greatly aggravated the evils of misgovernment. Considerations of expediency concurred with all sound ideas of public law to indicate the propriety of a return to more reserve in this matter as between the Spanish-American republics and the United States, and of abstaining from applying to them any rule of public law which the United States would not admit in respect of itself.'

"To take the position, as is asked, that Venezuela is in the regard under discussion an exception to the general rule, we must have the right to decide, and must actually decide, that Venezuela does not occupy the same position among nations as is occupied by nations contracting with her. Is this justifiable?

"For about seventy years Venezuela has been a regular member of the family of nations. Treaties have been signed with her on a basis of absolute equality. Her envoys have been received by all the nations of the earth with the respect due their rank.

"The umpire entered upon the exercise of his functions with the equal consent of Italy and Venezuela and by virtue of protocols signed by them in the same sovereign capacity. To one as to the other he owes respect and consideration.

"Can he therefore find as a judicial fact, even inferentially (the protocol not authorizing it in express terms), that one is civilized, orderly, and sub-

ject only to the rules of international law, while the other is revolutionary, nerveless, and of ill report among nations, and moving on a lower international plane?

"It is his deliberate opinion that as between two nations through whose joint action he exercises his functions he can indulge in no presumption which could be regarded as lowering to either. He is bound to assume equality of position and equality of right.

"The umpire is the more confirmed in this opinion because of the fact that at the time of the happening of many of the offences committed by revolutionists, upon which claims against Mexico before the several commissions were founded, Mexico was experiencing internal disorders and revolutions certainly not less marked than those from which Venezuela had suffered within the past five years. Nevertheless Mexico was not charged with responsibility.

"While the umpire considers the rule of action above indicated as that which must control him, he does not ignore the fact that the existence of the protocol implies that Venezuela may have failed in her duties in the light of international law in certain instances, and that as to such cases his powers as an umpire may be called into play. But in his mind there is a broad difference between indulgence in a general presumption of inferior status and the acceptance of proof of wrongdoing in particular instances.

"The umpire therefore accepts the rule that if, in any case of reclamation submitted to him, it is alleged and proved that Venezuelan authorities failed to exercise due diligence to prevent damages from being inflicted by revolutionists, that country should be held responsible. In the present instance no such want of diligence is alleged and proved.

"It is suggested that a decision holding Venezuela not responsible for the acts of revolutionists would tend to encourage them to seize the property of foreigners. This appeal is of a political character and does not address itself to the umpire.

"It is further urged that absolute equity should control the decisions of the Commission, and that equitably sufferers from the acts of revolutionists should be recompensed. But this subject may be viewed from two standpoints. It is as inequitable to charge a government for wrongs it never committed as it would be to deny rights to a claimant for a technical reason.

"In the view of the umpire, the true interpretation of the protocol requires the present tribunal, disregarding technicalities, to apply equitably to the various cases submitted the well-established principles of justice, not permitting sympathy for suffering to bring about a disregard for law."

VIII

To a man of Mr. Ralston's intellectual perversity, it would be impossible to prove that the "Venezuelan authorities failed to exercise due diligence to prevent damages from being inflicted by revolutionists." His decision in the Sambiaggio and other similar cases has helped to place civilized foreigners in Venezuela at the absolute mercy of the revolutionists, guerrillas, brigands, and marauding troops of all shades and colors, who operate intermittently on either side as may suit their convenience; for the so-called government has been

informed of what before it was not certain — that it is under no liability.

We have now seen that different umpires, reasoning under practically identical protocols, have arrived at diametrically opposite conclusions. According to Gutierrez-Otero equity means equity; according to Ralston equity means horrible injustice. And other umpires and commissioners hold equally irreconcilable opinions on other points.

From this "matter unformed and void" one fact emerges, clear as the rising sun: foreigners in Latin America have but little to hope for from these mixed commissions, and less than usual from those presided over by American politicians surcharged with Monroe Doctrine, whose lacrymal glands are overworking through sympathy for our "Sister Republics."

Umpire Ralston says: "To require it [a government] . . . to pay for the powder and ball expended and the soldiers engaged in an attempt to destroy its life, is a proposition difficult to maintain, and yet it is to this point we arrive in the last analysis, if governments are to compensate wrongs done by their would-be slayers when engaged in attempts to destroy them."

This is absurd. A "revolution" in Latin America does not imply any attempt to "destroy" the "life" of a government. It means merely that one gang of cutthroats is trying to oust another gang of cutthroats. The term "government," in the broad sense here used, means far more than the administration of the government by the body of men at any specific time in office; it means the whole nation organized as a political body, with its official institutions, properties, and systems, — the entire body politic.

Mr. Ralston confounds the administration of the government with the government itself. A Dictator (supported by all the other office-holders) may administer the government of Colombia, for instance; but neither the Dictator alone, nor yet the complete array of office-holders, constitutes the government. No matter how many successful revolutions may occur in a country, *e. g.*, Peru, the government itself does not change — what changes, *pari passu*, is merely the administration of the government.

When Mr. Ralston tries to show that a government ought not in equity to be held for acts committed by revolutionists, engaged in an attempt to destroy its life, his reasoning powers play upon a fallacious premise, and lead him into a double irrationality; for revolutionists never attempt to destroy the life of a government. They merely attempt to change the personnel of its administration, that is, to overthrow the administration, to oust those who are administering the government, so that the revolutionists themselves may administer it.

If Venezuela should lose its individuality, and its identity as a government, every time that a successful revolution should take place, its case would be sad indeed.

Umpire Ralston further says:

"It has already been pointed out that 'injury' imports a damage inflicted against law. It involves a wrong inflicted on the sufferer, and of necessity wrongdoing by the party to be charged, as otherwise it could not be called 'wrongful,' as against him. Applying this doctrine, which the umpire believes to be unassailable, by what process of ratiocination can he imply to Venezuela the wrongful intent lodged in the bosoms of those who were at enmity with her and seeking to destroy her established government? And if he may not do so, how can he charge Venezuela with the commission of acts of which she is innocent? And how, under such circumstances, can he find that an injury has been committed with which, by the law of nations, she should be so charged?"

It would be hard to find in all the literature of fallacies a more ridiculous specimen of alleged "ratiocination" than the quoted words supply. A blind fool is not so blind as is a fool who is not blind but who will not see.

The revolutionists are not "at enmity" with Venezuela; on the contrary, they profess and doubtless possess a patriotism fully as high as that of the rabble in power. Neither do they seek to "destroy her established government" — they seek merely to change the personnel of the administration of that government.

Venezuela herself, the government of Venezuela, is a distinct political entity. Mr. Ralston recognizes this when he says: "For about seventy years Venezuela has been a regular member of the family of nations. Treaties have been signed with her on a basis of absolute equality."

The "crowd" in office is no more a part of Venezuela than are the revolutionists. A revolutionary general to-day may be to-morrow a member of the cabinet, or Jefe Supremo. The "administration" of to-day may be the revolutionists of to-morrow.

"How can he charge Venezuela with the commission of acts of which she is innocent?" Venezuela is not innocent. She is to blame.

If a foreigner's life is assailed, or if his property is seized by revolutionists, wherein is Venezuela guilty of any "wrongful" act, wherein is she to blame?

The answer is plain. Venezuela is to blame because her government does not maintain the standards established by civilization; because in practice, at least, there has never been a really constitutional government in the country, but one military dictatorship succeeds another; because the rabble in power are no more representative of the people than are the rabble in revolution; because these military dictatorships are the very incarnation of tyranny and oppression, corruption, and license, and thus themselves incite rebellion; because officials of the "administration" frequently start revolutions

with loot and plunder as their object; because neither revolutionist nor adherent of the administration is ever punished for looting, robbing, or murdering foreigners; because the so-called "government" itself levies "forced loans," and imprisons and otherwise maltreats the citizen who refuses to submit, and is always ready to aid in looting foreigners; because "government" troops are found indiscriminately supporters of the "outs" as well as of the "ins"; because, no matter how bitter the internal strife, the warring factions are always ready to establish a truce and fight side by side if any pressure is being brought to bear by foreign governments in behalf of their citizens; because these revolutions are wholly mercenary; because oftentimes the property seized by the so-called revolutionists passes directly into the hands of the "government."

If a nation repudiates its obligations, international and domestic, tramples on its own constitution and laws, and persistently refuses or fails to maintain a government that is decent and civilized, it ought in the name of justice and sound policy to be compelled to pay the damages sustained by law-abiding foreigners who suffer through, and are in no wise to blame for, its shameful, wicked, and unnatural intestine dissensions.

CHAPTER VII

THE FORCED LOAN

A COMMON form of exaction imposed upon foreigners is the forced loan. I have known personally of several extortions of this variety. Now and then an intended victim boldly refuses to be bled. I know of one case where a big German house had paid tribute time and again, until its resident partners, thoroughly aroused, alarmed, indignant, called a halt. The bandit government's next demands received a flat refusal, backed up by the German minister, who added, in clear crisp sentences, that any further levies would be met and resisted by a squadron of the Imperial battle-ships.

The Dictator appeared to desist, but issued a decreta declaring communication with a certain section of the country shut off, under the pretext that a revolution or invasion was there brewing. Of course the German minister could not object to this move, as it related solely to internal administration and was protected by the sacred Monroe Doctrine.

It happened, however, that the offending German house had advanced one million six hundred thousand dollars cash, gold, against consignments of coffee in the shut off district. This the Dictator well knew, — he was teaching the stubborn Germans that standing out against him would prove a costly business. The movement of that coffee was retarded for almost two years, and in the end it had to be brought out over a route and through a country not on the original schedule, and at great expense.

Five of our countrymen defend on all occasions the Latin Americans. These five are Mr. W. L. Scruggs, of Atlanta, Georgia, Mr. Marrion Wilcox, Mr. W. I. Buchanan, Mr. Herbert W. Bowen, and Mr. John Barrett. Here follows Mr. Scruggs' description of forced loans (The Colombian and Venezuelan Republics, p. 150):

"Nor is he [the peon] the only victim of the disorders incident to these perennial 'revolutions.' Take the usual 'war contribution,' for example, which is, of course, only a polite name for robbery. When horses, mules, saddles, blankets, cattle, and provisions are wanted, they are seized without leave or ceremony; the pretext being either 'military necessity,' or alleged sympathy by the victim with the enemy. If the sufferer can establish his neutrality, he may obtain some kind of a voucher, though often of very remote

and uncertain value. If the seizure is made by the successful party in the contest, there may be a small but long-delayed indemnity; if made by the unsuccessful party, compensation is never expected. Resident and transient foreigners who are wise and prudent enough to preserve an attitude of strict neutrality are seldom disturbed. Generally their property rights are respected by both factions; and when this is not the case, and their claims are properly presented, compensation, or at least the promise of it, is usually made when peace is restored. But, unhappily amid the exciting scenes of disorder, resident foreigners sometimes have opinions of their own and are apt to express them; and when this is not the case, their very silence may be construed into covert hostility to one or the other faction. In any case there is always a batch of foreign reclamations to be adjusted, many of which are not only inequitable but manifestly fraudulent; and to sift the good from the bad generally becomes the duty of an arbitral commission appointed by the two governments.

"The forced loan — or the *imprestito,* as it is called in the language of the country — is a still more serious matter. It is a favorite scheme of both sides for raising ready money, and if a citizen is reputed to be wealthy, his chances of escape are very narrow. His first assessment may range anywhere from five to thirty thousand dollars, according to his supposed ability to pay; and this is liable to be duplicated many times over before the war closes. The exaction is almost certain to be repeated by the adverse faction whenever it gets the person assessed within its power; for the very fact of his compliance with the first demand, however reluctant, becomes a convenient pretext for assessing him as 'a sympathizer' with the enemy.

"The person assessed is generally allowed a reasonable length of time in which to raise the money, nor will he be imprisoned or maltreated so long as he shows a disposition to pay. But if he tries to evade payment, or if payment be unreasonably delayed, off to jail he goes without ceremony or trial. If in order to avoid imprisonment he conceals himself or flees from the country, his property, real or personal, or both, is seized and sold to satisfy the assessment. If to avoid arrest and imprisonment, he shuts himself up in his residence and claims the inviolability of private domicile as guaranteed by the Constitution and laws of the country, he soon discovers his mistake. An armed squad of soldiers will be stationed at the doors and windows of his dwelling, and both he and his family made prisoners in his own house. All egress and ingress is rigidly prohibited. Not even a servant or the family physician is allowed to pass in or out. Of course it is only a question of time when the whole family is starved into capitulation.

"It is a very common thing in such times for wealthy natives to seek asylum in one of the foreign legations; and in some cases this has been incautiously granted, even by American ministers. Of course such action on the part of a foreign representative is wholly indefensible. It accords neither with the traditions of our own government nor with modern international law. Asylum can be given only in cases where life, not property, is in imminent peril, and then only during an exceptional emergency. The moment the emergency is past, the right of asylum ceases. And yet we once came perilously near getting into a disgraceful war with one of the South American Republics because our President, who was a candidate for re-election, sustained the resident minister in his unwarranted action in opening the legation to natives who sought merely to save their property."

The forced loan, even as described in the semi-apologetic language of Mr. Scruggs, is a bald outrage. How can those countries where it is employed be ranked as civilized, and entitled to the treatment accorded nations under international law? But the extortion thus practised (mostly on foreigners, for the natives are usually without means) is only one of the varieties of robbery, one of its legalized growths. Arbitrary fines, exactions in multiplied forms, blackmail in every known shape, spoliation, out-and-out robbery, — all these must the hapless foreigner endure, and he must not murmur.

How this system of "forced loans" actually works, and what redress the victim has, — usually none at all, as the umpires of the Commissions generally decide against him, — are here illustrated by a few examples taken from the Venezuelan Arbitration Reports of 1903, and elsewhere.

In considering the multitudinous cases before them the various Mixed Commissions made some very fine, hair-splitting decisions. For instance, it was held that a "forced loan" exacted by revolutionists could not be reclaimed by the "lender," nor could any redress be obtained for personal indignities or outrages suffered by him at the "borrower's" hands; but it was held, further, that if the revolution were successful and should become the *de facto* government of the nation, *but not of a state or section solely*, then "forced loans" should be reimbursed, with interest at three per cent annually from date of proof.

I. Tagliaferro Case

Ralston, *Umpire:*

The above entitled cause is referred to the umpire upon difference of opinion between the Honorable Commissioners for Italy and Venezuela.

The claimant, an Italian subject, was, in 1872, a merchant of Tariba, doing a considerable business. On January 28 of that year the general-in-chief of operations in the States of Merida and Tachira issued an order for the collection of enforced exactions against a number of citizens of Tachira, requiring, among other things, the collection from the claimant, by name, of twelve "morocotas," a morocota being the equivalent of an American twenty-dollar gold piece, the order stating that those who should not make the payment "will be conducted to the prison, subject to the disposition of General Manuel Pelayo."

Pursuant to the foregoing, the claimant was, on February 1, required to pay the money, but refused, electing to accept imprisonment. Immediately upon being imprisoned his petition for *amparo*, or protection, was presented to the superior judge, who, contending that the military power was superior to the civil, refused to grant *amparo*.

Immediately thereafter, and on February 5, the claimant addressed a petition to the *procurador-general* of the nation for the State of Tachira, setting up the foregoing facts, and praying that he might be set at liberty, and that the order depriving him of the same might be revoked. The *procurador* returned claimant's petition to him on February 6, authorizing him to apply

again if he saw fit, producing documents showing that he was an Italian subject, without which requisite, he said, nothing could be done.

The duration of claimant's stay in prison is not fixed in the *expediente*, but, as on March 11 he prepared his proofs, we may presume that it did not exceed forty days at the outside. It does not appear that he paid the exaction.

The Venezuelan Commissioner objected strenuously to payment of anything in this case, but the umpire allowed a trifle less than one thousand dollars to compensate for the destruction of this man's business and his imprisonment — and he had been waiting more than thirty years for some measure of redress.

II. Gentini Case

Ralston, *Umpire:*

In this case, referred to the umpire upon difference of opinion between the Honorable Commissioners for Italy and Venezuela, it appears that the claimant, an Italian, was, in 1871, a resident of Trujillo, when, as it is said, his store was closed temporarily and business injured by the presence of a large number of soldiers, the claimant sent to prison on the order of the Jefe, his establishment plundered, and, later on, forced loans were imposed upon him under threat of imprisonment. The proofs were taken the following year, and from that time till the past month nothing appears to have been done with the claim, it not having even been called to the attention of the Royal Italian Legation. The claim is for the sum of 3900 bolivars.

It is submitted, on behalf of Venezuela, that this claim is barred by prescription, although it is admitted that no national statute can be invoked against it.

On the other hand, it is insisted for Italy that prescription cannot be recognized in international tribunals, this contention being based upon the arbitral sentence given by the Hague permanent court of arbitration in the Pious Fund case. If this contention be correct, the argument must stop at this point. Let us examine it carefully.

Mr. Umpire Ralston here devoted several pages to a quibbling, technical argument purely upon the question whether or not this claim should be rejected because of the fact that the outrages complained of occurred some thirty years ago, the claimant having been unable to obtain any redress in the interim. Although operating under a protocol, and on oath to administer absolute equity, and although there were no statutes, laws, or provisions in the protocol, or otherwise, making any given time a bar or limitation to the prosecution of these cases before the Commission, the umpire decided that the claim should be rejected solely on the ground of prescription, the facts not being in any degree denied by the Venezuelan Commissioner.

III. Mazzei Case

Ralston, *Umpire:*

The Honorable Commissioners for Italy and Venezuela disagreeing as to the above entitled claim, it was referred to the umpire.

The facts of the claim are somewhat obscure in certain particulars, because the appropriate dates are not always given, but the following is believed to be a correct statement.

On November 16, 1899, Generals Leopoldo and Victor Bautista, of the government forces, took from the claimant a horse and some other animals, which the claimant valued at 16,000 bolivars, but which are not valued in the testimony, or their number given, save that the claimant refers to "two superior jacks" and the witnesses to "burros" or "animals." The horse taken was returned.

On January 18, 1900, revolutionary forces took merchandise and animals. We may dismiss further mention of this taking, as it comes within the rule laid down in the Sambiaggio case.

On October 12, 1901, factional forces under command of General Briceño and Colonel Nicolas Geres took thirty mules valued at 624 bolivars each, or a total of 18,720 bolivars. These forces being shortly thereafter defeated, the mules were taken possession of by the government and not returned to the claimant.

With regard to the taking of November 16, 1899, the number of animals taken does not clearly appear. The umpire is limited to the smallest number given, the "two superior jacks." The valuation of 250 bolivars, in the absence of specific evidence, may be placed upon them.

As to the taking of October 12, 1901, while the claimant was in the first place a sufferer at the hands of the revolutionists, nevertheless the property taken finally fell into the hands of the government and was retained by it. Having, therefore, received the benefit of the claimant's animals, the umpire believes it entirely equitable that the government should pay therefor.

A judgment will therefore be entered for the sum of 18,970 bolivars plus interest from the date of the presentation of the claim to December 31, 1903.

How lightly Umpire Ralston touches upon that portion of the claim which was made for depredations committed by revolutionists, and which amounted to about 65,000 bolivars! The Sambiaggio case, there referred to, is discussed in another chapter.

It is difficult to say whether the spoliations and indignities perpetrated by the Venezuelan revolutionists, or the decision rendered by Umpire Ralston for the Mixed Commission, inflicted the greater outrage upon the claimant.

IV. De Caro Case

Daniele De Caro, a wealthy Italian resident of Barcelona, was before the Italian Mixed Commission, on claims arising from damages to his business by a paper blockade, decreed by Venezuela, of the port of Guanta, and on claims for duties on imports collected by the revolutionists, and again collected by the government authorities when they returned to power, for damages for the illegal seizure by the authorities of five thousand hides which De Caro had ready for shipment, and for "forced loans"; his total claims amounting to 118,032 bolivars, or about $23,606.

It was not denied that the "forced loans" were levied by General Paolo Guzman, of the "Libertadora" Revolution (in the sum of 18,779.40 bolivars) and by Generals Velutini and Bravo of the government, so that De Caro "caught it coming and going." The Italian Commissioner conceded without argument that Venezuela was not implicated in the Guzman "loan" (18,779.40 bolivars), and hence renounced this portion of the claim.

Umpire Ralston graciously remitted most of the remaining portion; giving judgment on the total for only 21,788.62 bolivars, or a little more than $4000.

V. Dictator J. S. Zelaya, Financier

One way of getting a "forced loan" is to put a six-shooter under a man's nose and order him to hold up his hands. Another way is that which was adopted by Dictator Zelaya, of Nicaragua. In each case there is the same regard for "international Christian ethics," as our statesmen in Washington would say, and the same conscientious intention to return the money.

On November 25, 1893, J. S. Zelaya, at Managua, Nicaragua, issued the following decree:

In prevision of a conflict between this Republic and that of Honduras, on account of the hostile attitude which the government of that nation has assumed against Nicaragua, and as it is absolutely necessary to prepare ourselves conveniently for the defence of the national honor and sovereignty, and as it is indispensable to secure the means necessary for that purpose by a forced loan because the exhausted condition of the public treasury does not permit their being taken out of the ordinary revenues of the government, using the faculties given it by decree of the Constituent Assembly of October 19, last, decrees:

1. Let there be assigned in the Republic a forced loan of $400,000, which shall be distributed in the following manner:

Department of	
Granada	$100,000
Managua	80,000
Leon	60,000
Carazo	28,000
Chinendega	24,000
Rivas	24,000
Masaya	20,000
Matagalpa	18,000
N. Segovia	14,000
Chontales	12,000
Finotega	10,000
Estele	10,000
Total	$400,000

This loan shall be paid in three parts, — the first, twenty-four hours after the notice shall have been given; the second, eight days after; and the third, fifteen days thereafter.

2. The collection of the present loan shall be made by the authorities, and the respective prefects shall name the assigning committees. The repayment to the voluntary lenders shall be made in the form and with the profits determined in the decree No. 3 of last August.

3. The distributing committees shall be guided in the assignment of the contribution by Article 6 of the decree of the Constituent Assembly of October 19, already mentioned, which exempts from loans those owning less than $5000 besides their dwelling-house.

4. Lenders who shall not make their payments within the dates mentioned in Article 1 of this decree shall be obliged to lend double the amount assigned to them; and they shall be paid by notes at two years' time, earning only six per cent annually.

5. The prefects shall publish immediately the present decree, which shall be in force from this date, proceeding to the organization of the committees for compliance therewith.

Zelaya's scheme was almost as good as being president of an asphalt trust or an insurance company.

That exemption of $5000 was probably inserted to protect the natives who were friends of the Dictator, for they presumably would be found to possess less than $5000. Doubtless those on the opposite side, and all foreigners, would be found to possess the requisite sum, and hence would be "doomed" to "pay the loan." "Loan" sounds better than "loot," and "forced loan" is more euphemistic than "highway robbery."

In such a case as the above, the Dictator, after having obtained the money, usually classes these "loans" as ordinary debts, to be paid in the dim future. If some refractory monarchy of Europe objects, and demands the return of the money or a guarantee of repayment, it may find itself not only at odds with the Monroe Doctrine, but in actual danger of an imbroglio with the United States of America.

Should the foreigner fail to "pay," he may be locked up in jail, and his property may be confiscated. I have seen more than one of them held prisoners while their friends or family scurried around to try to borrow the money for them, so that they might join the happy ranks of the "voluntary lenders."

VI. Secretary Gresham's Views of American Citizenship in Relation to Forced Loans

On July 24, 1893, the Dictator of Nicaragua issued a decreta to collect a "forced loan" of $500,000, which was on August 3 reduced to $200,000, "for the maintenance of the forces raised for the purpose of re-establishing public order subverted in Leon."

Among the persons "assigned" was Mrs. Josefa Jacoby, of Granada, a woman born in Nicaragua, but the widow of an American citizen. She claimed American citizenship through her marriage,

in virtue of Section 1994, Revised Statutes of the United States, and declined to pay the six hundred dollars that she had been commanded to contribute as her share of the "forced loan."

United States Minister Lewis Baker requested the government to suspend proceedings until he should receive instructions from Washington. December 5th, Minister Baker was advised that soldiers had forcibly entered the house of Mrs. Jacoby and had compelled her to make the "loan." She delivered the money under protest, claiming that she and her sons were American citizens. The Nicaraguan authorities alleged that, as she was born in Nicaragua, she reverted, upon the death of her husband, to her original status as a Nicaraguan citizen.

Secretary Gresham, on January 24, 1894, wrote Mr. Baker as follows:

"Mrs. Jacoby by her marriage to a citizen of the United States undoubtedly acquired the nationality of her husband by virtue of Section 1994, Revised Statutes. After his death the widow, if dwelling in the United States, might retain American citizenship. But, being a native of Nicaragua, and continuing to reside in the country of her origin, there is room for contention that she has resumed her original nationality. She has not since her husband's death, so far as is known to the Department, manifested any intention of coming to the United States; and it is not believed that there is any duty on the part of this government to intervene to secure her immunity from obligations imposed upon her by the country of her birth and continued domicile."

Mr. Gresham's views are typical of the traditional practice of the United States government as to the protection of its citizens in Latin America — to resolve all technicalities against them.

W. Q. Gresham was United States Circuit Judge before he became Secretary of State, and was justly regarded as an able lawyer and a man of unblemished character. How could he fail to know that his reasoning in this case is fallacious?

A woman, under the laws of the United States in existence at that time, could acquire citizenship therein only by birth, marriage, or naturalization. She could change her citizenship therein only by expatriation (renouncement, with legal formalities of citizenship, and naturalization in a foreign country), or by marriage to a foreigner.

Mrs. Jacoby's birth in Nicaragua was eliminated as a factor in the case, under United States law, by her marriage to an American citizen. To say that she could lose her thus acquired status as a United States citizen and could be made a citizen of a foreign country without her consent and in spite of her protests, is absurd in view of the laws in force in the United States.

If there is a conflict between the law of Nicaragua and that of the United States as to the citizenship of a person claiming to be a citizen of the United States, the Secretary of State of the United States should be guided by, and proceed under, the law of his country. He has not

been appointed Secretary, and sworn to perform the duties of that office, for the purpose of enforcing foreign law under the circumstances set forth.

Since the above case was decided the Congress of the United States has passed a general law regarding the expatriation of citizens, which was approved on March 2, 1907. As to the wisdom of the new law there will be differences of opinion, but there can be no doubt as to the desirability of definitely settling the questions raised by Mr. Gresham's decision, and which decision was at that time wholly without the sanction of the United States Statutes

Sections 3 and 4 of this law are as follows:

SECTION 3. That any American woman who marries a foreigner shall take the nationality of her husband. At the termination of the marital relation she may resume her American citizenship, if abroad, by registering as an American citizen within one year with a consul of the United States, or by returning to reside in the United States, or, if residing in the United States at the termination of the marital relation, by continuing to reside therein.

SECTION 4. That any foreign woman who acquires American citizenship by marriage to an American shall be assumed to retain the same after the termination of the marital relation if she continue to reside in the United States, unless she makes formal renunciation thereof before a court having jurisdiction to naturalize aliens, or if she resides abroad she may retain her citizenship by registering as such before a United States consul within one year after the termination of such marital relation.

VII. EXPROPRIATION OF FOREIGNER'S PROPERTY

Minister Hart, Bogotá, August 23, 1902, wrote the Department of State:

"During the present Civil War in Colombia, I have frequently called attention to the free-handed way in which the property of foreigners is seized by the Colombian military authorities."

William A. Barney, United States Consular Agent, Cali, Colombia, on August 12, 1902, wrote:

"I hope something can be done to relieve the trying situation here.

"On the 9th of this month the military authorities here in Cali took from me, without asking or consulting me in any way whatsoever, forty mules, unloading the animals, and leaving the loads out in the open, without cover, and subject to the weather and thieves, and later sent the animals off with soldiers in different directions, without acknowledging my ownership in any manner. They have no excuse for this action under any circumstances, but less in view of the fact that there has never been an occasion when the government has sent to me asking for animals that I have not given them those that were needed, and never received pay for the services rendered, either."

Messrs. Holman and Shearer, Cali, Colombia, August 11, 1902, wrote:

"Last week I sent to our pastures near the town of Pavas, and had brought to this city thirty-two mules. . . . I put these animals into our pasture located . . . on the road to the Paso de Juanchito. Some time during the night of Saturday the 9th they were taken from this place, although the gate was locked, and Sunday morning . . . they were found scattered through the streets of the city, some loaded with camp equipage, and others ridden by the officers and soldiers of the troops which were preparing to march. During the day battalion 'Pastuso' took some of the animals with them when they left for Popayan, and battalions numbers 31, 35, and 36 took the others with them to Cordoba. . . .

"We have no receipt for these animals, nor any contract or promise to pay for their use, or order for their return to us. The government has not and will not assume any responsibility in the question of the return of the animals.

"Yesterday the military alcalde sent me word by an employé of ours 'that they were not responsible for the animals, and if I objected to the government using them, and wished to avoid losing them, I should not own animals at all.'"

Minister Beaupré, Bogotá, May 5, 1902, reported the following case as coming under his personal observation:

"On the 3rd instant Mr. Albert B. Dod, a citizen of the United States, was in Bogotá, on some business, intending to leave early the following morning. His two riding mules, with saddles, bridles, saddlebags, waterproofs, etc., he left in the stable of a foreigner named Turner. Mr. Dod took a noon breakfast with me at my residence, after which he went to look after the animals, and there found his saddles, bridles, etc., had been taken by a government official, who had left a receipt for the property, fixing its value in the receipt at one thousand pesos. It was impossible to trace the property that day, so that Mr. Dod was therefore compelled to go to a saddler and buy another outfit, which, although substantially no better than the one taken, cost him about five thousand pesos. Aside from the inconvenience and vexation of such a seizure, Mr. Dod is certain to be a financial loser, for the government insists upon its right to arbitrarily fix the value of the expropriated property. Even with the good offices of this legation, I do not believe that he can get more than one thousand pesos for his property, and even that only after months of perseverance and waiting."

If Mr. Beaupré had said that after years of waiting Mr. Dod would get nothing, he would have made a likelier guess.

This spoliation took place in the capital of Colombia, under the very eyes of the American minister and the members of the various foreign legations; what then was probably the situation in the outlying districts remote from the central authority?

William A. Trout, United States Consular Agent, Santa Marta, Colombia, wrote on May 31, 1902:

"The house of an American resident of this city has been entered by government troops, and without the knowledge of said American, personal property has been taken from there to the value of at least $300 gold, and on protest being made to the governor, he refuses to take any notice of the action of his troops."

On May 31, 1902, Leo Edwurn, an American citizen at Santa Marta, Colombia, wrote the United States consul:

"At daylight this morning a squad of police or military forced its way into the house of Mr. Henry M. Senter and myself, and without warning or explanation or the giving of a receipt took from us two horses and a mule. We immediately sought the proper authorities, who informed us that they agreed that it was an evil deed done by ignorant soldiery, and while the government held itself 'morally responsible, it was not legally so for the acts of its soldiers and police.' The governor refuses to return the animals."

VIII. Arrest of Alberto Posadas for Refusal to pay a "Forced War Loan" in Guatemala.

Legation of the United States, Guatemala,
March 23, 1903.

Mr. Combs reports that the government of Guatemala refuses to recognize the American citizenship of Alberto Posadas, a native-born Guatemalan returning, bearing a United States passport, and that the naturalized citizen referred to is under detention for refusal to pay a forced loan.

March 24, 1903.

Mr. Loomis instructs Mr. Combs to protest against the unfriendly action of the Guatemalan government in refusing to recognize the American citizenship of Posadas, who was duly naturalized in the United States, after a residence of twelve years, and ask for Posadas' release.

The letter of Alberto Posadas to Mr. Combs, setting forth the facts in the case, was as follows:

Mazatenango, March 19, 1903.

The 18th of this month I was told by Mr. Juan Alvarez, Jefe politico of this department, to contribute with $60,000 to the expenses of the Guatemalan government in the present war. I told him that I was the commercial representative in this country of my father, J. Zerion Posadas, resident of San Francisco, California, and a naturalized citizen of the United States of America. I told him, further, that my father, being an American, was not obliged to contribute to the expenses of the Guatemalan war. I decided to go to the capital with the intention of informing you of this matter; but the Jefe politico would not allow me to leave Mazatenango. I am, like my father, an American citizen. My letters of naturalization and passport No. 64,214, are here at your disposal.

As it is very likely I will be put in jail if I do not give the money asked, I entreat you to settle this as quickly as possible with the Guatemalan government.

On April 17, 1903, a letter from Mr. J. Zerion Posadas, father of Alberto, dated at San Francisco, California, threw some light on this matter. He wrote:

"I beg you will excuse the following recital in view of what may happen hereafter. I have been a resident of this city since 1890. My home was built by myself here. It has been constantly occupied by my family. My two younger sons were born in it. The evidence of their nativity is recorded in this country. I am a naturalized American citizen. I have property of some value at Mazatenango, Guatemala, in charge of my agents, whose instructions require them to fulfil faithfully, and do actually perform all the duties imposed by the laws, with regard to such property. The President, Mr. Cabrera, since his ascension to office, has constantly sought to injure me. In 1898 my brother, then a member of the National Assembly, was my representative in that country. This unfortunate brother was murdered, shot in the back, at the very doors of the political prefecture of Mazatenango. I instructed my new agent that he should constitute himself the accuser of the murderer and his accomplices. When judicial sentence had been pronounced against the chief of these, Cabrera ordered the gates of the prison to be opened for his benefit, in violation of the law which forbids the President to use the pardoning power when there is an accuser. I was compelled to be silent, because I knew that the will of the President is to all the citizens of Guatemala, as it was to my brother, the only law."

Mr. Combs secured the release of Mr. Posadas; but the Minister of Foreign Affairs

"took the ground that many Guatemalans went to the United States for a few years to obtain naturalization papers, to avoid the duty and obligation of citizens, and then returned to Guatemala, where all their property interests lie,"

and

"that the Constitution of the country declared all persons born in Guatemala subjects and citizens of Guatemala whenever they were in the country, no difference in what or how many other countries they had obtained citizenship."

Secretary Hay wrote to Mr. Combs on April 18, 1903, commenting on the above:

"From an examination of the copy of the Guatemalan Constitution which we have here, it would appear that it contains nothing more than a provision, similar to that in our own Constitution, that all persons born in the country are citizens thereof. Your despatch would seem to indicate that the Guatemalan Constitution contains a provision denying the right of expatriation. If such be the case, then the same question of dual allegiance which we have with Russia and Turkey would arise, and a satisfactory solution of the question could be afforded by the conclusion of a treaty of naturalization with Guatemala, if that government will agree to it."

Juan Barrios, M. the Minister of Foreign Affairs of Guatemala, on May 28, 1903, wrote Mr. Combs:

"If it is desired to find a provision perfectly applicable to the case of Posadas, naturalized in the United States, we have Article VIII of our law, concerning foreigners, which says that the Guatemalan naturalized in another country is, upon his return to Guatemala, again subject to the obligations of his primitive nationality, from which there is no exemption."

IX. Even the "Heathen Chinee" is not so Peculiar as are the Government Officials of Guatemala.

Leslie Combs, American Minister to Guatemala and Honduras, on February 26, 1903, reported to the State Department as follows:

"On February 19 Ton San Lon, a Chinese merchant, reported to me that upon Sunday, the 16th instant, a boy named Low Hip, in charge of his branch store at Jutiapa, had been arrested for refusing to give an officer small bills for $10,000 in bills of the denomination of $100 each, the officer offering him ten per cent premium for the exchange, which is about the current rate in Guatemala. Ton San Lon declared he did not have that much in small bills, and to give up such small bills as he had would destroy his ability to make change for his customers, and therefore paralyze his business.

"I went to the Minister of Foreign Affairs, and requested that he investigate the case, and if he found it to be as represented, to direct the immediate release of the Chinese from prison. The Minister of Foreign Affairs called upon me the next day, and informed me that the man had been released, but defended instead of apologizing for the act. He declared the Chinese merchants would gather all the small bills up and send them to Guatemala for sale, and suggested that I advise them to cease doing this, and to furnish the officers with change when called upon. I replied that I had advised not only the Chinese, but Americans, to be considerate in doing all they could to accommodate the government officials during these difficult times, but I hoped the government would not fail to recognize that if the Chinese merchants were in honest possession of money, of any denomination, they could not legally or rightfully be imprisoned for not giving it up for an equivalent unsatisfactory to themselves.

"Ton San Lon reports the officer has warned his boy that he must furnish $3000 change per week, or be arrested."

Strange ideas these of Mr. Leslie Combs! Think of having the temerity to tell a Guatemalan Military Jefe that if "merchants were in honest possession of money, of any denomination, they could not legally or rightfully be imprisoned for not giving it up"!

Such doctrine as this, if carried to its logical conclusion, would demoralize every military dictatorship in Central America. Surely a foreign minister cannot air such revolutionary views as these and continue *persona grata*. If a well-meaning dictator may not imprison men for not giving up their money, what profit will there be in the dictatorship business?

On March 16, 1903, Francis B. Loomis, Acting Secretary of State, wrote Mr. Combs, authorizing him to use his good offices to secure fair treatment for the Chinese, but added:

"Your discretion does not extend to the presentation of claims. If any such are preferred by the Chinese subjects, you will report them to the Department, which will bring them to the knowledge of the Chinese government."

On April 28, 1903, Mr. Combs wrote to Secretary Hay:

"I have the honor to submit the following cases in which I have reason to believe outrages have been perpetrated upon Chinese.

"The first instance was reported as follows: On Friday evening, the 17th instant, as Feliz Sing, a reputable Chinese, left his boarding-house, in one of the poorer districts of the city, he was accosted by two policemen with the request for some money to buy liquor, and replied that he had no money on him, at the same time endeavoring to return to the house which he had left, whereupon the policemen grabbed hold of him and searched him, finding a pocket-book containing $300 currency, which they took, while abusing the Chinese with their clubs. Sing raised an outcry which brought many of his countrymen as well as natives to the street, and the policemen, seeing themselves watched, took Sing to the station and had him locked up on charge of disturbing the peace, the sergeant in charge of the station refusing to search the policemen when they arrived with Sing, thus giving them a chance to dispose of the money taken."

On April 20, 1903, Mr. Combs wrote to Señor Barrios, Minister of Foreign Affairs:

"I regret to be obliged to call the attention of your Excellency to another alleged robbery of a Chinese, Salvador Chong Woeung, by a policeman named Frederico Pineda Barrios. Last night a Chinese, a cigar-maker residing at No. 8, 15 Calle Oriente, declares he was paid a bill amounting to $490 by Quong, of No. 1, 16 Calle Oriente, the payment being made about ten o'clock at night. As said Salvador Chong Woeung was going to his house but a short distance away, he was stopped by Policeman Frederico Pineda Barrios, under pretext to search for concealed weapons, the policeman taking the $490 and then releasing him. He, Salvador Chong Woeung, went immediately and reported the theft to the sergeant in charge of Station No. 1, Frederico Marroquin, who took no steps to investigate immediately, when the policeman might be found with the money still on him, but, giving him every chance to dispose of the plunder, told the Chinese to call at nine o'clock this morning, and then told him to come back at twelve o'clock, when he was confronted by the policeman, who denied the charge."

On June 19, 1903, Mr. Combs wrote that he had secured the release of Juan Ton, a Chinese, arrested at Amatitlau, and illegally imprisoned and fined. Juan Ton gave his side of the story as follows:

AMATITLAU, May 4, 1903.

"On Monday, the 4th instant, at nine o'clock A. M., I was found complying with my obligations, and fulfilling my duty as clerk in the store of my employers, known as Win Chow, in Amatitlau. About this time a lady came, whom I did not then know, and desired to buy a silk shawl, for which she offered $12 or $13, but I could not and would not let her have it for that price, for which reason the lady became furious and left. A short time afterwards,

a soldier came, accompanied by the aforementioned lady, and I was taken before the municipal judge, arrested, and left in jail, where I am still. The judge demands $300. . . . I am still under arrest."

The Attorney-General decided that the fine and imprisonment were illegally imposed, and Juan Ton was released. The next time a pretty Guatemalan señorita asks Juan to sell her a silk shawl for $13 and charge the amount to profit and loss, he will probably decide that discretion is the better part of valor and comply with the request.

X. Lessons from the Forced Loan which the American Business Man should take to Heart

In the record of these exactions in Latin America there is a lesson in morality and good government for the American business man.

The incomparable blessing of the protection afforded by a good government, and the obligation to maintain the purity of that government at all times and at whatever personal sacrifice, must impress every man who is at all familiar with the abominations called governments in Central and South America. Aside from the blessings of education, society, and other relations of life, the business man should bear in mind that whatever material advantages he has accumulated and possesses are due solely to the existence of a government which has been, and is, protecting him in such accumulation and possession. The rich are under greater obligations than the poor to the government, because without its protection the accumulation of wealth would be impossible. In Spanish-American countries of our third class there are no millionaires except the Dictators, and in the other classes there are but few. Guzman Blanco in his day was the only millionaire in Venezuela; so, too, Crespo in his time, and to-day the only man there worth more than a million is Cipriano Castro. A good and stable government is absolutely essential to the accumulation of wealth.

The poor wretch who assaults a non-union man is usually ignorant, misled by demagogues or agitators, or unstrung by the stress of misfortune or by the fear that his wife and babes may go hungry. Seldom has he had the advantages of a good education, or of intercourse with those elements which deepen and broaden our natures. We punish him severely so that the punishment may act as an efficient deterrent, but for him our fellowman we may have profound sympathy.

Not so for the rich man who steals, and covers his tracks with bribes, and walks abroad in brazen immunity. Not so for the trust magnate who tramples the law under foot, who resorts to bribery, intimidation, and any and all violations of sound morality in the administration of his affairs. He knows better; he is not driven by the stress of personal suffering, or fear for his loved ones. The law, the same law that helped him to amass his fortune, he violates and out-

rages. By acts of oppression he creates class hatreds, and renders the work of government more difficult. By bribing officials he strikes at the roots of government. He is more dangerous than an anarchist; and the lash of the law should be applied to his own individual skin, so that he, rather than his stockholders, may pay the penalty.

If I were asked to name the most despicable creature on the earth, I should point out some rich man who had gained his wealth by bribery, by oppressing the poor, by perjury, or circumventing the law, by forming or operating trusts to stifle competition; or some judge or lawyer who had connived at, or aided and abetted, such actions.

If *he* were subjected to a forced loan, my voice would be silent, my pen idle.

CHAPTER VIII

THE ASPHALT CASE

A CONTROVERSY that attracted for several years more attention than any other affair between the Venezuelan government and a foreign company was waged over the great asphalt lake in the State of Bermudez. As this case is typical of the methods of most Latin-American countries, and particularly of Venezuela, in dealing with foreign interests, I will state the matter with sufficient completeness to make clear the merits of the controversy.

I

In 1883 a concession was granted by the Executive Department of the Venezuelan Government, and approved by the so-called Congress, a literal translation of which is as follows:

THE HAMILTON CONTRACT

THE CONGRESS OF THE UNITED STATES OF VENEZUELA DECREES:

ARTICLE ONE. They approve the contract which by the organ of the Ministry of Fomento has been celebrated by the National Executive with Mr. Horacio R. Hamilton for the exploration and exploitation of the natural productions of the existing forests and wild public lands of the State of Bermudez; and which contract is of the following tenor:

"The Minister of Fomento of the Republic, by the order and authorization of the President, party of one part, and Mr. Horacio R. Hamilton, of the other part, have celebrated the contract contained in the clauses which in continuation are expressed.

ART. 1. The government concedes to Mr. Horacio R. Hamilton the right to explore and exploit the natural productions of the existing forests in the wild public lands of the State of Bermudez; with authority to extract timber for construction, ebony and other kinds, which can be utilized in the industries; and the resins, plants, aromatic seeds, and essences, including those used for coloring and medicinal purposes.

There remains excluded the Section of Barcelona, in so far as respects the exploitation and exportation of its woods.

Art. 2. Also the government concedes to Mr. Horacio R. Hamilton the right to exploit the asphalt in the same State of Bermudez.

Art. 3. Mr. Horacio R. Hamilton can import free of duty the machinery, utilities, and ironwork which may be required for the exploitation of the indicated products in the State of Bermudez. Each importation will obtain the order of exemption from the corresponding duties, presenting, upon soliciting it, the invoice of what it may have cost; and fulfilling in the respective custom house the requisites of law for their despatch.

Art. 4. The government concedes to Mr. Horacio R. Hamilton the right to navigate by small steamboats in the navigable cañons and rivers of the State of Bermudez; with power to take necessary firewood for them from the national forests.

Art. 5. Mr. Horacio R. Hamilton is obliged to pay to the public treasury two bolivars for each nine hundred and ninety-nine and one-half kilograms of asphalt which he exports, and five-hundredths of a bolivar for each kilogram of any one of the natural productions above mentioned, except wood; presenting in each case, to the office of the collector in which payment is made, a manifest which shall prove the number of kilograms for which they make the exportation. The duty which must be paid on wood will be fixed hereafter by an article additional to the contract.

Art. 6. If sold in the territory of the nation, the productions to which this contract refers, Mr. Horacio R. Hamilton will pay the same taxes or duties expressed in the preceding article; and, when so established, the taxes fixed for woods.

Art. 7. The government will not burden with any other contribution the productions which are to be exploited by Mr. Horacio R. Hamilton; and in conformity with the Constitution and laws, the States and the municipalities cannot so burden them, either.

Art. 8. The duration of this contract will be for twenty-five years, counting from this date; and during this term the government will not authorize equal concessions for the State of Bermudez to any other person.

Art. 9. Horacio R. Hamilton obligates himself to commence the execution of the present contract within the term of six months, which may be prorogued for six months more, in the judgment of the government, counting from the date in which it has been approved by the Federal Council, in conformity with the law of the matter; and the failure to comply with any one of the stipulations here expressed annuls in fact the present contract.

Art. 10. Horacio R. Hamilton can transfer the rights and obligations derived from this contract to another person or persons, giving advice to the Federal Executive.

Art. 11. The doubts and controversies which may arise growing out of this contract will be resolved by the tribunals of the Republic in conformity with its laws.

Made two of one tenor to one sole effect, in Caracas, September 15, 1883.

M. Carabano.

Horacio R. Hamilton.

Article Additional. According to that established by Article 5, there is established for the present the taxes which Mr. Horacio R. Hamilton must pay for the wood he may exploit or export, thus: for each nine hundred ninety-nine and one-half kilograms (about one English ton) of woods of ebony,

five bolivars; for each nine hundred ninety-nine and one-half kilograms of dyewoods, three bolivars; and for each nine hundred ninety-nine and one-half kilograms of woods for construction, two bolivars and fifty-hundredths.

M. Carabano.

Caracas, Oct. 19, 1883.

Horacio R. Hamilton.

Approved by the Congress July 5, 1884.

II

A cursory inspection of the above document will inform the reader that it is an example of the speculative concession. These concessions are granted regularly in vast numbers by the so-called government of Venezuela to its henchmen. Later comes a sale to some foreign "tenderfoot," the Dictator and his followers dividing the proceeds. Still later the concession is declared *caduca* (terminated or cancelled) after the foreign purchaser has been bled to his ultimate cent.

The above concession is noticeably vague and indefinite; it does not specify what amounts of asphalt and other products must be or may be exploited or exported in any given time; nor does it define the word "commence" in the phrase "commence the execution of the present contract." It does say that "failure to comply with any one of the stipulations here expressed annuls . . . the . . . contract" — which clause suggests that already a method of nullifying it at convenience had been planned. So here was a contract which might give Hamilton a most intolerable monopoly of every natural product of the State of Bermudez, or might dissolve into thin air at the bidding of the ruling Dictator.

Nothing in the so-called Constitution or laws of Venezuela authorized the Dictator to grant this concession, which on its face was an outrage on every inhabitant of the State of Bermudez, and in no civilized community would it be constitutional; but in Venezuela the Dictator's fiat is supreme law, and thus the Hamilton Concession joined the ranks of the hundreds of monopolies established for speculative purposes and given the sanction of law.

In another article appended to the concession, Hamilton agreed to dredge certain rivers, beginning with Caño Colorado and Guarapiche up to Maturin, and was to be given the exclusive right to navigate such rivers.

Hamilton sold the concession in New York to Thomas H. Thomas, William H. Thomas, and Ambrose H. Carner, who organized a company called the New York & Bermudez Company, incorporated in New York, October 24, 1885. On November 16, 1885, the concession was transferred to this corporation, and on December 9, 1885, the transfer was approved by the Venezuelan government.

Already the concession was having an eventful career. On the 14th of March, 1885, the Cabinet had discussed the advisability of cancelling it on the ground that no beginning toward its execution had been made, though since its date more than six months had elapsed; and numerous inquiries, resolutions, etc., had been made with reference to it, in accordance with the ordinary practice when it appears that the foreigners are "biting" too slowly.

About this time Mr. Ambrose H. Carner, representing the New York & Bermudez Company, arrived in Venezuela. He soon decided that the Hamilton Concession did not constitute a sufficient foundation for a responsible corporation, and proceeded at once to strengthen his titles, particularly to the great Bermudez asphalt lake, consisting of about one thousand acres of pure asphalt, the working of which was the main project of the company. In its behalf Carner made a formal denouncement of this lake or mine of asphalt, under the general mining laws of Venezuela, receiving the Definitive Title, signed by the "President of the Republic," on December 7, 1888. He also purchased from Venezuela for cash some forty-eight square kilometres of land (nearly twelve thousand acres) surrounding and including the asphalt mine, the government of Venezuela granting title thereto on December 14, 1888.

The Definitive Title was in the regular form, and granted title for ninety-nine years. It stated that the asphalt mine was situated in the jurisdiction of the Parish of Union, Village of Guariquin, Section Cumaná, of the State of Bermudez, twenty kilometres southeast of Guariquin, and 180 metres above sea-level.

Under the mining law the Definitive Title was based on a map or plan of the mine, made by some Venezuelan engineer, — a foreign engineer would not have met the requirements, — but in fact there was not then, and is not now, a native engineer in all Venezuela competent to make a really accurate survey and plan of such a mine.

The plan (such as it was) accompanying and constituting the base for the Definitive Title showed a winding trail about twenty kilometres long from the village of Guariquin to the mine, but the scale showed the distance in a direct line to be but twelve kilometres. The plan was made by G. Orsi Mombello, of Barcelona, October 23, 1888. Although crude, it was as accurate as the profession of engineering in Venezuela at that date under the law permitted.

III

Many a blackmailing attempt was made by the successive Dictators upon the New York & Bermudez Company, but these attacks were usually on a relatively small scale; and after such a "forced loan" had been paid, there was commonly a period of decided friendship between the company and the government. An unusually big

"strike" was made in 1887, and the company took its case to the Alta Corte Federal. An "adjustment" was then made, the court "decided" in favor of the company, and there was genuine affection once more. On July 23, 1890, the Dictator ordered his Minister of Fomento, Guillermo Tell Villegas Pulido, to grant Mr. Carner a certificate to the effect that the company had complied strictly with the Hamilton Contract, dated September 15, 1883, amended October 19, 1883, approved by the "National Congress" July 5, 1884, and reaffirmed by the Alta Corte Federal August 23, 1888.

The New York & Bermudez Company had been steadily developing its asphalt lake mine, and making extensive improvements in the vicinity. It had dredged rivers, made roads, built wharves, constructed at the lake an asphalt refinery costing about one hundred thousand dollars, and built a railway thence to Guariquin; and its annual shipment of asphalt had grown from three or four thousand tons to fifteen or twenty thousand tons.

From the very beginning of its asphalt business in the United States the New York & Bermudez Company had been harassed by the Barber Asphalt Company, a powerful concern with Mr. Amzi L. Barber at its head, which had sought, by the most unblushing corruption of municipal officers in the United States, to prevent the use of any asphalt for street pavements except that from Trinidad (British West Indies), — an asphalt inferior to the new Bermudez product, capable of cheaper production for a variety of reasons, but principally because the Trinidad lake (La Brea) is under a civilized government. The desperate and shameful fight waged by Mr. Barber and his lieutenants, chief of whom was General F. V. Greene, to destroy competition and establish an asphalt monopoly, had its baleful effect on the shareholders of the New York & Bermudez Company in the United States, while the blackmailing schemes in Venezuela also disheartened them; and they were brought to the verge of financial ruin. Laying pavements in various American cities were six branch companies; they too narrowly escaped being crushed under the wheels of this would-be monopoly.

In these bitter straits the shareholders of the New York & Bermudez Company sold out for a "song" to the Trinidad Asphalt Company (Amzi L. Barber, President), one of the combined companies.

Yet Barber and Greene have doubtless many a time since rued the day they bought the famous Bermudez asphalt lake!

IV

The swarm of satellites around the Dictator of Venezuela are never idle, and they discovered, or thought they discovered, some technical defect in the titles of the New York & Bermudez Company. Joaquin Crespo, who was then Constitutional President, was a very thrifty

man, managing by dint of hard work and economy to save up something like twenty million dollars during his brief reign, and it was not to be expected that he would let such an opportunity pass.

So a denouncement was made, or pretended to be made, by Mateo Guerra Marcano, Antonio Bianchi, Antonio Cervoin, and José Francisco Micheli, of a large portion of the Bermudez lake, and from this date forward the history of the controversy is a record of the scheming, intriguing, treachery, roguery, and cunning of the two greatest gangs of scoundrels that ever met in conflict on this earth, — the so-called Asphalt Trust and the so-called Government of our "Sister Republic."

The portion of Bermudez asphalt lake thus denounced was called "Felicidad" (Happiness). The Felicidad mine was alleged to be located in the Municipality of Union, District of Bernitz, State of Bermudez; but as these divisions are shifted around every few weeks at the whim of each new Jefe, the location does not seem very definite. The Definitive Title was No. 59, signed by Joaquin Crespo on November 30, 1897, based on a plan made by Pedro Vecinto Felce, dated September 12, 1897. This Crespo document did not state how far, or in what direction, Felicidad lay from any given point; it merely recited that the mine was to the east of a place called Usirina, on the Gulf of Paria; that it adjoined a caño called Majagual, and was bounded on all sides by wild public lands. The Felce plan stated that the mine was 9340 metres distant, along a road thereon shown, from the house of one F. Reyes, which the plan showed to be in or near the village of Guariquin.

The road along which Felce measured had been made by the New York & Bermudez Company; indeed the Felce plan showed greater inaccuracies than the Mombello plan made in 1888 for the New York & Bermudez Company. A most casual inspection of the two plans suggested that Felicidad was a portion of the Bermudez lake, and this conclusion was confirmed when a measurement by scale was made.

On January 4, 1898, Crespo decreed the Hamilton Contract *caduca* (terminated). The denouncers of Felicidad believed that if the Hamilton Contract were thrown out, the Definitive Title of the Bermudez lake could be destroyed on the ground that the property it granted was specified as twenty kilometres from Guariquin, while the lake was claimed to be but ten or twelve kilometres therefrom. The argument along these lines was that the two Definitive Titles referred, respectively, to two different mines, while in fact every one familiar with the matter knew that they referred to the same asphalt property; and, as we have seen, the two plans showed this. Moreover, we have seen, in the description of the Mombello plan, a satisfactory explanation of the above varation in kilometres.

Later in 1898, through a process termed an "election" or a "revolution," as one may choose, Crespo went out of power, and lo! the

High Federal Court, on August 23, 1898, rendered a decision declaring that the executive decree of Crespo was without authority, and that the Hamilton Contract was valid. The agent of the New York & Bermudez Company had lost no time in adjusting himself to the new *régime.*

V

In May, 1900, the Warner-Quinlan Asphalt Company of Syracuse, New York, bought Felicidad from its Venezuelan "denouncers" for forty thousand dollars.

Cipriano Castro had become Dictator of Venezuela, October 23, 1899, after having overthrown the government of Andrade, the appointee of Crespo who was killed in battle in the effort to sustain his *protégé.* When a new dictator comes into power, it takes him some time to realize the full measure of the possibilities for "graft." At the outset, a dictator will for two or three thousand dollars issue a decree, or grant a concession, for which he would have wanted a year or two later forty thousand or maybe one hundred thousand dollars.

To this rule Castro was no exception. The New York & Bermudez Company caught him on his advent to power, and had very little difficulty with him. On July 23, 1900, Castro issued three decrees in which he recognized fully the validity of the Hamilton Contract, and declared that the New York & Bermudez Company had lived up to it strictly and should have the preference in denouncing mines within the territory in question, etc. Buttressed by these decrees, the Bermudez Company now planned to head off the Warner-Quinlan Company with its bogus Felicidad claim.

In the mean time other adventurers had been having the asphalt fever and thinking of becoming millionaires in a few weeks through denouncing other people's mines. Thus we find a plan made by Heriberto Imezy, dated September 1, 1899, of a pretended new asphalt mine, larger than Felicidad, adjoining it, and embracing the entire central portion of the Bermudez asphalt lake. This mine was denounced under the title "Gran Mina de Venezuela," by Eduardo Capecchi and Antonio Vicentelli Santelli, French citizens, and Julio Figuera, a Venezuelan. Castro granted the Definitive Title on December 18, 1900. The boundaries were described as follows: "To the north and west, forests; to the south, the mineral concession of the New York & Bermudez Company; and to the east the mine Felicidad."

As this alleged Gran Mina de Venezuela covered about four hundred and twenty acres of pure asphalt comprising the very heart of the Bermudez lake, it is of interest that its denouncers condescended to admit that the New York & Bermudez Company had any property rights whatsoever in that vicinity.

We may note in this connection (though chronologically its recital is somewhat premature) the pretended denouncement, June 11, 1901, of the "South Side" mine, by Dr. Manuel Maria Ponte, Jr. The plans were made by Rafael Diaz. Castro granted the Definitive Title May 30, 1903; and it was transferred to William Findlay Brown, of Philadelphia. The boundaries were described as follows: "On the north by the mine Venezuela, in the whole extension of its south line; on the east and west by swamps; and on the south by asphalt of the same bed."

The blood-and-thunder dime novel would be tame reading beside the record of this unpleasantness, in which Dr. Ponte, Jr., and his band were halted by the armed men of the New York & Bermudez Company, and forbidden to proceed over the asphalt lake. The dignity of the judges, generals, presidents, and Jefes of the Ponte following was rudely shocked by the violent protests of the Bermudez battalions. If this little setback had not occurred, the Doctor might have proceeded to even more blood-curdling lengths, and denounced the refinery of the New York & Bermudez Company!

Having now added the Venezuela and the South Side to the list of incidental annoyances, let us, before returning to the main thread of the narrative, thus briefly compare "boundaries": The Definitive Title of the Venezuela recites that the mineral concession of the New York & Bermudez Company lay adjacent to it on the south; but the Definitive Title of the South Side claims that it (and consequently not the mine of the New York & Bermudez Company) lay to the south of the Venezuela; and the Felicidad, bounding the Venezuela "to the east" as set forth in the Title of the latter, is, according to the theory advanced by the Felicidad attorneys, some ten or twelve kilometres distant from the property of the New York & Bermudez Company.

VI

In 1899, about the time of the beginning of Castro's domination in Venezuela, Amzi L. Barber and General F. V. Greene started in with the avowed intention of monopolizing the asphalt business of the world, and of compelling from contractors much the same servile tribute to them that the clique in Caracas was showering upon the new Dictator. They formed the Asphalt Company of America, with some thirty million dollars of alleged capital, and composed of about seventy subsidiary companies, one of which was the New York & Bermudez Company. Mr. A. Howard Carner, otherwise known as "Barber's man," remained in Venezuela as resident director of the concern, with instructions to make his peace with Castro. The Asphalt Company of America made great boasts of its alleged influence with city officials all over the United States, and openly stated

that the old days when corrupt boards specified "Trinidad Lake" asphalt exclusively, getting from twenty cents to a dollar a square yard as their share of the "boodle," were going to be ushered in again, and that contractors not in the combination would be driven to the wall.

A group of Philadelphia speculators, headed by John M. Mack, known as the intimate friend of the great "boodle combine" which controlled that city, made up their minds to get control of this "asphalt trust," so that they might pocket the millions which would be sure to flow in when Philadelphia methods should be applied throughout the United States. So this "crowd," comprising Elkins, Widener, and other capitalists, organized a new "trust" called the National Asphalt Company, also capitalized at about thirty million dollars (three-fourths of which was water, and the remainder a bad odor), and proceeded to use the second corporation as a sandbagger of the first. It is unnecessary here to narrate the successive manipulations of the two sets of stock-gamblers; let it suffice to say that the National Asphalt Company finally succeeded in transferring its worthless certificates for the securities of the Asphalt Company of America, and that the legitimate stockholders and bondbolders of the latter company were practically defrauded of their entire interests by the transaction. Later the National Company went into the hands of a receiver, and the process of ruining the only people who had any real money invested in the concern was substantially completed. This record of infamy, of debauchery of public officials, of fraud upon stockholders and bondholders, has no parallel in modern corporation annals.

While these events were happening in the United States, things were going badly in Venezuela for the New York & Bermudez Company. Barber and Greene, and later Mack, had started out with the idea of controlling not only the asphalt business of the United States, but also the asphalt supply in Mexico, Trinidad, Venezuela, and all other producing countries, and hence they sent out agents, promoters, etc. by the score to these countries.

These were indeed exciting days, and Castro began to think that asphalt was more valuable than gold; and he felt a great longing to join the money-makers. So, although the Dictator had issued, on July 23, 1900, three decrees strongly in favor of the New York & Bermudez Company, he now saw that this had been a mistake, and on December 10, 1900, he issued a decree in favor of the Warner-Quinlan Asphalt Company, confirming the title of "Felicidad," which this company had bought of its Venezuelan "denouncers."

The proceedings leading up to this later decree possess a certain dramatic interest. The New York & Bermudez Company people, emboldened by the decrees of July 23, 1900, desired to give the Warner-Quinlan Company a knock-out blow, and so appealed to the then Minister of Fomento, Guillermo Tell Villegos Pulido (a strong

"friend" of theirs) to cancel completely the Felicidad titles. Pulido was willing; and it was arranged that a Venezuelan engineer (appointed by the Minister of Fomento, for official impressiveness) should visit the mine; that he should come back and report that Felicidad was a part of the Bermudez asphalt lake owned by the New York & Bermudez Company — which was the truth; that thereupon he should receive a present of three thousand dollars from the Bermudez Company for his services, and that the Minister of Fomento for a present of twenty-two thousand dollars should carry out his part of the program by declaring the Felicidad titles null and void.

Unfortunately for this scheme, there came one of those lightning changes which are so frequent in Venezuelan politics; Pulido was transferred to some other position, and General Ramon-Ayala became Minister of Fomento.

The Warner-Quinlan Company protested before General Ayala against the one-engineer idea, and he sustained its protest. It was now agreed that the New York & Bermudez Company should select one engineer, the Warner-Quinlan Company another, and these two a third, the appointments to be ratified by the Minister of Fomento; that the three engineers should visit the asphalt lake in Bermudez, make surveys, and report the facts. The engineer named by the New York & Bermudez Company reported in its favor; the other two reported in favor of Felicidad. Thereupon General Castro ordered his Minister of Fomento to issue a decree denying the petition made to the former minister, Pulido, and declaring that the Felicidad titles were valid. This was the decree of December 10, 1900. The Warner-Quinlan Company now thought its star was in the ascendant, and its representative confidentially admitted that Felicidad was worth five million dollars.

Major Andrews, counsel for the National Asphalt Company in New York, at this juncture took the centre of the stage, declared that Venezuela was an uncivilized country — which was true — and that a foreign company could not obtain justice in the courts there — which was also true — and called upon President McKinley to send war-ships to Venezuela by way of intervention — which was done. This action incensed Dictator Castro very much, and for a time the Caracas press carried on an amazing campaign of vilification against the United States, the New York & Bermudez Company, and especially the American minister, Mr. F. B. Loomis, whose sole offence was in carrying out as diplomatically as possible the instructions of the State Department. Finally Castro was persuaded not to attempt to put the Warner-Quinlan Company into possession of Felicidad by force, and the matter was referred to the alleged courts in Caracas. This suited Castro and his train exactly; the leeches would now have unlimited opportunities for bleeding both sides — golden opportunities, which would not be neglected.

VII

The Warner-Quinlan Company now brought suit in the Corte Federal to compel the New York & Bermudez Company to recognize the validity of the Felicidad titles and give it peaceable possession of the mine. A furious newspaper war was conducted by the "belligerents," and the Caracas newspapers were overrun with the lurid literature of this acrimonious controversy.

While the case was dragging along in court, other denouncements were made, covering all that had been left undenounced of Bermudez lake; one denouncement was by Mateo Micheli, and another by José Ines Figuera, Juan M. Gordones, and José M. Brito Salazar. In all these alleged denouncements the government officials took part in their official capacity, in spite of the indignant protests of the New York & Bermudez Company. During this period uprisings were actively in progress in the eastern part of Venezuela and in the State of Bermudez; and later revolutions were rife throughout the country. The Bermudez Company and indeed most of the foreign corporations were compelled to pay tribute to both sides, including double import and export duties, etc. Often the company's ships were prevented from reaching its port of shipment, Guanoco, and for several months this port was entirely closed.

With all this complicated skein of litigation tightening around the New York & Bermudez Company, and the government of Venezuela cherishing the most unbounded hostility towards it, while the National Asphalt Company was threatened with a receivership through the wicked mismanagement of the now extremely unpopular John M. Mack, the Warner-Quinlan people thought that they saw clear sailing ahead; but they had not begun to fathom the cunning and deceit of the Latin-American Dictator, — a keenness of trickery, a finesse in intrigue, which stands as something apart, the acme of craftsmanship in treachery.

All the hue and cry in the newspapers, all the extravagant talk of the "town," all the lavish use of money by both of the litigants, had conjured up before the gaze of the Dictator and his clique the old glittering vision of El Dorado, which for centuries has lured onward the South American adventurer; and had the Warner-Quinlan Company been keenly alive to the rottenness of the situation it would have realized that no decision would be handed down in its favor without the payment of a fabulous amount to the Dictator, who might or might not give some of it to the judges, just as he should see fit. But it already had squandered in Venezuela, in addition to the original cost of the "mine," about one hundred thousand dollars for lawyers' fees, newspaper notoriety, and other expenses, while the New York & Bermudez Company had wasted at least three or four times that sum. The day came to the Warner-Quinlan Company —

such a day as comes sooner or later to every foreign company in Venezuela — when it concluded that its treasury must close its doors against the horde of cormorants flocking around it, hungry for loot; and on that day, prompt to seize the psychological moment, the New York & Bermudez Company representative (Captain Robert K. Wright, *vice* A. Howard Carner removed by Mack) walked jauntily into "Miraflores," the Castro residence. Then followed "negotiations" carried on with great secrecy for some weeks, and a special agent was despatched from Philadelphia to arrange matters.

I was in Caracas at this time, from October to December, 1903, and had exceptional opportunities to know what was going on; and in fact did know more than thirty days in advance that the Warner-Quinlan Company would lose its case, and so informed Mr. Quinlan.

As I understood the arrangement at the time, from inside sources upon the correctness of which I rely, it was agreed that Castro should be paid cash in hand fifty thousand dollars; that he should direct the Corte Federal to decide in favor of the New York & Bermudez Company; that therefor, as soon as such decision should be rendered, he should receive two hundred thousand dollars additional cash, and, within thirty days thereafter, two hundred and fifty thousand dollars in bonds of the New York & Bermudez Company.

VIII

The decision of the Federal Court, rendered January 28, 1904, was indeed against the Warner-Quinlan Company; but it turned out to be a two-edged sword, and dealt a much more crushing blow to the New York & Bermudez Company than to its rivals. Neither the officers of the Bermudez Company nor those of the General Asphalt Company (the reorganized "trust," risen from the ashes of the bankrupt and dissolved National Asphalt Company) have ever informed their stockholders or the public just how costly was this "victory" in Venezuela.

The Federal Court decided[1] that the Hamilton Contract had created a special condition in the State of Bermudez for twenty-five years from its date, during which period no mineral concession or Definitive Title to a mine could be granted within such territory by the National Executive, either in virtue of the mining law or otherwise; and that the said Hamilton Contract was in force and effect, and that if any executive decrees had at any time been made purporting to nullify it, they were void; and that, even if it were admitted that said contract was in violation of the Constitution and repugnant to the law of mines in force at the date of its grant, nevertheless said contract must be held to be valid for this proceeding,

[1] This decision is briefly discussed in the next chapter.

because its invalidity had never been declared by any competent authority.

The Hamilton Contract, as above stated, was approved by "Congress" on July 5, 1884, and would therefore terminate July 5, 1909. Under the decision of the Federal Court, the title of the New York & Bermudez Company would crumble with the expiration of the contract on the latter date, for if such a "special condition" existed in the State of Bermudez by reason of the Hamilton Contract that no "denouncement" of a mine therein could be made under the mining laws and no mineral title therein could be acquired in any other manner, the Definitive Title of the New York & Bermudez Company, purporting to have been acquired for ninety-nine years, by denouncement, on the seventh day of December, 1888, was, and always had been, null and void. This was the milk in the cocoanut. The decision was in a certain sense in favor of the New York & Bermudez Company, and thus a compliance with Castro's promise, but it held over that ill-starred corporation the well-nigh prohibitive expense of again procuring titles four or five years hence — when extortion would probably be as rampant as ever, and prices would probably be at top notch.

Truly the company was in the grip of a Shylock, and no Portia was in sight!

IX

When the full magnitude of the deception dawned upon the agent of the New York & Bermudez Company, he naturally refused to pay over the additional two hundred thousand dollars cash, or the two hundred and fifty thousand dollars in bonds. Disgusted at the situation in Venezuela, and checked by the financial condition of the "trust" in Philadelphia, he suddenly stopped the stream of gold that he had been pouring into Venezuela, and which had reached at least the half-million mark.

But the Venezuelan Dictator was not yet at the end of his resources. The General Asphalt Company, over the signature of John M. Mack, stated to its stockholders that advice had been received, on June 8, 1904, that the Venezuelan government, through the Minister of Interior Relations, had threatened to bring suits against it for failure to perform its obligations under the Hamilton Contract, and for having aided the Matos Revolution; but that the government would adjust the matter with the company if it would pay fifty million bolivars, or else pay ten million bolivars and surrender its property to the Venezuelan government; . . . that thereafter the Venezuelan government advised the company that it would stay its proceedings until the 18th of July, in order to give the company opportunity to "adjust the matter without suit." Mr. Mack added that the company did not attempt to make any "adjustment."

The little sum of fifty million bolivars ($10,000,000) not having arrived at Caracas by the first steamer from Philadelphia, Dictator

Castro went before that precious institution, a Venezuelan court, and demanded that the New York & Bermudez Company be placed in the hands of a receiver, on the ground that it had not fulfilled its obligations under the Hamilton Contract. Naturally a receiver was appointed *instanter*, without wasting any time in giving the company a chance to be heard and without even notifying it of the proceedings.

Mr. A. Howard Carner, former agent in Venezuela of the company through all of its early troubles, was named receiver, and, by Castro's armed forces on board of a Venezuelan war-ship, was put in possession of the great Bermudez asphalt lake, and the railway, refinery, and other property of the New York & Bermudez Company, on August 10, 1904. Conflicting stories have been told as to the alleged brutality of the soldiers towards the officers and employés of the company, but that the Venezuelan soldiery broke open the houses, desks, safes, and other property of the company, doing great damage and committing outrages of every description, there can be no doubt.

Concurrently with this proceeding Castro brought "suits" in his alleged courts against the New York & Bermudez Company for some ten million dollars. He claimed that the company had aided the Matos Revolution, it being stated that General F. V. Greene, when connected with the National Company, had contributed one hundred thousand dollars to the purchase of the Bahn Righ, a vessel which did great service for Matos in his uprising against Castro. Judgment was at a later date entered by the Venezuelan court for the full amount demanded.

From August, 1904, to the present time (1907), the receiver has been shipping monthly about two thousand tons of asphalt, worth from eighteen to twenty dollars a ton, to Mr. A. L. Barber at New York. How large a portion of the profits goes to Dictator Castro is not known, but the Castro portion is probably not less than four or five dollars a ton.

The Asphalt case is by no means unique in Latin America; on the contrary, the vicissitudes and turmoils of the New York & Bermudez Company are experienced in one form or another by almost every foreign company doing business there. If the machinations of such men as Castro, Mack, Barber, and Greene, affected only themselves, my narrative would be not only unbiassed but coldly dispassionate. But there were innocent stockholders and bondholders of this company, and they were Americans, and the company itself was an American corporation whose assets were worth at least ten million dollars. The great government of the United States has stood by and seen these American stockholders and bondholders looted and robbed in the most barefaced manner by the most unprincipled dictatorship on earth. Since the McKinley intervention, it has not lifted a finger in their defence.

CHAPTER IX

ALLEGED PARTICIPATION BY FOREIGNERS IN REVOLUTIONS

WHEN a Latin-American Dictator or so-called President wishes to confiscate the property of a foreigner to his own use, one of the most common pretexts advanced is that the foreigner has aided or sympathized with the revolutionists. This is merely a subterfuge of the Dictator. He knows what an insufferable falsehood it is, for the foreigner hardly dares to say that his life is his own; he would not think of taking part in the interminable broils of these barbarians.

The foreigner in Venezuela or Colombia is beset, at times overwhelmed, by a swarm of difficulties. He sees the lightning-like changes in the personnel of the government; he knows the bitterness, the savagery, which characterizes the whole body politic; and there is not one case in a thousand where the foreigner opens his mouth to express an opinion. But the Dictator construes a simple failure to kneel and adore him as open hostility; and the foreigner who does not give up all his estate and income, while lying phrases of laudation flow from his lips, is claimed to be an enemy of the country. Foreign governments listen gravely to charges made by some scoundrel Dictator against their citizens, of participation in revolutions. Brief reflection and investigation by a government will almost always convince it of the wicked falsity of such a charge. To illustrate the awkward dilemmas in which neutral foreigners may find themselves in periods of revolution (and revolutionary periods cut wide swaths out of time in Latin America), I will relate an incident of my personal experience.

I. Foreigners compelled under Duress to contribute to Revolutionary Bands

In 1901–1902 I was building a railway from the Rio Limon to an asphalt mine in the State of Zulia, Venezuela, a distance of about twenty-seven miles. I was employing about fifteen hundred men. The way lay through heavy swamps and dense tropical jungles. At our

headquarters on the banks of the river we had two or three hundred men, mostly carpenters and mechanics, who were erecting buildings, etc.

One night about dark we saw a body of cavalry cross the river near our place and turn at once toward us. All our native workmen fled to the woods in every direction. There were left but a half-dozen Americans, and the ten natives who constituted the company's police force. In a few moments the chief of the troop, with his "staff," a villanous gang of cut-throats, came over to our headquarters. I had plenty of Winchesters and ten-shot automatic Mausers, and had already distributed them among my men, and my force had received its instructions.

As the chief and his staff entered the large reception-room, I received them politely, and requested them to be seated. I was seated at the opposite side of a large table piled with books, maps, etc., on which one or two automatic guns were also lying.

The "General" at once addressed me in a commanding voice: "Come on this side of the table, sir; I want to talk with you."

I at once replied: "I am in my own house, and am the only man around here who gives orders or who has any authority to give them. I am not accustomed to having guests in my house directing me where to sit, and I am in the habit of sitting where I please. Be kind enough to tell me the object of this interview."

The "General" and his staff were rather taken back by this language, and there was some nudging and murmuring on their side of the table.

The General then spoke: "We are a body of revolutionists; we are on our way to Maracaibo to capture the place. There is a force of about two thousand men behind us who will arrive here to-morrow. I want to speak to you about supplies and funds for our men."

Just at this moment a fusillade of shots was discharged outside, and as it was now pitch-dark, and our house being well lighted formed an excellent target, I was anxious to postpone the interview until the next morning; so I said: "General, it is against our rules to have shooting around these premises. This is a foreign company, and we take no part in your internal affairs; we know nothing about them, and care less than we know. I want you to have this shooting stopped immediately, and show proper respect for our regulations while you are on our premises. Please go immediately and preserve order among your men, and call on me in the morning for further discussion."

The General demurred to this; but when he saw that I was obstinate, he withdrew, and during the night his men created no disturbances. Of course, I kept a patrol on guard all night.

The next morning the General called on me again, and demanded money and supplies for his troops.

I said: "General, we pay peons here one dollar a day. You have

thirty-five or forty men, so you can easily earn that number of dollars daily. Hand me your arms, give me your word of honor as men that you will work faithfully and obey my rules, and I will employ every one of you on the railroad. You will then have the satisfaction of earning your money honestly."

"But we are revolutionists," urged the General.

"Then you are in mighty bad business," I said; "no country prospers by war, but only by peace and industry."

"But there are two thousand men back of me," said the General; "you need n't give me more than two hundred dollars. I will give you a receipt, and when the main army arrives it will see my receipt and it won't molest you."

"There is only one way you or anybody else can get money out of me," I replied, "and that is by working for it. I need more men, and when that army of two thousand gets here, I am going to try to arrange to put them all at work on this railroad."

The General continued to press his views, but I refused to give him a cent; and he finally went off in a very angry frame of mind, swearing that he would come back with a large body of men and take the money and property by force. He not only stole many horses and cattle, but, far worse, he horribly murdered several innocent people in the neighborhood.

The General could hardly have failed to realize that throughout our interviews there was no "bluff" on my part. He knew that my men and I, all well armed, were ready to stand there and shoot and be shot at until the end. At all events, he thought it wise not to attack us. A short time afterwards he and his troops went to the hacienda of a German company at the south end of Maracaibo Lake, looted the stores, and killed several of the employés; but no redress was ever obtained. A claim was made against the Venezuelan government, but that peculiar institution claimed that the Germans had aided the revolution, and the Mixed Commission held that Venezuela was not liable for outrages committed by revolutionists.

Now, suppose that I had yielded to the demands of this General and his gang of thirty-five or forty of the most villanous brigands it has ever been my fortune to see, — and that is saying a good deal, — what would have been the result?

In a week's time the government of Venezuela would have used my compliance as a pretext for seizing our property. It would have alleged that I had aided the revolution. In proof of its contention, it would have shown that I had given two hundred dollars to revolutionists, — a payment under duress, with my own and my employés' lives in jeopardy if I had refused; but what of that?

But it was a case of Scylla and Charybdis. As consenting would have been disagreeable, so also was refusing far from pleasant. Refusing meant that I not only took a lively chance for my men and my-

self of getting into a serious shooting affair, but that I also ran another risk. The General might at any time have flashed into power, might have become the *de facto* government itself. He would then have used his strong position to ruin my company and myself, as "the enemies of the Republic"!

So a foreigner in a Latin-American dictatorship is always like a barefoot man on a hot griddle. Lying representations and despicable intrigues are as thick as flies around dried apples; while the United States and other foreign countries still seem disposed to consider seriously the frivolous and insincere statements of these bandit governments.

II. Alleged Participation by Foreign Corporations in the Matos Revolution in Venezuela

In the chapter on "The Asphalt Case" the rather typical experience of the New York & Bermudez Company was set forth with some detail. I here propose to refer briefly to this and to another foreign corporation, in the matter of the charge in Venezuela that they participated in the Matos Revolution.

The Federal Court in Caracas, in the suit of the Warner-Quinlan Asphalt Company *v.* the New York & Bermudez Company, had declared that the Hamilton Concession was valid, and that therefore no other mineral concession and no title to a mine anywhere in the State of Bermudez could be granted by the Venezuelan government during the life of the Hamilton Concession. This decision was of course designed to nullify not only the Warner-Quinlan Company title, but also the title for ninety-nine years that the New York & Bermudez Company, after succeeding to the Hamilton Concession, had obtained to the Bermudez asphalt lake, under the general mining law.

It must be plain to all men of average intelligence that just as the Hamilton Concession was a contract between the government of Venezuela and Hamilton, so also was the ninety-nine-year title a contract between said government and Hamilton's transferee, the New York & Bermudez Company; and that it was clearly within the power of the parties to, or transferees of, the Hamilton Concession to make by mutual agreement in extension thereof (if no rights of others had intervened) a supplementary contract. A decision to the contrary would be illogical, even foolish, yet such a decision was in its essence that rendered by the Federal Court at Caracas, and it was held, *inter alia*, to "throw out" the ninety-nine-year title.

Later, at the instance of Dictator Castro, the Hamilton Concession was cancelled by the Federal Court on frivolous grounds, and the great asphalt lake was seized by force of arms and placed in the hands of a so-called receiver.

Now, the New York & Bermudez Company had spent several

hundred thousand dollars in building a railroad, refinery, wharves, etc., and all these the rapacious chieftain coveted. He therefore filed a suit for eleven million dollars' damages against the New York & Bermudez Company, in the so-called courts of Venezuela. Every judge thereof was appointed by him, and would be liable to imprisonment for disobedience of his slightest order. The intention of course was to obtain judgment, and to levy on the railroad and refinery to satisfy it. The grounds of the suit were that the New York & Bermudez Company had aided the revolution of Matos.

Passing by the numberless unfounded charges of this character, let us consider just what importance should be attached to charges of this sort, supposing them to be true.

The Venezuelan Dictator charged, with great detail and with a wealth of dates and figures, that General F. V. Greene, as President of the National Asphalt Company, of which the New York & Bermudez Company was a subsidiary concern, had furnished a check for one hundred thousand dollars to the Matos Revolution, with which the revolutionists had purchased the steamer Bahn Righ (the Bahn Righ had done considerable damage to the Venezuelan gunboats). General Greene denied all these allegations so far as he was concerned; but it was admitted that John M. Mack, Avery D. Andrews, and Arthur Sewall did furnish the money.

For the purpose of disposing of the point under consideration, it is not necessary to reach a conclusion as to the truth or falsity of the charges made against General Greene and the other officers of the Asphalt Company. Admitting, for the sake of argument, that these charges were true, would such conduct by these officers justify in law or equity the confiscation of the property of the New York & Bermudez Company in Venezuela?

A corporation is responsible only for such acts of its officers as they perform, and for the omission by its officers of such acts as they should perform, in the exercise of the legitimate functions of their offices or within the general scope of their employment, as prescribed by the charter, constitution, or by-laws of the corporation, or by the general law of corporations, or by the special laws applicable to any specific corporation; and for such other acts as are capable of ratification and have been ratified by such corporation. All other acts of its officers are *ultra vires*, and hence either voidable or null and void, according as they are capable or incapable of ratification by the corporation.

Is the promotion of a revolution in a foreign country a function of the president, or other officer, of an American corporation, or within the scope of the employment of any corporation officer under American law? No; nor is there any by-law or charter provision of the New York & Bermudez Company, or of any other American corporation, which authorizes the fomenting of foreign revolutions.

But there is a United States statute constituting it a crime to aid

and abet a war or revolution against a power with which the United States is at peace, and our courts are ever alert and ready to enforce such statute.

If General Greene and John M. Mack, and the other officers, did aid the Matos Revolution, and for that purpose took the funds of the corporation, what would be the legal status of the case? It would be:

1st. That they had unlawfully taken and disposed of the funds of the corporation; and that, if proved guilty, they should be sent to the penitentiary for having committed the crime of embezzlement.

2d. That they, if proved guilty of having aided and abetted a war or revolution against a power with which our country was at peace, should be sent to the penitentiary.

But the act, from whatever point it be viewed, — assuming it to be true, for the sake of the argument, — is the personal act of the officers of the corporation, and in no wise the act of the corporation itself. They had no authority as officers of such corporation to perform such act; it was *ultra vires.* If the New York & Bermudez Company had been robbed of one hundred thousand dollars by its president, how absurd it would be to say that therefore the remainder of its property should be rifled from it by another equally great scoundrel, using the first crime as a pretext for covering up the second!

III. Case of the French Cable Company

Another case illustrative of the same proposition is that of the French Cable Company, whose concession was cancelled or attacked by Castro. When the Tachira *gente* first arrived in Caracas (*i. e.*, in the first part of Castro's dictatorship), Castro thought that the easiest and quickest way to make a few dollars would be to apply the screws to the French Cable Company. The Cable Company thought it impolitic to antagonize the incoming "Supreme Chief"; so they met him half-way by giving him twenty-five thousand dollars for pin money, and out of the abundance of his heart he agreed to extend their concession and grant them certain other privileges.

But Castro's appetite grew marvellously during the first few years of his "reign," while the destruction by the new "Jefe" of the foreign mercantile houses made the cable business rather poor. The inevitable day came when the Cable Company could not furnish sufficient money to satisfy the insatiable greed of the Dictator, and then there was trouble.

The pretext for the attempt to confiscate its property was the allegation that it had aided the Matos Revolution. Even if the charge were true, my reasoning, as above given in reference to the Asphalt case, would apply to this Cable Company case in every particular.

But in fact it is practically certain that the charges are wholly false, and are the wicked invention of Castro and his satellites, with

extortion in view. I was in Venezuela during a considerable portion of the Matos Revolution, and had occasion to send many cablegrams. In every instance I had to obtain the approval of a government censor, and when my messages were in code, I had to take the code-book to the censor, and translate the messages, word for word. This strict procedure was the universal custom; and indeed the Cable Company was at that time under the most direct supervision of the government. Had Castro owned the Cable Company, he could not have more completely controlled it in all its departments.

This attempt to confiscate its property at this late date on such a silly pretext simply shows what our Sister Republics may do, in virtue of the grace of the United States and under the protecting folds of our cherished Monroe Doctrine.

CHAPTER X

OUR SISTER REPUBLICS PRODUCE MANY INTERNATIONAL LAWYERS

THERE is one characteristic of Latin Americans which is persistently clamoring for recognition. All who can read and write — and many who cannot — are "international lawyers." The newspapers are continually filled with long screeds about the *patria's* alleged rights in "international law." These notions of "international law" would be amusing, did they not so often lead to serious results.

This curious national development is due to the many foreign complications of a country, springing from outrages by its citizens upon those of other nations. When the day of reclamation arrives, the "generals" direct the "doctors" to defend the *patria* in the local newspapers; and the splendid efforts of these learned men have shown ten thousand times over that foreign citizens have no rights whatever worth considering.

The "international lawyers" mainly exercise their cerebrums in the creation of dissertations on the *soberania* of the *patria*, — that is, the sovereignty of the country. *Soberania* is the trump card, and nobody can play the game of "international law" unless he has *soberania* up his sleeve. With *soberania* the profession can do anything; foreign nations are supposed to grovel helplessly at the feet of this august "sovereignty of the country."

If a foreign minister protests against the imprisonment, loot, expulsion, torture, assassination, or other maltreatment of one of his fellow-citizens, he is grandiosely informed that the country to which he is accredited is a sovereign entity, and that any attempt at coercion would be an absolutely unpermissible violation of the nation's sacred sovereignty. The process of entanglement is "on." If the foreigner turns one way, he meets a "hold-up" in the form of an *autoridad;* if he faces about and starts the other way, he runs into an "international lawyer" who springs *soberania* on him; that is, he is to be deprived of the protection of his own government, because any intervention from that quarter would be an infraction of the "sovereignty" of the bailiwick presided over by the Jefe.

The scheme of this argument — and the diplomatic correspondence is full of it, in one form or another — is to relegate the victim, in his

search for redress, to the local courts, so called. This is only another case of "heads I win, tails you lose." The alien would better "stack up" against loaded dice than take a hand at *soberania!*

Why should the United States concede sovereignty to these insufferable dictatorships? No one of them is a legally constituted government. Sovereignty involves a grave responsibility, but these harebrained blusterers brandish it as a drunken cow-boy would a six-shooter. Sovereignty exercised by a responsible people is a blessing, for it means the protection of all law-abiding people within the sovereign territory; but when asserted and relied upon by scatter-brained freebooters, it becomes a public nuisance.

I

"International law" is the refuge of every Latin-American dictatorship whenever a civilized power attempts to defend or enforce the rights of one of its citizens in those countries. It is a favorite appeal in behalf of spoliation, and usually meets with success.

The most iniquitous decisions of which the human mind can conceive — always against the victim of spoliation, the foreigner — were made by the several mixed commissions, under the pretended authority of "international law." Although these mixed commissions, especially in the Venezuelan Arbitration cases, were sworn to decide according to absolute equity, most of them interpreted this to mean that they should decide according to "international law," and their decisions thereunder were the most cruel mockery of justice and common sense.

In view of the frequency and gravity of such abuses as these, it behooves us seriously and conscientiously to study the whole question of the application of international law to these military dictatorships.

The entities that are subject to international law are sovereign States. Snow says:

> "The principle that the 'persons subject to international law are sovereign States' means that in order to be fully subject to international law a State must have complete independence in the management of its foreign relations, must have what has been called 'external sovereignty.' A State may be a sovereign in its domestic affairs and yet not be sovereign in the international sense."

Among those States, however, which are recognized as sovereign, externally and internally, there is one fundamental doctrine: "All States are equal in the eye of international law."

The inclusion of the Latin-American dictatorships within the application and scope of this principle has caused much incongruity. To agree that for purposes of international relations the violent anarchistic dictatorships of Haiti or Santo Domingo shall be con-

sidered equal to the stable governments of England or the United States is to agree upon a fiction upon its face irrational, — a self-evident absurdity. Yet that is practically the situation; and the State Department of the United States, in its efforts to adapt our diplomatic policy to the actual status of Latin America and yet keep within the rules of international law, achieves results incongruous, unsatisfactory, and humiliating.

A decree will not make water run up-hill, nor will the assumption that Venezuela is a civilized and Christian nation entitled to the same international footing as England or the United States, make it such in fact. The government of Venezuela is based upon military force, and not upon law or constitutional precepts.

Indeed international law itself fully recognizes the existence of semi-civilized nations that are not entitled to all the prerogatives of sovereignty. Thus Snow says:

> "There is a class of States not yet referred to which has been recently admitted into the society of international law and which can hardly lay claim to all the rights of sovereign States. These are the semi-barbarous States of the East; such are Turkey, Persia, China, Morocco, and other smaller States. The civilized States of Europe and America have entered into treaty relations with these States, and have established generally diplomatic relations with them, yet they are not permitted to exercise jurisdiction over the subjects and citizens of European States residing or travelling within their limits. Foreign consuls exercise a jurisdiction in their territories which thus derogates from their sovereignty. This arrangement is, however, regulated wholly by treaty. Japan is now considered capable of fulfilling her obligations to other States, and this restriction is in her case being removed by treaty by the civilized powers.
>
> "The condition of chronic civil commotion existing in many of the Spanish-American States has raised the question whether they should be treated in all respects as sovereign independent States. Indeed, in several respects rules of international law peculiar to them and their conditions have been adopted."

Dr. Snow might have added that not alone their "chronic civil commotion" but also their barbarous methods and their utter lack of good faith, even during the intervals of peace, raise the question of their international equality.

II

If a gentleman of culture and respectability, accustomed to dine with his friends at his club, at a round table of congenial companions, invites a newcomer there and introduces him, as friend and equal, to the others, he makes himself morally responsible, in a measure, for the standing and behavior of the person introduced. If the host has made a serious mistake, and the newcomer is in fact a burglar, the host's introductions and recommendations will probably not change

his nature; nay, rather, he may avail himself of the advantage of his position, and proceed to ply his knavish occupation. This parallel is suggested by the invitation of civilized powers to semi-barbarous communities to sit at the "round table" of nations as international equals.

If Venezuela, Colombia, Ecuador, Central America, Santo Domingo, and Haiti were actually the equals in civilization of the United States, England, Germany, France, and Switzerland, then we of the latter group, by recognizing this fact and treating the former group as our equals in international law, would be doing no wrong to our own citizens who might be residing or travelling in the former countries, because by virtue of such equality those countries would afford to our citizens that full protection which civilized powers are accustomed to furnish to all persons within their jurisdictions. But this "equality" does not exist in reality, and as a fiction it is cruel, stupid, and farcical.

The attempt to extend "international law" to communities and conditions, to which it was never designed to be applied, is responsible for most of the maladroitness in our relations with Latin America.

III

Suppose the Monroe Doctrine had never been enunciated; suppose that these dictatorships had been located in Africa or Australasia instead of in Central and South America, would the United States ever have insisted that they should have full recognition under international law, as sovereign States, with all the rights and privileges of sovereignty?

In what respect are the governments of these dictatorships, particularly those specifically above mentioned, superior to the government of China, Persia, or Turkey? They are certainly not superior in point of stability. They are not superior as regards their legitimacy, or as regards security of life and property. They are not superior as regards the fulfilment of international obligations; if the government of China wants the property of a foreign corporation, it offers in good faith a fair price for it to the company or to its government, while Venezuela under similar circumstances confiscates the property, jails or shoots the company's manager, and treats the company's government with disdain or defiance.

Are these Latin-American dictatorships, then, in any respect superior to these semi-civilized countries in the Eastern Hemisphere?

On the contrary, the government of China seems to be much more civilized than are the governments of the dictatorships in question. China is more free from pillage and revolutions than are the Latin dictatorships; she is much farther advanced than they in education and the arts; her internal administration is superior to theirs.

Were the foreigners and the Roman Catholic Church eliminated

from the administrations of the dictatorships especially under discussion, such administrations would be to all intents and purposes as barbarous as those of the Indian aborigines. Indeed, the Aztecs and the Incas maintained absolutely better governments, prior to the discovery of America, than the Latin dictatorships under discussion are maintaining at the present time. I am now speaking of the actual administrations of the governments, without any intention of instituting a comparison between the social and intellectual qualities of the inhabitants of the present day and those of the days of old; as I have repeatedly attempted to show, there are large numbers of high-class people in Venezuela, Colombia, etc., at the present time, and they are socially and morally caricatured by their disgraceful governments, imposed upon them by military brutal force.

The United States has made the great and almost irremedial mistake of taking these frivolous, irresponsible governments seriously, and of foisting the Monroe Doctrine on the world and so construing it that full international recognition has been extended to these dangerous dictatorships.

On the contrary, it would seem that the Monroe Doctrine might and should be construed as a limitation of the sovereignty of these unbalanced governments, and it would seem only logical that such further limitations should be imposed upon them as may be necessary for the protection of civilized men under their dominions — especially our own citizens. Up to the present time they have flung their *soberania* full in the face of civilization, and defied it to attempt any measure for its own protection; and when their pretensions and abuses have finally become insufferable, and force has prepared to meet outrage, they have found a refuge behind the Monroe Doctrine as commonly construed and the precepts of "international law."

It is a grave mistake to offer a savage not only the hospitality of your house, but also the free use of your gun; for some day he may keep you outside while he eats all the dinner.

IV

The magnitude of the error of our government in according to these dictatorships as if civilized governments the rights and privileges of "international law" may be appreciated by the following reflections:

A civilized government will not fire on passenger ships loaded with helpless and innocent men, women, and children.

A civilized government will not permit armed and lawless bands to seize passengers from ships flying a friendly flag.

A civilized government will not exact "forced loans" from its own citizens, or from foreigners in its midst.

A civilized government will not *reclute* its citizens — that is, seize them as a herder would lasso steers — and force them into the army.

A civilized government will not place its judiciary at the complete mercy of the military.

A civilized government will not acquit murderers, and place them in the army or on the police force, with Mausers in their hands.

A civilized government will not require the use of passports in times of peace.

A civilized government will not murder or imprison or persecute men for their honest political opinions.

A civilized government will not completely throttle freedom of speech and of the press.

A civilized government will not seize by force railroads, steamboat lines, and other private property, and apply them to the use of the Dictator, without remuneration.

A civilized government will not have a Military Dictator for its executive head, to be in turn ousted by the next Jefe with a stronger rabble at his back.

A civilized government will not establish absolute monopolies in the necessities of life for the exclusive benefit of the ruling clique.

A civilized government will not confiscate by wholesale the property of civilized men without reason or justifiable pretext.

A civilized government will maintain something in the semblance of order, and will not permit revolution and anarchy to become chronic.

A civilized government will not allow lepers and other persons with dangerous diseases to go at large, and will not neglect to make ordinary provisions for sanitation and isolation.

A civilized government will not maintain as prisons the inconceivable pest-holes which disgrace Latin America.

A civilized government will not give itself up to unrestrained debauchery, licentiousness, extortion, and cruelty.

A civilized government will not disregard the education and moral training of its youth.

A civilized government will not provoke and enter into wars for wicked and mercenary purposes, or for the purpose of giving "glory" and loot to its military chiefs.

A civilized government will not cause or permit revolutions and uprisings the sole purpose of which is to loot, rob, and seize the custom houses for the purpose of grasping their revenue.

A civilized government will not overthrow its own constitution or disregard its own laws.

A civilized government will obtain power as its laws have provided, — not by the *machete* or the Mauser, or by the methods of bandits.

A civilized government will conduct itself along the lines of civilized procedure, not along the methods adopted by bandits. It will not execute or imprison men without cause or without trial.

A civilized government will not debauch women, or hold their virtue as the price of the liberty of their fathers or brothers; nor will it permit in its soldiers or chief functionaries this dastardly abuse of power.

A civilized government will neither destroy nor confiscate church or school property maliciously; neither will it maltreat nor abuse ministers or teachers.

A civilized government will not destroy civilization itself, fall into disorder, propagate anarchy; nor will it issue hostile decrees and make hostile laws against foreigners; it will not commit or permit the commission of other iniquities and outrages too numerous to mention which are habitually perpetrated by Latin-American countries.

V

All these things are done regularly, habitually, and almost incessantly by Haiti, Santo Domingo, Central America, Ecuador, Colombia, Venezuela, and Bolivia, and in large sections of Brazil.

There are ten thousand undisputed facts of official record to show the gulf between these countries and such civilized governments as the United States, England, and France.

Owing to lack of space, but a few cases are cited in this book to show the gross wrong of extending international law to these countries, but the records are full of cases in point. Moore's "International Arbitrations," Ralston's "Venezuelan Arbitrations," "The Foreign Relations of the United States," the foreign reports of every European government, are full of thousands of cases where the foreigner has always got the worst of it, without exception, in Latin America.

Notwithstanding these undoubted facts, the great American newspapers continue to print leading editorials in behalf of these dictatorships, in which it is urged that their alleged international rights shall in no wise be disregarded. A more insufferable humbug than such a claim it would be hard to find in the history of diplomacy.

In discussing the confiscation of American and French property by Venezuela, the New York "Tribune" said, on October 9, 1905:

"In seeking the establishment of international justice both French and American statesmen will have several fundamental points to consider. One is whether the acts of the various branches of the Venezuelan government are to receive the full faith and credit which we expect all nations to give to the acts of our own government. For example, the Supreme Court of Venezuela has given certain decisions affecting the business interests and property of American citizens. We know quite well what reply our government would make to an alien protest against a decision of our Supreme Court. If then we are to treat Venezuela as we wish to be treated by other powers, it would seem to be incumbent upon us to respect those decisions, no matter how unwelcome

they may be; unless, of course, we could convince the Venezuelan government that they were the result of deliberate denial of justice or of such discrimination against foreigners as was a violation of our treaty rights."

As a matter of fact the United States has no treaty with Venezuela, — and to talk of "convincing the Venezuelan government" that the decisions of its "courts" have been unjust is puerile. Can this editorial writer who compares the alleged tribunals of Venezuela to our own Supreme Court be a "star" attitudinizer?

Here is the situation in a nut-shell; because of our fatuous Monroe Doctrine we recognize these countries as civilized and sovereign nations under international law, and nobody suffers for this error more than ourselves.

PART III — FOREIGNERS IN LATIN-AMERICAN COURTS

CHAPTER XI

FOREIGNERS IN LATIN-AMERICAN COURTS, AND THE NO-RECLAMATION CLAUSE IN THEIR CONSTITUTIONS AND CONTRACTS

"ALL doubts and controversies arising from the interpretation and wording of this Contract shall be decided by the Courts of the Republic, in accordance with its laws, and in no case can become the foundation for international claims."

The foregoing clause, or one of similar import, is found in nearly all contracts with Latin-American governments, and is contained in the constitutions and statutes of many of the countries.

Taking into consideration the almost universal corruption of the judiciary in Central and South America, the continual acts of executive and military usurpation which the courts have no power and usually no desire to prevent, the animus everywhere in evidence against civilized foreigners, and, above all, the cunning displayed in pushing the so-called Calvo Doctrine to the front, and the insistence upon submitting all controversies to the pretended courts, in which the merest sham and pretence of a judicial proceeding take place, and the foreigner is always mulcted, — it becomes of interest for us to ascertain, in the light of recent decisions and in view of the policy of the United States government, just what redress, if any, a foreign claimant may hope to obtain by appealing from these mock trials to the diplomatic intervention of his own country.

I

At the outset of this discussion we are confronted by a certain general principle of international law, a principle which receives current acceptance among civilized nations. It may be stated thus: Each State is sovereign within its own domains; full faith and credit will be given to its acts, legislative, executive, and judicial, by the other States; and hence only in case of a manifest denial of justice to the foreign claimant, and after the exhaustion of all remedies in the way of appeal provided by the laws of the sovereign State in which the injuries have been sustained, will the home government of the person aggrieved intervene diplomatically, and then only with great reluctance.

This doctrine of international law is salutary and just, as upheld by civilized nations, animated with a desire to do justice and to perform the duties imposed by equity and good faith; for such nations, not only in theory but in fact, place within the reach of any person aggrieved all the instrumentalities for the redress of his wrongs, including rational laws and an independent judiciary, whose duty it is to investigate and decide with unbiassed minds, and who are empowered to enforce their decisions without fear or favor.

The rational corollary of the doctrine that a foreigner must exhaust his remedies in the courts of the country in which his injuries have been sustained before appealing to his government is, or should be, that a civilized judiciary be established and maintained by such country. Unfortunately, though this doctrine has been extended to the Latin-American countries, most of them have fallen far short of complying with this reasonable corollary.

R. Floyd Clarke, Esq., of the New York bar, in a brief before the State Department at Washington, in the case of the United States & Venezuela Company, very justly observes:

"When, therefore, the facts do not agree with the theory, the reason of the rule does not apply; and the rule itself, if blindly followed, becomes an instrument of gross injustice.

"The government of Venezuela is not a government such as exists in our nations of more advanced civilization. Masquerading under a written Constitution whose provisions for balancing the powers of government and assuring freedom and procuring justice compare favorably with our own, we have a military dictatorship moulded and wielded in all its departments, executive, judicial, and legislative, by one man of passionate character and sordid aims.

"The Venezuelan government, claiming equality before the Assembly of Nations, is met by the fact — now become notorious — that her vaunted constitutional government is *a sham and a pretence.* The military dictatorship of General Cipriano Castro exists in defiance of, and in contravention of, the very Constitution, laws, and courts to whose existence it appeals as a warrant for its integrity and high character.

"The Venezuelan Constitution and laws are but mere bits of waste paper, fit to conjure with or disregard, as the convenience or interests of the usurper may dictate.

"The government of the United States of America, in its establishment and enforcement of the Monroe Doctrine, has already recognized the fact that these South American sovereignties are not equal in the Assembly of Nations. And if we are to be burdened with their acknowledged inequality for the purposes of their protection from aggression, then we are entitled to treat them as less than equals to prevent the perpetration by them of acts of gross injustice upon our citizens.

"As is forcibly and truly said in a recent State document: 'The government of the United States could not with due self-respect allow the impression to deepen and gain currency that the Monroe Doctrine can be used as a shield by American Republics to deny justice to other governments.' (Official

Statement *re* Santo Domingo as reported in the New York "Sun," January 23, 1905, p. 4.)

"*A fortiori*, therefore, will our government see that justice is done to its own citizens.

"Under such circumstances the rule that would properly be applied were this a reclamation against England or Germany does not fit the present environment.

"To prevent injustice, its exception, already recognized in our American State papers and fully recognized in the precedents of diplomatic action by Great Britain and Germany, must be applied to this case.

"Again, viewing international law from the point of view of the present conditions of its units, as set in their environment without the presence of a central power consisting of executive, judicial, and legislative departments, we note at once the cold bare fact that international law is a mere body of moral rules having no guarantee for their enforcement save only the artillery and the battle-ships of the offended nation.

"Viewed in this light, the nations of the world stand to-day towards each other, in their relations in international law, at a stage of development less advanced in civilization and the guarantees of civilized life than stood the men of the Stone Age towards each other, under whatever system, or lack of system, then stood for municipal law.

"It follows that each nation is entitled to a free hand in the premises; to look the facts, as they are, squarely in the face; to refuse to be bound by theoretical rules that do not fit the environment; and, when satisfied of the justice of its stand, to enforce its demands without regard to the meshes of verbal quibbling over phrases expressing legal fictions.

"On these underlying truths the United States government is entitled to stand and act in this case:

"1st. In declaring the no-reclamation clause void;

"2d. In acting without first requiring the petitioner to seek the shadow of justice where its substance does not exist."

II

In a controversy between two private citizens in a foreign country, even in Latin America, our State Department always requires our citizen to exhaust his remedies in the local courts, and then intervenes only in cases where there is manifest injustice. An entirely different question is presented, however, when one of the parties to the controversy is an American citizen or company, and the other party is a foreign government. Under such conditions our government has sometimes intervened *ab initio* and required the case to be submitted at the outset to international arbitration, when it was apparent that justice could not be obtained in the local courts. This course is an exception to the general rule, and is only followed in the following cases:

a. Of courts of a foreign country of imperfect civilization.

b. Of courts of a foreign country where prior proceedings show gross perversion of justice.

c. Of foreign courts dominated by the executive, when the executive is a party to the issue.[1]

Referring to this exception, Mr. Clarke further says:

"The petition alleges the facts showing the complete dominion exercised by General Cipriano Castro over the legislative and judicial branches of the government of Venezuela.

"These circumstances show that in the language of Mr. Fish, Secretary of State (Wharton on Int. Law, Vol. II, sec. 238, p. 679), this claimant should not in this instance be 'required to exhaust justice in such State when there is no justice to exhaust.'

"'The rule that a claimant for redress for injuries sustained in a foreign country must first exhaust judicial remedies in such country does not apply to countries of imperfect civilization or to cases where prior proceedings show gross perversion of justice.' (Mr. Everett, Secretary of State, to Mr. Marsh, February 5, 1853, Mss. Inst., Turkey; see Mr. Marcy, Secretary of State, on the subject, to Mr. Pryor, July 15, 1855.)" (Wharton's Dig. of Int. Law, Vol. II, sec. 242, p. 695.)

Sir Travers Twiss says:

"International justice may be denied in several ways:

"1. By the refusal of a nation either to entertain the complaint at all or to allow the right to be established before its tribunal; or

"2. By studied delays and impediments for which no good reason can be given, and which are in effect equivalent to refusal; or

"3. By an evidently unjust and partial decision." (Law of Nations, by Sir Travers Twiss, Part I, p. 36.)

"There is an exception to the general rule, where diplomacy is the only method of redress." (Wharton's Dig. of Int. Law, Vol. II, sec. 232, p. 661.)

"What the United States demand is, that in all cases where their citizens have entered into contracts with the proper Nicaraguan authorities, and questions have arisen or shall arise respecting the fidelity of their execution, no declaration of forfeiture, either past or to come, shall possess any binding force unless pronounced in conformity with the provisions of the contract, if there are any; or if there is no provision for that purpose, then where there has been a fair and impartial investigation in such a manner as to satisfy the United States that the proceeding has been just and that the decisions are to be submitted to. Without some security of this kind, this government will consider itself warranted, whenever a proper case arises, in interposing such means as it may think justifiable in behalf of its citizens who may have been or who may be injured by such unjust assumption of power." (Hon. Lewis Cass, Secretary of State, to Mr. Lamar, July 25, 1858, Mss. Inst., Cent. Am.; Wharton's Digest, Vol. II, sec. 232, p. 661.)

Sir Henry Strong and Mr. Don M. Dickinson, delivering their opinion in the El Triunfo case, say:

[1] See The San Salvador Case (Foreign Relations of the United States, 1902, p. 838).

"It is not the denial of justice by the courts alone which may form the basis for reclamation against a nation according to the rules of international law.

" 'There can be no doubt,' says Halleck, 'that a State is responsible for the acts of its rulers, whether they belong to the legislative, executive, or judicial department of the government, so far as the acts are done in their official capacity.'

"The law enacted by the Congress of Salvador in relation to foreigners provides (Art. 39), 'only in the case of denial of justice or of a voluntary delay in its administration can foreigners appeal to the diplomatic forum, but only after having exhausted in vain the ordinary remedies provided by the laws of the Republic.'

"It is apparent in this case that an appeal to the courts for relief from the bankruptcy would have been in vain after the acts of the executive had destroyed the franchise, and that such a proceeding would have been a vain thing is the sufficient answer to the argument based upon this law of Salvador.

"What would have protected these despoiled American citizens if they had successfully appealed to the courts for the setting aside of the bankruptcy proceedings, after the concession had been destroyed by the closing of the port of the El Triunfo and the grant of the franchise to others?

"Said Secretary Fish to Minister Foster: 'Justice may as much be denied when it would be absurd to seek it by judicial process, as if denied after being so sought.'

"Again, this is not a case of the despoliation of an American citizen by a private citizen of Salvador, under which, on appeal to the courts of Salvador, justice had been denied the American national, nor is it a case where the rules applying to that class of reclamations, so numerous in international controversies, have to do.

"This is a case where the parties are the American nationals, and the government of Salvador itself is a party to the contract; and in this case, in dealing with the other party to the contract, the government of Salvador is charged with having violated its promises and agreements by destroying what it agreed to give, what it did give, and what it was solemnly bound to protect.

"One of the most respected authorities in international law, Hon. Lewis Cass, has laid down the undoubted rule when he says: 'When citizens of the United States go to a foreign country, they go with an implied understanding that they are to obey its laws and submit themselves in good faith to its established tribunals. When they do business with its citizens or make private contracts there, it is not to be expected that either their own or the foreign government is to be made a party to this business or these contracts, or would undertake to determine any dispute to which they give rise. . . . The case is different when the foreign government becomes itself a party to important contracts, and then not only fails to fulfil them but capriciously annuls them to the great loss of those who have invested their time, labor, and capital in their reliance upon its good faith and justice.'" (Wharton's Dig., sec. 230; see The San Salvador Case, U. S. For. Rel., 1902, pp. 870 *et seq.*)

"A claimant in a foreign State is not required to exhaust justice in such State, when there is no justice to exhaust." (Mr. Fish, Secretary of State, to Mr. Pile, May 8, 1872, Mss. Inst., Venezuela; Wharton's Dig. of Int. Law, Vol. II, sec. 238, p. 679.)

III

Whether a case has been submitted to the arbitration of a mixed commission, on the *prima facie* assumption that justice could not be obtained in the local courts, or whether it has been referred to the mixed commission after an exhaustion of all remedies and a complete denial of justice locally, an important question at this point arises as to the force and effect of the no-reclamation clause contained not only in all contracts made by foreigners with the respective so-called governments of Latin America, but also in the pretended laws and constitutions of the Latin-American countries.

This clause is generally in the words quoted at the beginning of this chapter. For a foreigner to say that he will not sign a contract containing such a clause, or sign a contract in a country where such language substantially represents the local law, is equivalent to saying that he will not do business in Central or South America.

Such a clause is clearly opposed to the precepts of international law and of sound public policy. It is the right and duty of every nation to protect its citizens in their personal and property rights, in whatever part of the globe they may be.

But the Latin-American countries, the first to appeal to international law when asserting their own alleged rights, are also the first to violate and disregard it when attempting to despoil foreigners of their right to the protection and assistance of their own governments. In other words, they always claim that their alleged municipal law supersedes and overrides international law, whenever and wherever the latter may interfere with their schemes of extortion.

In order that the principles of international law here applicable may be properly apprehended, the following list of authorities is noted, as cited by the Umpire in the Aroa Mines case, Ven. Arb., 1903:

"'As a general rule municipal statutes, expanding or contracting the law of nations, have no extraterritorial effect.' (Wharton's Dig., Vol. III, sec. 403, p. 652.)

"'We hold that the international duty of the Queen's government in this respect was above and independent of the municipal laws of England. It was a sovereign duty attaching to Great Britain as a sovereign power. The municipal law was but a means of repressing or punishing individual wrongdoers; the law of nations was the true and proper rule of duty for the government. If the municipal laws were defective, that was a domestic inconvenience, of concern only to the local government, and for it to remedy or not by suitable legislation as it pleased. But no sovereign power can rightfully plead the defects of its own domestic penal statutes as justification or extenuation of an international wrong to another sovereign power.' (Mr. Fish, Secretary of State, to Mr. Motley, September 25, 1869; Wharton's Dig., Vol. III, sec. 403, p. 653.)

"This position was sustained by the eminent jurists forming the Geneva arbitral tribunal. (See Wharton's Dig., Vol. III, sec. 402 a, p. 645.)

"'The effect of the Salvadorean statute in question is to invest the officials of that government with sole discretion and exclusive authority to determine conclusively all questions of American citizenship within their territory. This is in contravention of treaty right and the rules of international law and usage, and would be an abnegation of its sovereign duty toward its citizens in foreign lands, to which this government has never given consent.'

"'Articles 39, 40, and 41, Chapter IV, of the law in question, purport to define the conditions under which diplomatic intervention is permitted on behalf of foreigners in Salvador whose national character is admitted. I regret that the department is unable to accept the *principle* of any of these articles without important qualifications.' (Mr. Bayard, Secretary of State, to Mr. Hall, November 29, 1886; Wharton, Vol. III, Appendix, sec. 172 a, p. 960.)

"'It is a settled principle of international law that a sovereign cannot be permitted to set up one of his own municipal laws as a bar to a claim by a foreign sovereign for a wrong done to the latter's subjects.' (Wharton, Vol. III, Appendix, sec. 238, p. 969.)

"Similarly in Wharton, Vol. III, Appendix, sec. 403, p. 991.

"In Phillimore, Vol. I, Chap. II, sec. cxvii, it is said:

"'Under the rights incident to the equity of States as a member of an universal community is placed "the right of a State to afford protection to her lawful subjects wheresoever commorant," and under this head may be considered the question of debts due from the government of a State to the subjects of another State.

"'The definition of international law, making it under one form of expression and another the rules which determine the general body of civilized States in their dealings with one another, necessarily excludes State statutes from doing the same thing.'

"'They [aliens] are again, as we have seen, entitled to protection, and failure to secure this, or any act of oppression, may be a ground of complaint, or retorsion, or even of war, on the part of their native country.' (Woolsey's Intro. to Int. Law, sec. 66, p. 90; see Hall, Int. Law, Chap. II; also Chap. VII, sec. 87.)

"'The right of States to give protection to their subjects abroad, to obtain redress for them, to intervene in their behalf in a proper case, which generally accepted public law always maintains, makes these municipal statutes under discussion in direct contravention thereto and therefore inadmissible principles by those States which hold to these general rules of international law.'

"'A government has a right not only to exercise jurisdiction over all persons within its territory, but also to see to the good treatment of its subjects when in the territory of a foreign power, and generally that they sustain no injury. (Holland's Studies on Int. Law, p. 160.)

"In *Healthfield* v. *Chilton* (4 Burr. 2016) Lord Mansfield held that the Act of 7 Anne, c. 12, 'did not intend to alter, *nor can alter*, the law of nations.'

"As 'the law of nations,' it is, of course, insusceptible of modification by an act of the British Parliament. The act 'can neither bestow upon this country any international right to which it would not otherwise be entitled, nor relieve

our government from any of its diplomatic responsibilities.' (Holland's Studies in Int. Law, p. 195; Phillimore's Int. Law, Vol. III, p. 387.)

"'It is, on the other hand, quite certain that no act of Parliament, or decision given in accordance with its provisions, will relieve this country from liability for any results of the act, or decision, which may be injurious to the rights of other countries.' (Holland's Studies in Int. Law, p. 199.)

"Referring to Venezuelan municipal laws by which they then sought to obviate their international responsibility for the acts of turbulent factions or armed insurgents, Secretary of State Fish says: 'To assume, therefore, to dictate that no claim for such losses shall ever be made may be said to be arrogant to a degree likely to be offensive to most governments having relations with a republic so subject to sudden and violent changes in its authorities.'

"'Upon the whole, the enactments adverted to may be regarded as superfluous in their substance, and in their form by no means adapted to foster confidence in the good will of that government towards foreigners who may resort to Venezuela.' (See U. S. Venez. Claims Com., Convention of 1892, p. 520.)

"'Municipal variations of the law of nations have no extraterritorial effect.' (The Resolution, 2 Dall. 1; The Nereide, 9 Cranch, p. 389.)

"'The municipal laws of one nation do not extend, in their operation, beyond its own territory, except as regards its own citizens or subjects.'" (The Apollon, 9 Wheaton, p. 362.)

IV

Moreover, in the interests of sound public policy, the United States should refuse to recognize the validity or binding effect of this no-reclamation clause. A court of equity will not enforce a contract which is against public policy, as for the commission of a crime or a tort, for an injury to the State or its citizens, or for many reasons related to the public welfare. Thus, even if the no-reclamation clause were not disregarded as a positive but futile violation and overruling of international law by municipal or local decrees, it would still be the duty of the United States to reject it on the broad ground of national public policy.

The Hon. William Penfield, in his report on the San Salvador case (U. S. For. Rel., 1902, p. 843), says:

"It is contended by Salvador . . .

"Second. That by the stipulations of the concession the stockholders agreed in advance to renounce diplomatic intervention, and bound themselves in any case of controversy between the parties to submit their differences to private arbitration for determination. The contract does indeed contain stipulations which read, according to the translation furnished by the Salvadorean government, as follows:

"'Art. 8. The company shall have its domicil in this Republic, which may be agreed upon by the partners who may compose it and shall be subject to the laws and courts of the country.

"'Art. 9. In the event that some difficulty shall arise between the govern-

ment and the company, the latter shall abandon any diplomatic intervention with reference to anything which may refer or relate to this contract, and both parties hereto bind themselves that any difference shall be decided by friendly arbitrators, each party to appoint one, and in case of difference of opinion, the two to appoint a third to decide it, both parties binding themselves beforehand and without appeal to accept the decision rendered by the arbitrators.'

"A consideration for the agreement to renounce diplomatic arbitration was the agreement to arbitrate. But this agreement was violated by the President of Salvador by annulling the concession arbitrarily instead of resorting to the prescribed arbitration. The government of Salvador, having violated the agreement, cannot appeal to that agreement in support of its own wrong. It cannot plead the contract in bar of intervention after having itself repudiated the contract by which the arbitration was provided as a remedy. Nor can it destroy the concession and escape the consequences of its unlawful act by attempting to reinstate, in an arbitrary and imperfect manner, the right it had annulled. . . . But in truth this controversy is not upon the construction and performance of the contract, but it originates in the construction of the concession itself, and there is no agreement to waive diplomatic intervention for that cause.

"It is more than doubtful whether the government of the United States would admit the competency of its citizens to barter away their rights to its protection against tortious, arbitrary acts of lawlessness on the part of any State.

"On this question precedents are not wanting.

"The Imperial Government of Germany has decided in a case arising in Venezuela that it will no longer consider itself bound by the clause in most contracts between foreigners and the Venezuelan government, which states that all disputes growing out of the contract must be settled in the courts of the latter; that the German government is not a party to these contracts and is not bound by them, and that it reserves the right to intervene diplomatically for the protection of its subjects whenever it shall be deemed best to do so, no matter what the terms of the contract in this particular respect are.

"The British government, in a case arising in the United States, has taken the position that in a matter of international obligation its right of intervention is not affected even by the failure or omission of the individual to avail himself of a remedy before the courts for the grievance complained of.

"Third. That under the Constitution of Salvador, which was binding upon El Triunfo Company and its stockholders, diplomatic intervention is inadmissible.

"While the government of the United States has not taken so extreme a position as Germany and Great Britain, it has declared that 'laws of a foreign State attempting to deprive citizens of the United States from having recourse to their own government to press their claims diplomatically will not be regarded as internationally operative by the government of the United States.' (Wharton's Digest of Int. Law, Vol. II, sec, 242, p. 695.)"

The learned jurist later on in the report, says:

"Without entering into an elaborate analysis of these singular provisions of the Constitution and laws of Salvador, it is obvious that, even if not ingeni-

ously contrived for the purpose, they would have the effect, if carried out in practice to a logical conclusion, to defeat the ends of justice in respect of foreigners.

"Under the claim of obedience to the local laws, the Constitution prohibits the making of a treaty which would guarantee the rights of aliens, recognized among all civilized States, to appeal to their governments for protection; next commands obedience to the local laws; next follows the enactment of laws requiring obedience to the decisions and sentences of the tribunals, 'without power to seek other recourse than those which these same laws give to the Salvadoreans'; and finally, a legislative definition of a denial of justice, which is in itself the consecration of injustice, by declaring that a decision is just, even though it is grossly and confessedly iniquitous.

"The will of the sovereign may be expressed either through constitutional and legislative enactments or through the unrestrained action of the executive.

"That will, whether expressed in the one form or the other, cannot control the international relations of States; cannot bind any foreign State. When there is a clash of opinion between two sovereign States on the right of intervention when invoked by the citizen of either against the other, the right is to be determined by principles of international law affecting States in their sovereign capacity and applicable to the given case." (U. S. For. Rel., 1902, p. 845.)

Continuing, the learned jurist states that the precise question involved arose and was decided by the Hon. James G. Blaine, Secretary of State, in the case of the Delagoa Bay Railway Company *v.* Portugal, and was decided in favor of the intervention, and attaches to his report a full statement of the facts and decision in the Delagoa Bay Railway Company case. (See Delagoa Bay Railway Arbitration, Foreign Relations of the United States, 1902, p. 848.)

Continuing, the Hon. William L. Penfield says (Ibid., p. 847):

"The distinguished European publicist, Pradier-Fodéré, states: 'It is the duty of every State to protect its citizens abroad. It owes them this protection when the foreign State has proceeded against them in violation of principles of international law, — if, for example, the foreign State has despoiled them of their property.'

"Vattel says: 'Whoever uses a citizen ill indirectly offends the State, which is bound to protect the citizen, and the sovereign of the latter should avenge his wrongs, punish the aggressor, and, if possible, oblige him to make full reparation; since otherwise the citizen would not obtain the great end of the civil association, which is safety. But if a nation or its chief approves and ratifies the act of the individual (or if he does it himself), it then becomes a public concern, and the injured party is to consider the nation as the real author of the injury.'

"Halleck says: 'There can be no doubt that a State is responsible for the acts of its rulers, whether they belong to the executive, legislative, or judicial department of the government, so far as the acts are done in their official capacity.' (International Law, Vol. I, Chap. XIII, p. 393.)

"'Those who resort to foreign countries are bound to submit to their laws. The exception to the rule, however, is that when palpable injustice — that is to say, such as would be obvious to all the world — is committed toward a foreigner for alleged infractions of municipal law, of treaties, or of the law of nations, the government of such foreigner has a clear right to hold the country whose authorities have been guilty of the wrong accountable therefor.' (Wharton's Dig., Vol. II, sec. 230, p. 612.)

"'It is the right and duty of a government to judge whether its citizens have received the protection due to them pursuant to public law and treaties. In cases of a denial of justice, the right of intervention through the diplomatic channel is allowed, and justice may as much be denied when, as in this case, it would be absurd to seek it by judicial process, as if it were denied after being so sought.'" (Wharton's Dig., Vol. II, sec. 230, pp. 617–618; U. S. For. Rel., 1902, p. 848.)

In the Rudloff case (U. S. Venezuelan Arbitrations, 1903, pp. 182, 187) Hon. William E. Bainbridge, American Commissioner, referring to a no-reclamation clause in the Rudloff contract with the Venezuelan government, says:

"In regard to that portion of Article 12 of the contract inhibiting international reclamation, it is perfectly obvious that under established principles of the law of nations such a clause is wholly invalid. A contract between a sovereign and a citizen of a foreign country not to make matters of differences or disputes arising out of an agreement between them or out of anything else the subject of an international claim, is not consonant with sound public policy and is not within their competence. In the case of Flanagan, Bradley, Clark & Co., *v.* Venezuela, before the United States and Venezuela Commission of 1890, Mr. Commissioner Little said: 'It [*i. e.*, such a contract] would involve, *pro tanto*, a modification or suspension of the public law, and enable the sovereign in that instance to disregard his duty toward the citizen's own government. If a State may do so in a single instance, it may in all cases. By this means it could easily avoid a most important part of its international obligations. It would only have to provide by law that all contracts made within its jurisdiction should be subject to such inhibitory condition. For such a law, if valid, would form the part of every contract therein made as if fully expressed in terms upon its face. Thus, we should have the spectacle of a State modifying the international law relative to itself. The statement of the proposition is its own refutation. The consent of the foreign citizens concerned can, in my belief, make no difference — confer no such authority. Such language as is employed in Article 20 contemplates the potential doing of that by the sovereign toward the foreign citizen for which an international reclamation may rightfully be made under ordinary circumstances. Whenever that situation arises — that is, whenever a wrong occurs of such a character as to justify diplomatic interference — the government of the citizen at once becomes a party concerned. Its rights and obligations in the premises cannot be affected by any precedent agreement to which it is not a party, its obligation to protect its own citizen is inalienable.'

"The contingency suggested by Commissioner Little appears to have happened in the case of Venezuela, since Article 139 of the Constitution of 1901 provides that the inhibitory condition against international reclamation

shall be considered as incorporated, whether expressed or not, in every contract relating to public interest, and essentially the same provision was embodied in Article 149 of the Constitution of 1893. These constitutional provisions and legislative enactments of like nature are, however, clearly in contravention of the law of nations; they are *pro tanto* modifications or suspensions of the public law, and beyond the competence of any single power. For every member of the great family of nations must respect in others the right with which it is itself invested. And the right of a State to intervene for the protection of its citizens whenever by the public law a proper case arises cannot be limited or denied by the legislation of another nation.

"Mr. Justice Story says: 'The laws of no nation can justly extend beyond its own territories, except so far as regards its own citizens. They can have no force to control the sovereignty or rights of any other nation within its own jurisdiction. And however general and comprehensive the phrases used in our municipal laws may be, they must always be restricted in construction to places and persons upon whom the legislature have authority and jurisdiction.' (The Apollon, 9 Wheaton, 362.)

"The subject of international reclamation is by its very terms outside the legislative jurisdiction of any one nation. And it is, furthermore, an utter fallacy to assert that this principle is an encroachment upon national sovereignty. That nation is most truly sovereign and independent which most scrupulously respects the independence and sovereignty of other powers.

"Neither is it within the power of a citizen to make a contract limiting in any manner the exercise by his own government of its rights or the performance of its duties. A State possesses the right and owes the duty of protection to its citizens at home and abroad. The exercise of this right and the performance of this duty are as important to the State itself as the protection afforded may be to the individual."

It would seem that the State Department of the United States ought to declare in plain terms that the no-reclamation clause is invalid and void as contravening international law, and opposed to national public policy; and thus prevent any more such shameful miscarriages of justice as that which occurred in the Orinoco Steamship Company case, decided by Umpire Harry Barge. Such a declaration would also have a salutary effect upon these Latin-American dictatorships in lessening their practices of extortion from foreigners.

V. Arraigo

Foreigners often suffer much from the abuse of a process called *arraigo*, a writ prohibiting the person served upon from leaving the locality. The commonest purpose of this writ is extortion. In a civil suit, however frivolous and unfounded it may be, the person against whom this writ is issued is often held virtually a prisoner for months, until he "settles up."

Often the first intimation that the foreigner has of impending trouble is the service upon him of a writ of *arraigo*. If the Judge of the First Instance is in league with the plaintiff, as is frequently the case,

this writ becomes a powerful weapon against the victim. To obtain a change of venue, under Latin-American procedure, is always difficult, and quite impossible after the judge has obtained jurisdiction, — which he claims to have obtained by merely issuing the writ. Appeals are extremely slow. It may thus happen that a man is held by *arraigo* for six months or a year on the most absurd pretext, exposed to every humiliation and to the hardships and sufferings inevitable under such conditions.

CHAPTER XII

CONTROVERSIES BETWEEN AMERICAN CITIZENS AND LATIN-AMERICAN EXECUTIVES REGARDING CONCESSIONS

IT is an elementary principle of the common law that no man can be a judge in his own cause.

"The learned wisdom of enlightened nations and the unlettered ideas of ruder society are in full accordance upon this point." (Washington Ins. Co. *v.* Price, 1 Hopk. Ch. (N. Y.) 1.)

Judge Cooley, in his "Constitutional Limitations," at page 412, says: "To empower one party to a controversy to decide it for himself is not within the legislative authority, because it is not the establishment of any rule of action or decision."

The "American and English Encyclopedia of Law," 1st ed., Vol. XII, p. 41, lays down the doctrine that this principle of disqualification is to have no technical or strict construction, but is to be broadly applied to all classes of cases in which one is called upon to decide the rights of his fellow-citizens.

Thus a judge is disqualified to grant an injunction which would protect his own as well as plaintiff's property. (North Bloomfield, etc. Min. Co. *v.* Keyser, 58 Col. 315.) There are a vast number of decisions that the acts of a judge are not merely voidable, but void, when he is within the prohibition of self-interest.

"The effect of disqualifying interest is not confined to the judge interested; for if he take part, the action of the whole court is wrong, even though a majority be left without his vote. The word 'interest,' in a disqualifying statute, was construed by the court to mean pecuniary interest. . . . The most minute interest is sufficient to disqualify, unless the objection be removed by some positive provision of law to that effect. Accordingly, at common law, citizens who were taxpayers were incompetent to sit as judges in cases in which their own town or municipality was a party at interest. . . .

"In the absence of statute any interest is enough to disqualify. And as has been indicated, the legislature would no doubt be unable to empower a judge to act in a case in which he had a direct, immediate, substantial interest. (Am. and Eng. Encyclopedia of Law, 1st ed., Vol. XII, pp. 46–47.)

I

This elementary principle of common law, relevant though it is, is yet wholly ignored by our State Department in passing on the rights and interests of American citizens and corporations in the Latin-American dictatorships.

The judiciary in Central or South America is not a co-ordinate part of the government; even the State Department at Washington would admit this. In a Latin-American country the executive, with the army at its back, is, in fact and theory, the supreme power. The judicial tribunals of Latin America have no army with which to enforce their decisions; the judges of the courts are appointed by the military executive and are entirely controlled by the appointing power, and, as is well known, are merely superior clerks to the supreme military chief.

Elsewhere in this work it is shown that almost every business in a Latin-American country is founded upon a concession from the executive. This concession is in the nature of a contract between the executive power of the country and the private individual, corporation, or partnership wishing to transact business there; and it is under the terms of this contract that the individual, corporation, or partnership in question is enabled to proceed.

The controversies arising between foreign citizens and the Latin-American dictatorships generally relate to these concessions. In the overwhelming majority of cases the so-called President of the Republic seeks to destroy the concession, or to disregard its principal provisions, after the foreigner has in good faith invested his money in the country, in the mistaken notion that he could rely upon the integrity of the executive power, the other party to the compact.

As soon as the supreme military chief has concluded that the funds of the foreigner are invested so "hard and fast" that it would be difficult if not impossible for him to extricate them, the period of spoliation and extortion begins. Usually the concession is declared null and void by the executive, or by some of his henchmen styled judges, or changes are forced upon it so vital as to render it entirely different from and far less valuable than the instrument on the strength of which the money had been invested.

It may be that the exasperated foreign investor, tired of paying endless levies, has stood firm in his resolution not to yield to further extortion, and that in consequence his property has been confiscated by or forfeited to the so-called government. When the case has reached this stage (most of them do reach it sooner or later), the quandary of the investor or the investor's manager, in the effort to preserve or retrieve the property, has become serious. To appeal to the local "courts" would be to appeal from the Dictator to his

clerks. This bald statement of the proposition suffices to expose its futility and absurdity.

If the foreign investor be a citizen of the United States, he will probably appeal to our State Department. There he will usually be informed that the "sovereign rights" of the country of his investment are on a parity with those of the United States, and that its so-called tribunals are entitled to as full credit as are the courts of England or France. To the country of his investment he must return; there must he sue for his rights.

What cruel irony, what shallow mockery of law and equity, is this? Our citizen is told to place his head in the lion's mouth, to play a game against his opponent's loaded dice; he is told to lay his case before a so-called tribunal whereof his antagonist is also juror, secretary, bailiff, janitor, and judge!

II

Let us now consider the matter as if the judiciary of this Latin-American dictatorship were in fact as distinct and co-ordinate a department of the government as is the judiciary in the United States. Let us consider if even under those circumstances our citizen should be relegated to this judiciary.

When the supreme executive of a nation is a party to a contract which he afterward refuses to abide by or repudiates, what steps can be taken legally to force him to live up to his obligations? Under the Civil Law the aggrieved party would have to bring an action in *amparo* (*i. e.*, asking the protection of the court against the wrong). *Amparo* is of the nature of injunction and mandamus combined; it commences with a petition for a mandamus to compel the chief executive to respect the provisions of his contract, and for an injunction to restrain him from unlawful interference with the property of the complainant.

In the United States, though here the judiciary is of course absolutely independent, a distinct and co-ordinate part of the government, the problem would still be one of surpassing difficulty. Would a Circuit Court of the United States, or would even our Supreme Court, issue an injunction or a mandamus against the President of the United States? No such extraordinary authority has ever been assumed by our courts. Various attempts have been made to invoke the writ of mandamus against the President of the United States, but our Supreme Court has in every instance declined to entertain such a proceeding; even in the case of subordinate executive officers our courts proceed with extreme reluctance, and then only in those cases in which the act complained of is ministerial and not executive. As early as 1803 the United States Supreme Court had to consider, in the case of Marbury *v.* Madison, the question as to the power of the

judiciary to coerce the Executive Department of the government. In that case Marbury claimed to have been appointed justice of the peace of the county of Washington. The appointment had been approved by the Senate, and the commission, having been signed by the President, had been delivered to the Secretary of State merely to receive the official seal. Marbury claimed that Secretary Madison refused to deliver up the commission. The Supreme Court, holding that Mr. Madison's duties were wholly ministerial, said that the proper remedy was a writ of mandamus, but added: "The intimate political relation subsisting between the President of the United States and the heads of departments necessarily renders any legal investigation of the acts of one of those high officers peculiarly irksome, as well as delicate, and excites some hesitation with respect to the propriety of entering into such investigation."

In this particular case the court mentioned other duties which it would construe to be similarly of a ministerial character, such as "to record a commission, or a patent for land, which has received all the legal solemnities, or give a copy of such record"; but the court also expressly declared: "Where the head of a department acts in a case in which executive discretion is to be exercised, in which he is the mere organ of executive will, it is again repeated that any application to a court to control in any respect his conduct would be rejected without hesitation."

The Supreme Court of the United States has never issued a mandamus against the President, and but once has that writ been issued against the head of a department. The Judiciary has refused to interfere to compel the Secretary of the Treasury to pay an officer of the United States his salary for the unexpired term of his office, from which he had been removed by the President; or to compel the Secretary of the Navy to pay pensions and arrears under a special act to one who had already claimed them under a general act; or to compel the Secretary of State to pay over the interest that had accumulated on a fund while it remained in his hands for final distribution; or to compel the Secretary of the Treasury to allow the defendants a credit in a case where the United States had brought suit against the defendant and in that suit had been adjudged indebted to said defendant; or to compel the Commissioner of Patents to examine into an application for the reissue of a patent when he had already decided that the applicant did not have such interest as would entitle him to reissue; or to compel the Secretary of the Interior and the Commissioner of the Land Office to cancel an entry for land or issue patents therefor. (See American and English Encyclopedia of Law, 1st ed., Vol. XII, pp. 254–255, and cases cited.)

"The principles established by the Supreme Court of the United States have determined the action of the respective State tribunals. Here also the cases are few wherein the right has been exercised. As regards the governor

of a State, the principle has been laid down that his position is more analogous to that of the President of the United States than to the heads of executive departments, and therefore it is extremely doubtful whether in any case the court could regulate his actions; and that, in any event, 'the presumption in all cases must be, where a duty is devolved upon the chief executive of a State rather than upon any inferior officer, that it is so because his superior judgment, discretion, and sense of responsibility were confided in for a more accurate, faithful, and discreet performance than could be relied upon if the duty were devolved upon an officer chosen for inferior duties.'" (Sutherland *v.* The Governor, 29 Michigan, 320, 324.)

In many of our States it is held that the judiciary and the executive departments are entirely distinct, and that neither can exercise any coercion on the other, even to secure the performance of duties that are clearly ministerial. (Hawkins *v.* Governor, 1 Ark. 570; State *v.* Towns, 8 Ga. 360; Rice *v.* Austin, 19 Minn. 103; State *v.* Champlin, 2 Bailey (S. Car.), 220.) And it would seem to be clear that State courts have no power to review the exercise of a discretionary power by the executive. (State *v.* Cahen, 28 La. Ann. 645.)

It is clear, then, when our State Department relegates one of our citizens to the courts of a Latin dictatorship, where his only form of an attempt at redress would be an action of *amparo* (*i. e.*, of injunction and mandamus against the chief executive, to compel him to respect a contract which he himself had made), that such relegation is merely adding insult to injury, for even in our own courts, whose co-ordinate authority is undisputed, no such redress could be successfully sought.

III

Let us look at this matter in yet another light. What power has a private individual as such to coerce a sovereign nation through its tribunals? Every action at law or in equity is in its ultimate analysis an attempt at coercion; and the court's judgment is no more than a recommendation unless the requisite power is back of it to enforce it. In the United States this question has been decided by constitutional provisions and judicial declarations. It is a matter of constitutional provision that a citizen cannot sue a State in any court of the United States. In the United States courts one State may sue another; thus, where the State of North Carolina had repudiated and refused to redeem State bonds, issued by the so-called "carpet bag" government during the reconstruction period, the United States Supreme Court held that a sister State could obtain judgment for the face of such bonds, of which it was the *bona fide* owner; but no private person or corporation could bring suit for the value of such bonds, nor could the sister State obtain judgment on them, if it appeared that it was the trustee, or merely acting as the intermediary, of such private person or corporation.

These doctrines, so fundamental and elementary that it would seem hardly necessary to discuss them, are disregarded by our State Department whenever it leaves an American citizen, whose concession is being violated by the very Dictator who granted it, to appeal to the so-called tribunals of the Dictator's country for remedies which even our own courts would not attempt to enforce against an executive.

There is one more standpoint. Justice follows impartiality. This requires that there shall be absolute equality before the tribunal; that the court shall be entirely free from bias. In the United States this principle is so carefully guarded that when, on reasonable grounds adduced, prejudice or partiality is suspected, litigants are entitled to a change of venue, and under certain circumstances to a complete change of jurisdiction; moreover, although there is little likelihood of local prejudice as regards the citizenship of the several States, nevertheless it is especially provided by law that suits between citizens of different States may be transferred to the United States courts, so that neither contestant may derive any benefit from local prejudice or influences.

Compare the extreme care here exercised to avoid the slightest partiality or prejudice with the utter abandon and disregard manifested by our State Department in leaving our citizen to submit the determination of his vested rights (at least in the first instance) to the mercy of a Latin-American judiciary which, possessed of the pride, however lofty, of "patriotism," and the prejudice, however exalted, of race, is certain at the best to be hostile to a foreigner's interests.

Any one of these several reasons for criticising the policy of our State Department in requiring our citizens to litigate the concessions entered into with them by sovereign governments, before the tribunals of the countries to which those governments belong, is unanswerable. This policy does violence in more ways than one to the principles of our own jurisprudence. An individual is not able, either in law or in fact, to measure arms with a nation. It requires a sovereign to deal with a sovereign.

PART IV—AFFRONTS TO FOREIGN GOVERNMENTS

CHAPTER XIII

SEIZURE OF PASSENGERS ON FOREIGN MERCHANT VESSELS IN LATIN-AMERICAN PORTS

THE practice of boarding passenger ships of foreign countries, when in Latin-American ports, with armed forces, and of seizing passengers without reasonable cause, is one which should be finally and definitely stopped.

War-ships are not under the local jurisdiction of the foreign ports where they may happen to lie, and their commanders will resist with force any attempt by local or national authorities to board them for the purpose of search or seizure, or for any other hostile purpose whatever.

Merchant vessels lying in a foreign port are subject, under international law, to a dual jurisdiction. As regards the maintenance of order, the commission of crimes aboard, etc., the municipal authorities have jurisdiction; and where the vessels fly the American flag, the United States courts also have jurisdiction over crimes committed aboard.

The local jurisdiction conceded by international law to the municipal authorities is scandalously abused in the ports of Central and South America. Not infrequently revolutionary bands will seize a port and then board the ships, and arrest every passenger against whom they have a grudge. They all, even to the barefoot *machetero*, know that our State Department has ruled, time and again, that the "local authorities" can remove from a merchant ship a passenger — even a through passenger — provided it is alleged that he is a criminal. Neither the captain nor the United States consul has authority to examine the evidence (if there is any) on which the charge is made; and hence these local bandits are accustomed to board a ship, under the United States flag, and seize passengers at their pleasure, and shoot them down if resistance be made.

Let us suppose that a passenger leaves New York for Curaçao on an American passenger steamer which touches at La Guayra or Puerto Cabello *en route*. He may never have been in Venezuela, and have no intention of going there; but the local authorities at one of those ports may, in abuse of privilege, enter the steamer and seize the passenger; and the next thing for him may be a dungeon — or death by assassination!

It should not be possible that this unmitigated outrage could be perpetrated under the American flag. Before we concede to a nation the right to enter our merchant ships and arrest our passengers, we ought to be very sure that the nation is a civilized nation, with stable and effective courts of justice, and that this right will not be abused.

So many outrages have been committed on our vessels, as well as on those of European nations friendly to us, that it would be well for the American people to lay down some rules for the guidance of the State Department, and to the end that this privilege, so deplorably abused, be withdrawn, or its abuse be stopped.

A few typical cases are here cited to show the animus of our Latin-American neighbors, their complete disregard for the flag of the United States, and their readiness to abuse the privileges conceded to them by civilized powers.

I. Asylum on board Merchant Vessels denied

Secretary of State W. Q. Gresham, on December 30, 1893, writing to Mr. C. P. Huntington, President of the Pacific Mail Steamship Company, 35 Wall Street, New York, observed, as to the bombardment of the Costa Rica at Amapala, Honduras:

> "The so-called doctrine of asylum having no recognized application to merchant vessels in port, it follows that a shipmaster can found no exercise of his discretion on the character of the offence charged. There can be no analogy to proceedings in extradition when he permits a passenger to be arrested by the arm of the law. He is not competent to determine whether the offence is one justifying surrender, or whether the evidence in the case is sufficient to warrant arrest and commitment for trial, or to impose conditions upon the arrest. His function is passive merely, being confined to permitting the regular agents of the law, on exhibition of lawful warrant, to make the arrest."

The doctrine thus expressed by Judge Gresham is responsible for many of the outrages committed in Latin-American ports on passengers on American merchant vessels. As an abstract expression of international law, applicable to our dealings with the great civilized powers, it is verbally correct; but even in such cases important reservations and modifications are necessary before accepting the proposition.

But the doctrine will not apply at all to the semi-civilized powers, such as Turkey and China, and to other minor States. Indeed in these latter countries the United States, by means of treaties and statutes, has invested its ministers and consuls with quasi-judicial powers, in so far as our own citizens are concerned.

In China we have established a United States Circuit Court with extraterritorial jurisdiction. (See Act of Congress, June 30, 1906, United States Statutes at Large, 1905–1906, p. 814.)

In so far as these countries are involved, therefore, the policy of the United States not alone inhibits searches and seizures aboard our ships, but local jurisdiction over our citizens is denied even on shore.

Section 4295 of the United States Revised Statutes authorizes the captain and crew of an American merchant vessel to resist searches and seizures when attempted by insurgent vessels not recognized by the United States as belligerents.

"The commander and crew of any merchant vessel of the United States, owned wholly or in part by the citizens thereof, may oppose and defend against any aggression, search, restraint, depredation, or seizure which shall be attempted upon such vessel, or upon any other vessel so owned, by the commander or crew of any armed vessel whatsoever, not being a public armed vessel of some nation in amity with the United States, and may subdue and capture the same; and may also retake any vessel so owned which may have been captured by the commander or crew of any such armed vessel, and send the same into any port of the United States."

The same doctrine might with propriety be made applicable to searches and seizures by revolutionists from on shore, in harbors, or other waters in which American merchant vessels may be lying.

A different question arises when the attempted search or seizure is made by the authorities of a government which we have recognized, whether the same is a regularly constituted government or a *de facto* government, the pretended authorities of which obtained power through revolution. This raises the question of asylum on board a merchant ship flying the American flag, and also the assumed legal right of such authorities to seize passengers who are travelling on through tickets from and to other ports and countries. The United States has placed itself in the untenable position of according full sovereignty to the Latin-American dictatorships, and, as might be expected, it has pronounced in favor of permitting these dictatorships to exercise a free hand in the premises.

Nevertheless our government has been compelled to recognize the existence of these revolutions, and, although reluctantly, to follow to some extent in the footsteps of the great civilized powers in protecting helpless victims from the savagery of armies engaged on both sides of these interminable troubles. Thus it is prescribed by Article 308 of the Regulations for the Government of the Navy, 1905, as follows:

"The right of asylum for political or other refugees has no foundation in international law. In countries, however, where frequent insurrections occur, and constant instability of government exists, usage sanctions the granting of asylum; but even in the waters of such countries officers should refuse all applications for asylum except when required by the interests of humanity in extreme or exceptional cases, such as the pursuit of a refugee by a mob. Officers must not directly or indirectly invite refugees to accept asylum."

Our regulations on the subject, however, are painfully inadequate. If England or Germany should fire on one of our passenger vessels loaded with women and children, it would be regarded as sufficient cause for instant war; yet our State Department permits without protest such assaults by the Latin-American dictatorships.

II. Revolutionists in Venezuela seize Passengers from the United States Mail Steamship Caracas

On August 18, 1892, Captain William Woodrick, of the "Red D" Line steamer Caracas, reported from Curaçao to the American Minister W. L. Scruggs as follows:

"While loading at Puerto Cabello on the 17th instant, a commissioner of General Urdaneta came on board to ask me to deliver over to the police Jacinto Lopez, Dr. P. Febres Codero, Francisco M. Casas, Antonio Salinas, M. Lopez, and Manuel Ramos, passengers from La Guayra to Curaçao and Maracaibo, who had embarked at La Guayra with their custom-house permit in order. I refused to do so, and General Urdaneta then sent on board several policemen to take them away. The passengers at first tried to hide, but finally decided not to make any resistance, which would have been to no avail, and went on shore escorted by the police, who took them over to the jail at the port. I protested at the consulate."

Minister Scruggs at once went to see the Foreign Minister of Venezuela, who admitted that General Urdaneta was a revolutionist and beyond the control of the government. Nevertheless the minister, Señor Manuel Clemente Urbaneja, excused and defended the act, observing, on August 18, 1892:

"Second, if the acts as related by the minister, although perfectly true, had taken place in Venezuelan waters and been exercised against individuals which the government of Venezuela considers as hostile, the regulation constantly practised in Council by common consent, principles made known in international law, and followed by all civilized countries, has been that all ships entering into our waters come under Venezuelan jurisdiction so long as they remain in said waters."

Dr. Urbaneja did not explain how this regulation could authorize revolutionists to enter an American vessel and seize its passengers.

Mr. Scruggs denied the right to make such a seizure, and in reporting the case to Washington said:

"As you are aware, this country has been in a state of complete anarchy for several weeks past. There is a *de facto* government, but it has no means of making itself respected by any one of the armed factions now contending for power. As the contest continues, the parties become more and more desperate, and less disposed to respect the neutral rights of foreigners, and the time has already arrived when foreign governments will be forced to the alternative of either abandoning their citizens to the mercies of an irresponsi-

ble mob or of taking some prompt and efficient steps for their protection. . . . The mere presence of one of our naval vessels anywhere in Venezuelan waters, or even at the harbor of Curaçao, would have prevented the unfortunate incident at Puerto Cabello. As it is, we have already lost prestige; and in the absence of a naval vessel we may expect similar occurrences. The final outcome will be the seizure of one of our mail steamers by some one of the armed factions who may need it for transporting troops between the ports."

On September 8, 1892, Secretary of State John W. Foster wrote to Mr. Scruggs:

"Should the six passengers still be held by Urdaneta, the commanders of the United States war-ships would be fully warranted in demanding their unconditional surrender, and, if refused, in backing up the demand by all necessary force."

The passengers were never delivered up, either to a United States war-ship or to any authority of our government. What became of them is unknown. The dilatoriness of the United States government in the case of these bandits is not readily explained or defended by one familiar with the facts.

Had a resolute man been the Chief Executive of the United States, those six passengers would never have been taken from an American ship flying our flag, and if they had been, he would have landed an armed force and hunted General Urdaneta and his army all over Venezuela.

But, far better than that, Venezuela should long ago have been placed under a civilized government, so that such an outrage would have been impossible.

III. Firing on Foreign Passenger Vessels

A report from Charles B. Trail, on Brazilian foreign affairs for 1886, is illustrative of the method of that country towards foreign vessels.

On December 3, 1885, the French passenger steamer La France, of Marseilles, entered the bay of Bahia. The Brazilian authorities claimed that their gunboat signalled the La France to stop for sanitary inspection, but the captain of the French steamer stated afterward that no such signal was given; or if it was, that neither he nor any of the ship's officers saw it.

Two blank shots were fired, but the captain supposed them to come from a man-of-war at gun practice, and paid no attention to them. Without further warning, the fort of Gamboa opened fire on the steamer, two shots tearing through her timbers and creating consternation among the passengers. One shot killed an Italian passenger.

For this brutal and murderous act of the Brazilian authorities no

atonement was ever made. The authorities claimed "that the only way to prevent the introduction of disease from foreign ports was to subject vessels coming from those ports to rigid inspection before entering the inner harbor, and the only way to compel them to stop when they disregarded the signals was to fire on them with shot"!

Think of the state of civilization — rather let us say barbarism — in a community where the "authorities" are permitted to turn the fire of forts on passenger vessels loaded with innocent men, women, and children! If the captain were disregarding port regulations, it was an easy matter to arrest and fine him or even to confiscate his ship. Only barbarians would fire on helpless men, women, and children.

Nothing was ever done about it, for if France and Italy had intervened, they would have "trod on the tail" of our sacred Monroe Doctrine.

IV. General Barrundia shot to Death on board an American Ship

General J. M. Barrundia had been Secretary of War of Guatemala under Barrios; and when the latter was overthrown, Barrundia took part in various revolutionary movements against the new Dictator. In 1890 there was war between Salvador and Guatemala. Barrundia was openly hostile to the reigning clique of Guatemala, and had tried to raise revolutionary bands along the border for the purpose of invading Guatemala.

In August, 1890, he took passage at Acapulco, Mexico, on the Pacific mail steamer Acapulco, on a through ticket for Panama. The Acapulco stopped at certain ports in Guatemala, and when it arrived at Champerico, the Guatemalan authorities attempted to detain Barrundia, but Captain W. G. Pitts of the Acapulco objected on the grounds that General Barrundia had a through ticket, that he was under the protection of the American flag, and that the law of nations did not require a vessel, under such circumstances, to surrender a political refugee, even though the vessel were within the three-mile limit.

Captain Pitts cabled the facts to Lansing B. Mizner, the American minister at Guatemala, and asked that no action should be taken until the vessel should arrive at San José de Guatemala, where he expected to receive definite written instructions in the matter from the minister.

In the meantime James R. Hosmer, Consul-General to Guatemala, had, at the request of the Dictator, Manuel L. Barillas, addressed a telegram to Captain Pitts advising him to give up Barrundia and expressing the opinion that "Guatemala had the right to search foreign vessels in her own waters for persons suspected of hostility to her during time of war."

As a matter of fact at this date articles of peace had been signed between Salvador and Guatemala, and Minister Mizner was present at the signing of the articles.

When the Acapulco reached the harbor of San José de Guatemala, the United States war-ship Ranger, commanded by George C. Reiter, was lying there. Reiter wrote Mizner as follows:

SAN JOSE DE GUATEMALA, Aug. 27, 1890.

MIZNER, U. S. Minister.

Barrundia is expected in steamer. As peace is declared, I suggest you ask government to permit Thetis to take him to Acapulco, we acknowledging their municipal rights over steamer. Steamer Acapulco in sight.

REITER.

Mizner claimed, in his report of the case, that he made this proposition to the Minister of Foreign Relations, by whom it was peremptorily rejected. (He afterwards stated that the Guatemalan authorities told him that unless the Acapulco should give up General Barrundia they would blow it to the bottom of the sea, even if they killed everybody aboard; that they had recently mounted large and new artillery pieces, commanding the harbor, with which they could do this.)

Captain Pitts refused to surrender Barrundia without written instructions from Mizner, and stated that in his opinion Barrundia would resist arrest, and that there were persons aboard who sympathized with him, and might aid him and thus the Acapulco might become the theatre of a bloody fracas.

Thereupon Mizner gave an order in writing to Pitts to deliver Barrundia to the authorities of the port, and these men with a squad of soldiers and policemen went on board to make the arrest. Barrundia resisted, as was expected, and was shot to death. About fifty shots were fired by him and his assailants, but not one of the assailants was injured.

Mizner claimed that he had received the assurance of the authorities that Barrundia's life would be spared, but it was well known that a mob, instigated by the clique in power, was awaiting his arrival on shore; so Mizner's letter to Captain Pitts was equivalent to passing sentence of death on General Barrundia.

When the full reports of the affair reached Washington, Secretary Blaine at once recalled Mizner, writing to him a most scathing letter in condemnation of his course. The threats of Guatemala to fire upon the Acapulco were denounced as an outrage, and the hope was expressed that Guatemala would not again so far forget her obligation to civilization as to make it necessary for American war-ships to convoy American merchant vessels while in her ports. Blaine's letter (published in "Foreign Relations," 1890) is a manly document, but it falls short of the mark.

No punishment was meted out to the Guatemalan bandits for shooting down a defenceless man on board an American ship, nor

for this brazen insult to our flag. Mr. Mizner, an accessory, as above set forth, received no other punishment than his recall.

A crime committed on board of an American vessel under the United States flag is within the jurisdiction of the United States courts. It is evident that every man concerned in this shameful affair, including the Guatemalan authorities and the American minister, should have been arrested, brought before a Federal Grand Jury, and, if indicted, tried in a United States court.

There were, as usual, protests — and nothing more.

V. A Matter-of-Fact Incident related in a Matter-of-Fact Manner

To the following report, which is self-explanatory, was tacked on the surprising *addendum* that "Americans are treated with consideration, and American interests are perfectly safe in Santo Domingo."

U. S. S. Kearsarge, Azua Bay, Santo Domingo,
January 2, 1894.

Sir, — In obedience to the Department's orders of December 20, 1893, after careful investigation, I have the honor to make the following report of the recent outbreak at Azua, Santo Domingo, and of the firing on a boat of the American schooner Henry Crosby by government soldiers, and the wounding of two men of that schooner.

1. On December 3, 1893, General G. Campo, Governor of Azua, was assassinated by revolutionists. Measures were taken to prevent the escape of the assassins from the country, and strict orders were given to watch every vessel that touched on the coast.

2. On December 9, 1893, the American schooner Henry Crosby of Bangor, Maine, A. F. Stubbs, Master, from New York, for the port of Azua, loaded with machinery and railway material, consigned to Mr. John Hardy, United States Consular Agent at Azua, anchored at Puerto Viejo, which is not a port of entry. The schooner hoisted American colors and signalled for a pilot. No custom officials visited the schooner, and the captain was undecided if he were at the seaport of Azua. On the morning of December 10 the mate, W. H. Brooks, and two seamen were sent in a boat to inquire if that was the port of Azua. The mate was ordered not to land, and the schooner had American colors flying. When near the shore, the mate stopped the boat, and asked two soldiers on shore, in English, if that were the port of Azua. The reply was in Spanish, and was not understood, but was thought to be in the affirmative. At this moment a number of soldiers, about twenty-five, came out from behind bushes. The mate became alarmed and began to return to the schooner. The soldiers opened fire on the schooner's boat. The mate was struck, and fell in the bottom of the boat. The bullet grazed him, and stunned him, but he soon recovered. Charles Smith, seaman, was hit in the thigh, and severely wounded. The third man in the boat dropped out of sight. The soldiers then began firing on the schooner, and several shots hit her.

3. . . .

The master of the schooner had made every effort to find the location of the port of Azua before leaving New York, as it is not charted.

4. President Heureaux has ordered the governor of Azua to watch strange vessels to prevent the assassins of General Campo from leaving the country, and the landing of arms and ammunition for use by the revolutionists.

It was for this purpose the soldiers were sent to Puerto Viego when the Henry Crosby was sighted. The firing on the boat was done without any investigation whatever to ascertain the character of the schooner.

5. By order of President Heureaux, General G. Marchena and eight others, supposed to be leading revolutionists, were shot at Azua on December 21, 1893.

The above report was signed by O. F. Heyerman, Commodore Commanding. He made no recommendations, but stated that he believed the report of Mr. John Hardy, Consular Agent, to the effect that Americans were well treated, and American interests were perfectly safe, in Santo Domingo.

Commodore Heyerman did not state how he reconciled this genial belief with the facts as stated by himself, namely, the wanton firing by Santo Domingo soldiers at a vessel flying the American flag in broad daylight, and the wounding of the officer and the seaman.

I shall agree with Commodore Heyerman that an American is reasonably safe in Santo Domingo, and was at that time — if he occupied the commodore's berth in a first-class American battle-ship.

As to safety in Santo Domingo under other conditions, I may refer here to the sworn report of the captain of the Henry Crosby.

Captain Stubbs stated that the United States flag was flying at the mizzentopmast of the schooner, as it had been since coming to anchor, the day before. ". . . A very large number of shots were fired, at least several hundred. The officers and crew of the schooner were compelled to take refuge below decks." Captain Stubbs took care of the wounded men the best he could. W. H. Brooks, the mate, had a flesh wound in the left thigh. The ball struck the exterior of the thigh a few inches below the hip bone, striking the hip bone and glancing off. A severe injury to the hip bone was produced by the shot.

The sailor Smith was struck in the left thigh, the ball entering the under side of the thigh and coming out below the pelvis. The wound was some seventeen inches long. The man nearly bled to death.

After the wounded men were taken care of, a barge, carrying a number of soldiers, came alongside. The soldiers boarded the schooner, and remained aboard until she was finally discharged.

A trick that is very popular in our "Sister Republics" was now resorted to. I shall let the memorialists, Henry Lord *et al.*, owners of the schooner, tell the story:

"After the vessel had partly discharged her cargo, and while she was lying at anchor off the port of Azua, the captain of the port came on board and

demanded of Captain Stubbs that he go at once to Azua, that the President wished to see him. Captain Stubbs at first declined to go, and demanded from the port captain his authority from the President directing him to appear. The port captain replied that he had no letter, but the President had sent him personally to bring Captain Stubbs to Azua. Finally Captain Stubbs agreed to go, and proceeded on horseback to Azua. He first went to the office of Captain Hardy, the United States consular agent, and had a conversation with Captain Hardy's clerk, who informed him that the President wished Captain Stubbs to go to the governor's office, and there sign a paper. Captain Stubbs went with the interpreter of the consular agent's office to the office of the governor. When they reached the governor's office, a paper written in Spanish was presented and Captain Stubbs was directed to sign it. Captain Stubbs twice declined, saying that he could not understand Spanish, and was not willing to sign any paper written in that language. Upon his refusal the governor gave some order in Spanish, which was followed by a bugle signal, and immediately upon the giving of the signal, soldiers to the number of seventy-five or a hundred surrounded Captain Stubbs. Upon the appearance of the guard, the interpreter said he would go to the consular agent and bring him to the governor's office. He was considerably alarmed at what was happening. When the consular agent appeared, he asked Captain Stubbs what was the matter. Captain Stubbs replied that he was asked to sign a paper written in Spanish, and that he was not willing to do so. Captain Hardy thereupon went into the governor's room. In the meantime the President had come and gone into the governor's room. He called Captain Hardy in there, and Captain Hardy went in. Captain Stubbs overheard a conversation in Spanish, the words of which he did not know, but from the manner of both the participants in the conversation there seemed to be considerable dispute between them. The conversation was carried on in an angry tone. Captain Hardy, after the conversation was over, upheld Captain Stubbs in his refusal to sign the paper, unless it should be interpreted into English, and Captain Stubbs given a chance to examine it. Captain Stubbs and Captain Hardy thereupon left the governor's office without molestation.

"On their return to the consular office, what purported to be a translation of the paper was submitted to Captain Stubbs. It was an exoneration of the soldiers, the officers of the government, and the Republic of Santo Domingo from all blame for the firing upon the vessel when at anchor off Azua. Captain Stubbs declined to sign it."

The firing on this vessel was an unprovoked, unextenuated, cold-blooded outrage. Why does the United States tolerate such things? Why do the Presidents of the United States, one after another, who know all about these cases through the official reports, continue practically to ignore their existence, and to advocate the now *passé* Monroe Doctrine? Why will admirals and commodores report that Americans in Latin America are treated kindly, and that their interests are safe, when experience shows that the reverse is the case?

To return to the Henry Crosby. An appeal was made to the State Department of the United States; and on April 10, 1894, Edwin F. Uhl, Acting Secretary of State under Walter Q. Gresham, wrote to the attorneys of the claimants as follows:

"I am unable to see that the owners of the vessel have any claim for damages, except to the limited extent hereinafter indicated. True, some shots were fired at her, but there is no charge that any real damage was done. . . .

"If Smith were an American citizen, I should say that he was entitled to the intervention of this department to secure an indemnity for his injuries. He is not, however, an American citizen, nor does he come within that statute which provides that a foreigner serving as a seaman on an American vessel shall be entitled to American protection, if he has declared his intention to become a citizen; for it does not appear that he ever made such a declaration. Mr. Brooks is, perhaps, entitled to a small indemnity, though I may observe that no certificate of his naturalization is filed with the papers, as is required to be done when claims are preferred by naturalized citizens. I am unable to see that any other of the officers or crew are entitled to any damages."

These words are typical of the attitude of Grover Cleveland's State Department. No wonder we have but few large American enterprises in Central and South America. No wonder an American denies his nationality, and claims to be an Englishman, as soon as he goes to one of those countries. American protection for its citizens in that part of the world is such a hollow farce that it is disagreeable even to discuss it.

At the same time it must be said that one familiar with the administrations of Walter Q. Gresham and Richard Olney learns to speak with love and reverence of John Hay, who may justly be regarded as the greatest American Secretary of State up to his time. His instructions to his ministers and consuls were strong and dignified, scrupulously just, straight from the shoulder, courteous but firm. Honest himself and demanding honesty, he hated shams and lies and subterfuges, and was quick to see through schemes and pretences. He was inclined to adhere rather too strictly to the technicalities of international law, but he was sincerely desirous of protecting American interests, though without adequate means for affording such protection or a substantial public sentiment to back him. Let us hope that there may be ushered in a lasting era of Secretaries of the type of John Hay.

VI. Our Sister Republic, Honduras, fires on the American Passenger Steamer Costa Rica, and jeopardizes the Lives of One Hundred and Fifty Men, Women, and Children

On November 6, 1893, the fort of Amapala, Honduras, fired upon the American passenger steamer Costa Rica, endangering the lives of one hundred and fifty passengers.

Captain J. M. Dow, Master, made before the Examining Board the following sworn statement:

"Dr. Policarpo Bonilla, a native of Honduras, came on board the Costa Rica at Corinto, Nicaragua, on the 4th instant, as a passenger to take passage for San José, Guatemala. I had no knowledge of him more than any other passenger, until after arrival of ship at Amapala, Honduras. The Costa Rica arrived at Amapala at 6 A. M., November 5, 1893, and was immediately given permission for general delivery and receipt of cargo. At 2.15 P. M. a written communication, signed by the captain of port, was brought on board by an official in uniform, as follows:

COMMANDERY OF AMAPALA, Nov. 5, 1893.

MR. COMANDANTE, — You will demand of the captain of the steamer Costa Rica the surrender of Dr. Policarpo Bonilla, who has been sentenced by the courts of the Republic. The government directs that you demand his delivery to me with the assurance that his life will be guaranteed; on the other hand, merchant vessels, according to the laws of the United States and of this Republic, do not enjoy the immunities which they claim in waters of a foreign country, they being wholly subject to the laws of the country in whose waters they happen to be.

Notifying you that the steamer will not be permitted to weigh anchor without effecting the delivery,

I am, etc. BELISARIO VILLELA."

Captain Dow wrote in reply as follows:

"Your communication of this date demanding the delivery of Mr. Policarpo Bonilla, a passenger on board this steamer, holding a through ticket to San José de Guatemala, has just been received. After consultation with the Minister of the United States now on board my vessel, I beg to state that your demand cannot be complied with."

Captain Dow then received the following letter:

COMMANDERY AND CAPTAINCY OF AMAPALA, REPUBLIC OF HONDURAS,
AMAPALA, November 5, 1893.

To the Captain of the steamer Costa Rica, present:

I am in receipt of a new order to demand of you the delivery of Don Policarpo Bonilla, so I hope you will execute it. If not, you will not be permitted to weigh anchor, and if you should do so without first delivering him, you will suffer the consequences of a bombardment for which you alone will be responsible by reason of your refusal.

B. VILLELA.

Captain Dow was now confronting a very serious situation. United States Minister Lewis Baker, and family, fifty-eight men, sixteen women, several children, and sixty-two members of the ship's company, were aboard. Mr. Baker was very likely reminded of the shooting to death but a few years before of General Barrundia on board an American steamer and of the recall of Minister Mizner. Moreover Mr. Bonilla was travelling on a through ticket from a Nicaraguan to a Guatemalan port, with no intention of going ashore at a port of Honduras; and both Minister Baker and Captain Dow knew that an attempt to take Bonilla by force would probably result in a scene of bloodshed on the decks of the ship.

Captain Dow decided to weigh anchor and leave. He testified:

"The ship was heading up-stream, and twenty minutes were occupied in turning her. At 3.55 rang to go ahead fast, to make the final turn, to head out of the harbor. At the same moment a cannon shot was fired from the Amapala shore, the projectile passing about one hundred feet astern of the Costa Rica and between her and the City of Panama, anchored in the harbor. Other cannon shots were fired, but I was too busy to count them, as I was getting the ship out of port. I slowed down after I thought I had gotten out of range, to see if the City of Panama had been damaged by the fire."

Mr. Louis Chable, who was designated by Minister Baker to investigate this affair, reported, November 8, 1893, that he together with United States Consular Agent Kohucke had called on Mr. Villela, the comandante who had ordered the firing done.

"Mr. Villela told me that about twelve at night on the 5th, he had received new orders from President Vazquez insisting upon his compliance with former orders and stating that if Bonilla had not been delivered, troops should be sent to the steamer to take him out, and if this could not be done, to sink the ship.

"Meanwhile [continued Mr. Villela] I was getting ready the men and the launches to go to the steamer, but within the half hour the ship began to steam away, and I had to comply with the other orders which I had, to shell the vessel. Accordingly a Krupp gun of '8 or '12 calibre, was discharged on the vessel from the fort five times by my orders, and two times after orders had been sent by telephone to stop firing.

"In the whole matter I obeyed superior orders; there were seven telegrams sent me by the President in the matter."

These statements, which were amply corroborated, show that the shelling of this steamer was the deliberate act not of the Amapala authorities but of the Honduras "President" himself, as he had given positive instructions "to sink the ship" if Bonilla were neither delivered up nor taken by force.

As soon as P. M. B. Young, the American Minister at Guatemala and Honduras, was advised by Minister Baker of this affair, he cabled Washington, and was directed to "protest." His despatch in reply follows:

LEGATION OF THE UNITED STATES, LA LIBERTAD, Nov. 12, 1893.

To SECRETARY OF STATE, Washington.

Sent the following, Friday, at two o'clock:

HIS EXCELLENCY ANTONIO LOPEZ, Minister of Foreign Relations:

In the name of the United States, I earnestly protest against the insult to the American flag, and the illegal act of firing into the American ship Costa Rica on the 6th instant, and demand a disavowal of this act by your government, and an apology for the same. Will your Excellency give me an immediate answer to the above?

I received last night the following in reply:

"I have received your despatch of to-day in which you convey to me that in the name of the United States, and in the most formal manner, you protest against the insult to the American flag, and the illegal act of firing on the steamer Costa Rica on the 6th instant, and demand disavowal of this act by the government, and satisfaction. In answer and by direction of the President, I inform you that this government has already disavowed, and does so now, the acts referred to, not having caused them, nor ever having had the least intention of causing any offence to the government of the United States, with which the President always wishes to preserve the best relations. This government became aware with great pain of such an unfortunate incident, whose details I hastened to transmit by telegraph to you on the 6th instant. As regards the satisfaction, it would be desirable before offering it to know the terms in which you ask it. . . ."

This seems to answer demands so far. Shall I remain here longer?

YOUNG.

The fact was that this firing took place by order of President Vazquez himself, with Villela, the Comandante of Honduras, in command at Amapala, in charge of the guns.

Yet the Honduras Minister of Foreign Affairs coolly informs the American minister that "this government became aware with great pain of such an unfortunate incident," and that the "government has already disavowed, and does so now, the acts referred to"; and the American minister pretends to believe it!

Does the "government" offer to dismiss the Comandante from the service, and punish him for this outrage on helpless men, women, and children? Or does it promise that similar cases of savagery shall not occur in the future? Not at all. It simply sheds a few crocodile tears — enough to "stand off" the American war-ship.

Minister Young's despatch was answered immediately by Walter Q. Gresham, Secretary of State under Grover Cleveland, as follows:

DEPARTMENT OF STATE, WASHINGTON, November 12, 1893.

You may answer Honduras Minister that, having reported his reply, you are instructed to say that the President accepts these frank expressions of disavowal and regret as sufficient, and will waive further formal apology in the interest of friendly feeling.

GRESHAM.

Truly a most forgiving and indulgent President! If you were in Latin America, with such a régime at Washington, would you feel proud of being an American? Or would you decide on expatriation, even if your only alternative were joining the Hottentots?

Like produces like. When a government is afflicted with a reactionary, fossilized head, ossification sets in throughout its entire body. Minister Young, in his report dated November 22, 1893, pays a well-deserved compliment to Captain Dow in these words:

"I cannot close this despatch without calling your attention to the admirable conduct of Captain J. M. Dow, Commander of the Costa Rica, who under the most trying circumstances preserved the dignity of his command

and the honor of his flag in preventing the violent seizure on his ship of a gentleman who had quietly entered the ship, paid his fare to a point on the voyage, and was entitled to a first-class passage and a safe convoy to that point."

But he adds (behold the hopeful logic of his sanguine temperament!):

"With the earnest hope that this episode may tend to strengthen the sentiments of amity between the United States and the Government of Honduras, I am," etc.

The hand of American diplomacy in those days was indeed gloved in velvet! If a bombardment by Honduras of one of our passenger steamers, with women and children aboard, should tend "to strengthen the sentiments of amity" between the United States and Honduras, might it not be expected that something truly bloody would arouse real genuine love between them?

CHAPTER XIV

THE PANAMA CANAL AND COLOMBIA.—AN ATTEMPTED "HOLD-UP" ON A RATHER LARGE SCALE

THE diplomatic history of the various Isthmian canal projects is voluminous.

The Clayton-Bulwer Treaty of April 19, 1850, between the United States and England, may be set down as the most foolish of the strange things done and permitted by the United States government in relation to the canal. This treaty was signed by John M. Clayton, Secretary of State, and Sir Henry Lytton Bulwer, and provided that neither contracting party should ever obtain or maintain for itself any exclusive control over such canal, or erect fortifications commanding the same, or occupy or colonize any part of Central America; that each party should have the use of the canal on equal terms, and jointly with the other should guarantee its neutrality, etc.

This treaty practically eliminated the United States as a factor in the construction of the canal; it tied our hands behind us for fifty years.

A French canal company, headed by De Lesseps, was formed in 1881, and obtained a concession from Colombia authorizing it to construct the canal. After using up about $300,000,000, at least $200,000,000 of which were stolen or wasted, it failed, and work was practically suspended. A new company was organized in 1894.

On February 5, 1900, President McKinley submitted to the United States Senate for ratification a treaty signed by Secretary John Hay and Lord Pauncefote. Designed to supersede the Clayton-Bulwer Treaty, and cancelling most of its objectionable features, the Hay-Pauncefote Treaty authorized the construction of the canal under the auspices of the United States, either directly at its own cost, or through such corporate or other organizations as it might elect to employ.

This treaty was highly creditable to England as an exhibition of fair-mindedness and liberality, and cemented firmly the friendly feelings between England and the United States. Its terms were found satisfactory to the United States, and it was duly approved by the Senate.

The Oregon's journey from San Francisco to Santiago de Cuba via the Horn, during the Spanish-American war, had brought home to the American people the absolute need for this canal, as a factor in rapidity of mobilization. Its great commercial usefulness had long been recognized. The chief obstacle to progress having been removed by the new treaty, the United States initiated the measures preliminary to the work of canal construction. The Isthmian Canal Commission, Rear Admiral John G. Walker, U. S. N. (retired), chairman, was appointed to examine the respective merits of the Panama and Nicaragua routes. By act approved June 28, 1902, Congress authorized and directed the President in behalf of the United States to negotiate with Colombia for, and acquire, the right to construct the Panama Canal (to be constructed in accordance with certain provisions set forth in said act), and to acquire by purchase property of the New Panama Canal Company, of France. The President was further directed, should he be unable to accomplish these projects within a reasonable time, to proceed with reference to the Nicaragua route. A satisfactory understanding had in the mean time been arrived at between the United States and the New Panama Canal Company that, should the Panama route be decided upon, the company would receive for its property some $40,000,000; and this amount was the maximum cost authorized therefor by the Act of 1902.

I

Colombia's chieftains now thought that a shower of gold was about to fall; that the long-coveted El Dorado was theirs at last. Months were spent in "dickerings" and negotiations; while schemes of "milking" hundreds of millions of dollars from the Great Republic filled the frenzied imaginations of the Bogotá Jefes.

In March, 1903, a proposed treaty was ratified at Washington, known as the Hay-Herran treaty. In this document Secretary Hay seems to have offered all that a reasonable nation could ask, and a great deal more. Colombia was to receive $10,000,000 cash, and the sum of $250,000 yearly, this annuity to begin nine years after the date of the treaty. The United States in return was to receive a lease of the canal strip for one hundred years, with the privilege of renewals at its pleasure. The sovereignty of Colombia was specifically conceded and guaranteed by the United States.

Article 4 of this convention provided that:

"The rights and privileges granted to the United States . . . shall not affect the sovereignty of the Republic of Colombia over the territory within whose boundaries such rights and privileges are to be exercised. The United States freely acknowledges and recognizes this sovereignty, and disavows any intention to impair it in any way whatever, or to increase its territory at the

expense of Colombia, or any of the Sister Republics in Central or South America, but, on the contrary, it desires to strengthen the power of the Republics on this continent."

Why Secretary Hay chose to use these words of disavowal does not readily appear. They were plainly surplusage, and they suggest the *obiter dictum* of the judge. Neither the Secretary of State nor the President has any power to dictate or forestall the policy of succeeding administrations.

II

Dictator Marroquin pretended to favor the Hay-Herran Treaty (it had been signed by Colombia's representative in Washington), but the terms offered by the United States aroused the Colombian leaders generally to anger and fine scorn. They waived aside the ten million dollars as a miserable trifle — a mere bagatelle. Let us note here, in passing, some views which may have conduced to this "exalted" state of mind.

Señor Samper, Colombian agent in Paris on the Administration Council of the Canal Company, estimated, early in 1902, that Colombia should demand $20,000,000 gold from the United States immediately, to be followed by annual payments beginning at $2,000,000, and increasing at the rate of $100,000 a year, so that at the end of ninety-nine years the annual payment would be $12,000,000. Colombia would retain her sovereignty over the Canal strip, the United States merely enjoying an easement.

Señor Carlos Martinez Silva, Colombian Minister at Washington, wrote, on January 8, 1902, that a fixed annuity should be secured from the United States and used in redeeming Colombia's paper money, paying interest on the national debt, and "calming down the susceptibilities of the political parties." Just how much it would take to "calm down" these "susceptibilities," Mr. Silva did not state.

Señor Climaco Iriarte wrote, on February 15, 1902: "The property to be ceded does not belong to the French Company exclusively. . . . The Colombian government has a legal right to decide whether the cession shall take place or not. . . . Before definitive steps can be authorized, the government and the company must reach an agreement as to the price to be paid for the transfer, and the quota to be assigned to each."

Señor Francisco Groot, Member of the Junta, writes on February 19, 1902: "If Colombia takes the first steps, which her historical antecedents and geographical position authorize her to take, to increase the intimacy of her union with the Great American Republic, she will regain on the instant the prestige lost through her frequent disorders, and through ineptitude in the management of her finances, since she will derive from a perfect alliance with the United States an

illustrious political position and an immense fortune." He thought this could be done "without any diminution of the national sovereignty," that is, by letting the United States build the canal, and Colombia control it!

On August 29, 1902, Commissioners of the Colombian Senate drafted the Project of Law, which was designed to "satisfy the vehement desire of the Colombian people touching the excavation of the Panama Canal." This provided that Colombia should receive $20,000,000 from the United States and $10,000,000 from the Canal Company; that the United States should pay the $250,000 a year rental for the Panama Railway; that likewise it should pay to Colombia for the easement on the Canal zone $150,000 a year until 1967, when the amount was to be increased to $400,000 a year, with a stipulation for renewing the period of easement by the payment of twenty-five per cent additional over and above the charges for the preceding period. Of course the sovereignty of Colombia was to be supreme over the entire Isthmus. The Dictator himself (Señor Marroquin) published a book, *Canal de Panama*, Bogotá, 1903, in which prominent citizens recorded their contempt of the United States for its "disposition to haggle about the price . . . like a rich man taking advantage of the poverty of a harebrained blusterer, to whom he proposes terms he would never dare to offer for the same property to another rich man able to stand up for his own rights in the transaction."

And so, the Hay-Herran Treaty having reached Bogotá, the generals in charge of the government, who had been living in this supernormal atmosphere of large aspirations and big figures, rejected the treaty, in August, 1903.

Colombia was under military rule. General Rafael Reyes and his army were back of Dictator Marroquin, and every member of the "Congress" was a man selected directly or indirectly by Reyes. While Marroquin pretended to favor the treaty, every member of the "Senate" voted against it!

III

In order to appreciate the magnitude of Colombia's attempted "hold-up" to view it in its true perspective, one should pause to consider briefly the Isthmus of Panama, in its political, economic, and sociological aspects.

In 1846 the United States and New Granada had entered into a treaty by which it was stipulated that American citizens and the United States government should always have free transit across the Isthmus. In this treaty the United States guaranteed the neutrality

of that territory. At least fifty revolutions have broken out, and on several occasions the United States has been compelled to land troops for the protection of life and property and the maintenance of trans-Isthmian Commerce. Panama, even before its present autonomy, had known what it is to be independent, and it has been asserted by competent authorities that the intervention of the United States to maintain the neutrality of the Isthmus furnished more than once (however unintentionally) the vital element in the preservation of the sovereignty of Colombia. In 1903 Panama was ripe for another break for independence.

What was the actual economic value of the strip of land sought of Colombia by the United States in 1903 for the canal, — not its opportune or strategic, but its economic, value?

It was evident that Colombia had no money with which to build that canal. The former French company had failed, and the spasmodic efforts of the new company were only occasional and accomplished little. What real loss, if any, would accrue to Colombia by the taking of that strip of land for canal purposes?

Ordinary land is sold by the government of Colombia for about five hundred dollars per square league. A square league consists of nine square miles, or five thousand seven hundred and sixty acres. Although most of the soil of Colombia is the richest in the world, nobody wants it, even at the pittance asked, and almost all Colombia is an undeveloped wilderness, government land. The least desirable part of Colombia, economically speaking, is the region of the proposed Panama Canal route.

The area of the Canal itself would be less than the content of two square leagues. Land equal in quantity, and much better in quality for any but canal purposes, could ordinarily be bought of the Colombian government for one thousand dollars. The narrow piece of land on each side of the canal route (wanted by the United States on a hundred-year lease with renewals at its pleasure) contains less than one hundred square leagues, an area that would ordinarily be worth about fifty thousand dollars. But let us call it one hundred thousand dollars. The gap between one hundred thousand dollars, on the one hand, and ten million dollars, plus the two hundred and fifty thousand dollar payments, on the other, left room for a liberal valuation of the opportune or strategic value, and all "extras."

A hundred individual landowners in Mexico not accounted very rich men own separate tracts of land, each much larger than the entire strip wanted by the United States for the Panama Canal. Many individuals own in Latin-American countries five times as much land as this strip contains, and excite no more notice than a man would with half a million dollars in Wall Street.

Not only was the land constituting this canal strip of inconsiderable economic value, but the climate of the region was intolerable, destroy-

ing the energy and undermining the health of any person compelled to stay there. Malaria and all kinds of diseases infested the locality, and no one but a young man of iron constitution and unquestioned courage and determination could withstand the horrors awaiting him there. But if plagues of noxious insects and reptiles beset the land, while malarial poison and fever germs filled the atmosphere with disease, and undrinkable water and uneatable food aided in destroying the health and vitality, and a climate insufferable because of its heat and humidity added its quota to the dread array of afflictions, yet all these fearful evils were more endurable than the social and political conditions which prevailed there. Under the administration of Colombia this region was the most shameless hotbed of murder, rapine, intrigue, revolution, and crime to be found on the earth. One wave of political assassination (euphemistically called revolution) was swiftly followed by another. Murder trod on the heels of murder, and the living dwelt in constant terror.

Violence and anarchy stalking abroad; one military rule after another; bands of ragged, debauched, half-breed soldiers, living on loot and forced contributions; semi-bandits holding the reins of misgovernment through intrigues with military Jefes, appropriating to their own uses the revenues of the government, stifling all industry by their enormous levies of blackmail, disregarding all legal rights, international as well as domestic, — so reads Colombia's wretched history, a long and blackened page of debauchery, bribery, iniquity, and crime. It seemed impracticable, if not impossible, to carry on the peaceful vocations of civilization in that stricken country. The unhappy land had known in seven years not twenty-four hours of peace.

IV

Such was the general situation, and such the disposition of pieces and of pawns upon the chess-board of the Isthmus, when, on November 3, 1903, the people of Panama, disgusted and outraged by the military oligarchy's rejection in Bogotá of the Hay-Herran Treaty, and by the recurring years of misrule and corruption (again become unendurable), raised once more, for the fiftieth or the hundredth time, the banner of revolution.

President Roosevelt at once recognized the Republic of Panama, and the ensuing treaty guaranteed its independence. For once the "Latin-American International Lawyer" was confounded.

The President's conduct in this connection was not open to the slightest criticism. Indeed his patriotism, energy, and moral courage had prevented the United States from being victimized by the Colombian guerrillas.

After the Isthmian canal route had been secured through the treaty with Panama (the Hay-Varilla convention), ratifications of

which were exchanged at Washington on February 26, 1904, Colombia contributed a plaintive little epilogue. General Rafael Reyes, then as now the dominant power there, proposed that if the President of the United States would undo what had been done, would subdue the infant Republic of Panama, and would restore it to the sovereignty of Colombia, the Colombian government would ratify the Hay-Herran Treaty, and give the United States all it asked — or even more. Not only was this amazing proposition highly incongruous, but, in fact, the terms of the Hay-Varilla Treaty are slightly more favorable to the United States than were those of the Hay-Herran proposed treaty as rejected by Colombia. General Reyes was too late. The Colombians had killed the goose that laid the golden egg.

CHAPTER XV

THE PANAMA MASSACRE IN 1856

THE massacre of Americans and other foreigners at Panama on April 15, 1856, was on a larger scale than the usual Latin-American atrocity. Generally the outrage is directed against an individual, or at best a few persons; in this case several hundred people were comprehended within the scope of the tragedy. On account of the gold excitement in California, travel from the Eastern States westward at this time was extremely heavy. The route across the Isthmus was by far the best one to the gold fields. The muleteers, boatmen, and innkeepers of the Isthmus had for some years been reaping a harvest in the transportation business; but the Panama Railroad, which was completed in 1855, cut off this source of revenue, and the natives now longed to be revenged upon the Americans for having introduced an institution that so adversely affected their business.

About a thousand Americans, many of whom were women and children, had landed from the Illinois at Colon, and had crossed to Panama, expecting to embark in the John L. Stephens for San Francisco. This vessel was lying in the harbor about two miles off shore, and a small boat called the Taboga was to be used in transferring the passengers from the railway station to the steamer. There was a delay of several hours in Panama, until the tide should serve. A large number of the passengers remained in the railway station, while others went to hotels and eating-houses in the vicinity.

A graphic description of the occurrence is given by Richard Belleville, in "Gunter's Magazine," for March, 1905, as follows:

"A good many of the ladies were carrying large quantities of the precious metal, obtained by the sales of their old homes in the Eastern States, intended for the purchase of new homes upon the Pacific coast. Wells, Fargo, & Co.'s tariff being very high for the transportation of the treasure either to or from California, the ladies carried their funds secreted in their baggage or about their persons; in addition some of the male passengers bore around their waists belts full of gold pieces.

"This had become very well known during their few hours' passage across the Isthmus and sojourn in the town — not only to the lower classes about the railway station, but also the Chief of Police and the Governor of Panama. It was an opportunity not to be missed.

"Among the crowd of passengers unconsciously waiting for the shambles, slouched, sad to say, an American, with just enough bad whiskey in him to make him quarrelsome. He was called 'New York Jack,' and had arrived at Aspinwall by the steamer Philadelphia. He had already purchased from a negro huckster a slice of watermelon and eaten most of it. When the native demanded his pay, he refused it.

"'*Gringo*,' cried the native, 'give me my *real!*'

"'Go to the — the devil!' hiccoughed drunken New York Jack.

"'A *real*, or your life blood, *Americano!*' The savage drew his machete threateningly.

"The black eyes of the fifty or sixty dark-skinned lounging muleteers and boatmen began to grow lurid. They approached their compatriot. Upon the delicate American ladies and children and the helpless passengers fell threatening glances.

"Noting this, another American stepped beside the drunken one and said diplomatically, 'Here's your *real*, blackie!' tossing the huckster a coin.

"'Hang it, the nigger was trying to b–bully me,' hiccoughed the drunken American, trying to draw a revolver.

"The next second there was the sound of a pistol-shot, and riot, plunder, and murder were let loose upon the defenceless Americans, who in a foreign land, in some cases burdened with their women and children, were almost helpless in the presence of a debased and armed mob.

"With a rush a hundred natives armed with machetes were upon them. It was as sudden as the massacre of Saint Bartholomew!

"At this moment the bells of the church of Santa Anna were heard sounding the alarm, and the Cuinago, or native portion of the town next the railroad depot, was already alive with hurrying blacks.

"Many lives had not been taken before the American consul, Mr. Ward, McLane, the agent of the Pacific Mail Company, and Nelson of the railroad, with some other residents of Panama, tried to stop the contest; but some of the passengers had drawn their pistols and the passions of the natives, pent up for over a year against the railroad company, had now become as uncontrollable as a tropic hurricane. A man named Willis had hastily rolled a six-pounder out of the railroad depot and trained it, loaded to the muzzle, down the lane running between the palm-thatched huts towards the Cuinago, which was crowded with the mixed races of the Isthmus.

"Suddenly a bugle was heard. It heralded the police, headed by Garrido, their chief, marching from the main town of Panama. Barefooted, but armed with muskets and well-filled cartridge boxes, they came tramping on.

"A cry of joy arose from the American ladies and children who had not as yet escaped to the steamboat. 'Law and order!' shouted one of the Americans. 'We're all right now!' said Willis, and turning away the six-pounder he rolled it back into the depot.

"The bugle sounded again. As its notes rang out, there was a crashing volley from the police; shrieks arose from the crowd of passengers as men fell dying and Mr. de Sabla, secretary of the United States consul, and Palmer, an employé of the railroad, sank wounded to the earth.

"'It's a mistake!' cried the passengers. 'The police are firing upon us!'

"Another crashing volley! Mistake no more! It was no riot. It was a

massacre, conducted by the police of Panama, — their chief at their head, the governor of the city looking on.[1]

"Supported by agents of the law, the attacking natives rushed upon the Ocean House, still full of guests unarmed and entirely defenceless. Into the hotel they broke, cutting and shooting at every one they encountered. The bar, well stored with liquors, was soon gutted.

"The mob, now half drunk, made their way upstairs and broke open and robbed every trunk belonging to the passengers, even to those of women and children, while the police fired into the Ocean House regular volleys through its thin partitions, windows, and doors, riddling the building, killing a few and wounding many more.

"Then the police drove the horde of natives out of the hotel, and thus obtained for themselves a considerable amount of money.

"The passengers who had escaped from the Ocean House and the Pacific House, which had suffered a similar fate, now ran to the railroad depot. In it at least five hundred people were congregated, many of them trying to escape along the wharf to the Taboga and some being shot while doing it.

"Here was the main and most shocking scene, not only of robbery and pillage, but of murder. The floor was covered with blood mingled with the papers of the passengers and the railroad company. Hundreds of trunks were broken open and their contents looted or scattered upon the ground.

"While the police were firing on the depot and passengers from one side, the mob broke into the depot on the other, where in cold blood they murdered many of the defenceless while on their knees supplicating for mercy.

"During the whole continuance of the riot the mob were engaged in robbing individual passengers, without regard to the sex, depriving them of all valuables and baggage, even taking rings from the fingers and earrings from the ears of the ladies. This was all done in the presence of the governor, Don Francesca de Fabriga.[2]

"Having destroyed all they could lay their hands upon in the railroad depot, the crowd now turned their attention to the rest of the passengers who had escaped on board the Taboga, but desisted in their attack, for the boat, having steam up, was ready to move. In addition, they probably feared that should the commotion proceed to the water the United States sloop-of-war St. Mary's, at anchor at some distance out in the bay, might take part in it.

"Then the rabble began to vent their hatred upon the Panama Railroad Company and commenced tearing up its tracks and destroying it.

"But word of the *émeute* having reached Captain Bailey of the war-vessel, though astounded at such an utterly unexpected outrage, he very shortly afterwards took active measures for the defence of the American passengers.

"When order was restored, lying about the railroad depot and the Pacific and Ocean houses were the corpses of eighteen Americans and foreign residents, among them those of a lady and two little children. A large number were badly wounded, one of the ladies having her hand shattered to pieces by a musket ball and another being shot through the shoulder. All these wounds were produced by the firearms of the police, as very few of the natives carried more than their usual machetes.

[1] G. M. Totten, the engineer of the Panama Railroad, specifically charged this in his report of April 18, 1856.

[2] This is quoted from the report of G. M. Totten, engineer of the Panama Railroad, April 18, 1856.

"Many Americans were missing. One of them, Mitchell Bettern, was found murdered in the woods. He had two thousand dollars on his person before he was killed.

"Those of the passengers who escaped and who afterwards reported the affair to the various New York and San Francisco papers, united in declaring that there was no excuse whatsoever for the police firing into the hotels, depot, and crowds of innocent passengers who were striving to escape, and the whole affair arose from their hatred of the Americans and a determination to kill and rob all of them they could.

"Thirty or forty natives were killed or wounded in the *mêlée*, chiefly by revolvers in the hands of returning Californians.

"Altogether, the losses of the American passengers and European residents of Panama who aided them, were eighteen killed and fifty or sixty wounded, ten of them mortally. Among the killed were two of the railroad watchmen. W. H. Hunter, secretary of the United States consul, Theodore de Sabla, and Palmer, an employé of the Panama Railroad Company, were wounded.

"The names of the others who fell upon that day can be found in the New York and San Francisco journals of the time. But Totten's report is decisive on the following points: The railway officials called upon the governor and the police for protection, and the governor and the police arrived. Instead of attempting to quiet the mob, they immediately began firing upon the railroad depot and the helpless passengers, men, women, and children, who had fled to it for safety.

"This is also borne out by the following letter from the commander of the United States sloop-of-war in Panama harbor at that time:

U. S. Ship St. Mary's, Harbor of Panama, April 23, 1856.

His Excellency Don F. de Fabriga, Governor of Panama.

Sir, — On the 15th several citizens of the United States, France, and Great Britain were massacred; others were seriously wounded, and a large amount of American property was plundered by the police and inhabitants of Panama and its vicinity.

These outrages, robberies, and murders were for the most part committed upon innocent and unarmed men, women, and children, who were peacefully endeavoring to pass this great highway of nations.

It is my chief duty to employ the force under my command for the prompt protection of the lives and property of American citizens. An early explanation, therefore, of the causes of the catastrophe, as well as some evidence of your Excellency's inclination and ability to prevent such occurrences, is desired by me, in determining the necessity of my immediate interference for the protection of the persons and property of the citizens of the United States until specific orders from my government shall be received.

I am respectfully yours, sir, your obedient servant,

(Signed) T. Bailey, Commander U. S. N.

"The atrocious conduct of the Governor of Panama and his police was confirmed by the report of Mr. Corwine, the American Commissioner appointed by President Pierce to go to Panama and investigate the outrage for the American government. Mr. Corwine reported officially that the massacre was the result of a preconcerted plan, to which the Panama authorities were privy, and that they encouraged the plot. He also affirmed that the government of New Granada was utterly powerless to preserve order upon the Isthmus and to protect foreigners resident there or passing across. He recommended that ample indemnity be demanded for the loss of life and property,

and that the New Granadian government be required to make provisions for the protection of American citizens, and that in case these demands be not complied with, military occupation should be taken of the Isthmus by the United States.

"These charges were, of course, belittled and parried both by the governor of Panama and the government at Bogotá."

Captain Allen McLane, agent of the Pacific Mail Steamship Company at Panama, made a deposition before the United States consul at Panama, which was embodied in the report of Mr. Amos B. Corwine to the United States government, and which may be regarded as authentic. I quote from Moore's Int. Arb., Vol. II, pp. 1363 *et seq.*, as follows:

"Captain McLane gives a graphic description of the scene in and about the railway station just before the riot, showing that the passengers were orderly and not anticipating any trouble. About six o'clock in the evening he heard the report of a firearm, which seemed to come from a spot outside of, but near the gate of, the railway station. This, as he was afterward informed, was the report of the shot fired during the altercation between the passenger and the watermelon vender. This report was followed almost instantly by shouting and hallooing from the same direction.

"A moment after he heard the report of the firearm, Captain McLane saw a native man come to the beach and run along it toward the city for about four hundred yards, when he lost sight of him. A few minutes later he heard a bell in the city ring an alarm, and immediately thereafter saw large crowds coming toward the railway station. From the time he heard the report of the firearm until he saw the crowds collecting about the station he thought that not more than ten minutes elapsed. From the time he heard the report until he heard the noise, which proved to be an attack on the hotels, he thought that not more than five minutes elapsed.

"At the time of the breaking out of the riot there were on the pier, where Captain McLane was standing, some thirty or forty natives who had been employed by the steamship company in discharging freight and baggage from the cars into the scows. Some of these men, seeing the excited crowds rushing toward the station shouting and waving their arms, jumped from the pier and started to join them; they returned, however, at Captain McLane's order, he explaining to them that they would only increase the excitement and become parties to the riot which had already begun. Some of these natives subsequently joined the rioters; others did not.

"When Captain McLane observed the rioters coming toward the railway station, which was about one hundred yards distant, he proceeded thither in company with two gentlemen named Center and Nelson. On his way to the ticket office he saw a party of men loading an old iron cannon, substituting for balls and bullets, of which none could be obtained, iron boiler rivets. This cannon, when loaded, was carried and placed outside of the gate of the railway station, commanding the street leading from the gate to the *cienaga*, and was put in charge of a trustworthy man, with orders not to fire it unless the natives should advance on the station and could not otherwise be restrained.

"Before he reached the station the appearance of a riot seemed so great

that Captain McLane despatched a message to the chief of police to bring his force at once. The messenger was a burly native who had for some time been in Captain McLane's employ. While bearing the latter's message, he was wounded by a ball in the neck, but he performed his mission.

"Arriving at the railway station, Captain McLane found the clerks engaged in registering tickets, the windows through which the passengers handed them being crowded; for, while the tumult was going on outside, the passengers had no conception of its seriousness, and Captain McLane himself did not expect that the station would be regularly assaulted.

"By this time many shots had been fired, principally by the natives, at the adjacent hotels, and a few by the inmates of the hotels in self-defence. Captain McLane expected the police soon to be on the ground, when it would only be necessary for them to draw up in the clear space between the station and the *cienaga* in order to restore quiet. With a view, however, to remove the passengers as speedily as possible from the reach of the excited natives, he directed the ticket clerks to put away their books and papers and to send the passengers on board the California steamer. Evidences of excitement and confusion began to appear among the persons assembled in the station. Captain McLane saw some old rusty muskets taken from the side of the room, where they had been hanging for months, and attempts made to load them; he saw pistols in the hands of several persons; many persons were asking for ammunition, though no one to his knowledge could find any; he heard afterward, however, that some was obtained and that the muskets, or a portion of them, were loaded. Perceiving the condition of affairs, he proposed to Mr. Nelson that they should endeavor to organize a few of the men around them and prepare to defend the station, should the police not arrive soon enough to prevent an attack upon it. This was found to be utterly impossible; hardly any one was armed, and there was a general feeling of helplessness and panic. About twenty men were collected at the gate of the station looking toward the *cienaga*. They were endeavoring to preserve order, and exerted themselves to restrain three or four men who would rush out in front of the gate and fire at random among the huts of the *cienaga*. Captain McLane while at the gate saw the iron cannon before referred to; it was planted so as to command the street leading from the *cienaga* to the station, and was in charge of an American named Willis, who, as has been stated, had orders not to fire it unless the natives attacked the station.

"During these scenes at the gate and early in the riot some of the passengers came on the ground in great excitement, saying that their families were in the upper stories of the hotels attacked by the natives. Some men were advanced to one of the hotels, and breaking in the side door, which was out of the range of fire, allowed the passengers to escape; at the same time a ladder was placed at one of the back windows, down which others escaped. During these occurrences many shots were fired from the *cienaga* at the hotels and toward the station. The fire of the natives on the station now increased considerably, and for the first time Captain McLane thought that an assault would be made.

"Some time before this he had invited on board the California steamer two native ladies who had come from the city to witness the embarkation and who were in an exposed position on the balcony of the railway company's mess house. He stated that their presence subsequently saved a heavily charged cannon from being fired into a crowd of some six hundred defence-

less men, women, and children, who had been placed on board the steamer for safety.

"What afterward occurred may be given in Captain McLane's own language:

"'Not a sound went from the station; doubtless each person there felt that dreadful scenes of massacre, rapine, and plunder were inevitable, unless the authorities of the country could be brought and interposed between the reckless and maddened rioters and their innocent, unarmed, and defenceless victims. At this moment the long-listened-for sound of the bugle note was heard, bringing relief to many an aching heart. We congratulated each other, and in a moment more would have been outside the enclosure to welcome our deliverers, when there was poured into the station a volley of musketry, accompanied by savage shouts for blood. This volley was quickly followed by others; the dreadful reality came upon us that the police had joined the mob. In a moment the police, headed by Colonel Garrido, had crossed the clear space between the *cienaga* and the station houses, and from under the windows of the ticket office and freight room commenced firing into them. At the same time the outside mob, with some of the police in company, entered the station from the west end along the track, firing through it to clear the way, and broke into the various rooms, machetes in hand, and began their work of murder and plunder.'

"When the police took possession of the station, Captain McLane, accompanied by another person, went to look for the governor, and, having found him after some delay, prevailed upon him to accompany them to the station and stop the massacre. But the order which it was said that the governor had previously given to the police to fire upon and occupy the station was carried out by them in such a manner that nearly every person in the station was massacred by them and the mob. It was also alleged that the governor was remiss in efforts to prevent the plunder and bloodshed which took place in his presence."

The reader will be interested in hearing what the United States government did in view of this premeditated outrage on its citizens, many of whom were helpless and unarmed.

The administration of Franklin Pierce deserves lasting censure for its despicable inactivity. After some years, an "International Mixed Commission" was appointed to "arbitrate" this affair. Its shocking disregard of the commonest principles of justice or decency is fully set forth herein, in the chapter on "Sundry Arbitrations between the United States and Latin-American Countries." Helpless people had been robbed, wounded, murdered. But no redress whatever was given them or their heirs; the perpetrators of the hideous crime were not punished; the brigand government of the country of the crime suffered not at all for the terrible part taken by armed official forces of one of its divisions; and the United States government maintained its customary attitude,— the *laissez-faire* of a too easy-going spirit.

CHAPTER XVI

CHILI'S ALLEGED FRIENDSHIP FOR THE UNITED STATES. — THE BALTIMORE AFFAIR

THE American people should not rely too implicitly upon the prophetic utterances of American diplomatic representatives to Latin-American countries. To illustrate, here is a quotation from a letter from William R. Roberts, of the United States Legation, Santiago, Chili, dated December 29, 1886, addressed to Secretary Bayard:

"I enclose extracts from two speeches delivered in the Chilian Senate on the 22d instant to which I beg to call your special attention. The subject under discussion was the annual appropriation for the Department of Exterior, and the speeches are important for two reasons: first, as an evidence of the desire of Chilian statesmen to act in concert with the United States on the question of bimetallism; next, as showing the existence of a new and better spirit towards our country. . . . I am informed on good authority that never since the formation of this government have such friendly sentiments been uttered in Congress about the United States. I look forward with great confidence to their steady and permanent growth. I may mention that Senator Concha i Toro is a very wealthy and influential man."

There is but one final test of things, — the truth. Was Chili at that time friendly to the United States? Is it friendly now, — not friendly for diplomatic purposes, but really friendly?

An account of the killing and wounding of American sailors in Valparaiso, and of other events in Chili in 1891, follows. Such occurrences suggest an answer to the above questions, — an answer not in the phrases of diplomacy, but in the logic of events. Our ministers to Latin America would do well to restrain their exuberant prophecies and confine themselves to facts.

I. The American Legation at Santiago under Espionage

During the long and bloody revolution that led to the overthrow of Balmaceda, Dictator of Chili, in 1891, and his suicide on September 19th of that year, the Chilians committed a vast number of outrages against civilized foreigners. The American Legation, Mr. Patrick Egan, Minister, was appealed to for protection by large numbers of

Americans, Englishmen, French, Germans, and other foreigners, as well as by many noted Chilians who were in danger of assassination.

Mr. Egan endeavored to avoid all favoritism and to accomplish impartially the tasks imposed upon him by the sentiments of common humanity (tasks often nicely balanced amid the exigencies of diplomacy); but he was subjected to infinite trouble and annoyance by the suspicious and treacherous Chilians.

The United States, in Chili, was simply pursuing its well-known policy of cultivating and maintaining friendly relations with the *de facto* government, of taking no part in internal affairs, but of protecting non-combatants to the best of its ability. This policy did not satisfy the fanatical Chilian faction in power, and the facts that the San Francisco, and the Baltimore, of the American navy, granted asylum to Imael Perez Montt, Julio Banados Espinosa, Domingo Godoy, and other well-known Chilian political refugees, and that the American Legation similarly sheltered others whom the then ruling authorities wished to imprison or assassinate, aroused a very bitter feeling toward the Americans.

The American Legation at Santiago was surrounded by secret police, and spies in the interest of the provisional government, and various indignities were committed against persons entering or leaving the legation. At least twenty arrests were made. The diplomatic correspondence in this connection is extensive, but the following letter from the American minister sufficiently describes the general conditions:

LEGATION OF THE UNITED STATES, SANTIAGO,
November 20, 1891 (received December 26).

SIR, — For some time past the legation has been surrounded, especially at night, by a number of secret police agents or spies, composed of peons and persons of a very low grade, who have been hanging around the corners of adjoining streets, sitting upon the doorsteps and window-sills of the adjoining houses, and lying and standing on the sidewalk of the street in front of the legation, and at a distance of only from twelve to twenty paces away from it. Some of these men have even come into the door of the legation and endeavored to induce some of the refugees to go out, offering them security from molestation in exchange for a money consideration, and on some of those occasions these spies approached the legation in a state of intoxication.

On the night of the 15th instant some of these men got drunk, knocked at the windows of the legation, and gave expression to gross insults against the refugees. Next day, 16th instant, I reported the matter by note, in moderate terms, to the Minister of Foreign Relations (enclosure No. 1), and also reported the occurrence to you by telegram.

To this note I received last evening a reply which, as will be seen from enclosed translation No. 2, evades entirely the main question.

I have replied to-day (enclosure No. 3), pointing out that this whole course of action in surrounding the legation with these spies partakes of the character of a serious impropriety and want of respect towards this legation.

The charges made in the letter of the honorable minister against the refugees, of having "with voice, with gesture, and with action, provoked the passer-by," I know to be entirely unfounded, as are also the charges of indiscretions against employés of the legation, and I cannot help feeling surprised that the minister would accept and seriously repeat such statements.

The refugees referred to are gentlemen of distinguished families and of culture, and entirely incapable of such actions as are ascribed to them; and the only time that any of the employés of the legation came into contact with the police agents who are watching the legation was when the fellows came into the legation under the influence of liquor.

I have, etc., PATRICK EGAN.

II. FALSE CHARGES AGAINST ADMIRAL BROWN

Against Admiral Brown, U. S. N., the Chilian authorities made charges which were absolutely false, but which served as a pretext for venting their spleen.

On August 20, 1891, when the Congressionalist army disembarked at Quinteros, the United States steamship San Francisco was in Quinteros Bay. She sailed at once for Valparaiso, whence Admiral Brown sent a cable despatch in cipher to the Navy Department in Washington.

The Congressionalists who were fighting the dictatorship of Balmaceda, had persistently alleged that the American authorities were too friendly with Balmaceda. This idea was a phantasm of the overwrought imaginations of the insurgent party; and it had no basis in fact save that these Americans were maintaining toward Balmaceda the attitude that the American government traditionally maintains toward the *de facto* governments of Latin America. Indeed but a few days elapsed before Balmaceda's army was routed; the insurgents took Santiago, and the United States minister recognized the provisional government formed by the Congressionalists.

To return to Admiral Brown's despatch. The Congressionalists pretended to think that the admiral had used the cable to inform Balmaceda of their movements, — a mistaken supposition quite in harmony with the intriguing, deceitful, unstable Latin-American nature. This absurd accusation was seized upon for raising a hue and cry against Americans, and the bitter feeling against them grew in intensity.

III. THE BALTIMORE AFFAIR, AT VALPARAISO

Among the many outrages against foreigners in Chili at or about the period of the revolution against Balmaceda, the murder and wounding of unarmed American sailors at Valparaiso, on October 16, 1891, holds a conspicuous position.

Captain W. S. Schley (later distinguished in the naval victory off Santiago de Cuba, and promoted from commodore to rear-admiral) was in 1891 in command of the United States cruiser Baltimore. On October 16 the Baltimore was lying in the harbor of Valparaiso. On that day Captain Schley gave one hundred and seventeen of his men and petty officers shore leave. In accordance with the rule of the Navy Department all of the shore party went quite unarmed.

In the early part of the evening these American sailors were assaulted on the streets of Valparaiso, "with a suddenness that strongly implies meditation and preparation," by a mob of about a thousand men, the mob rapidly increasing in number. "The police arrived on the scene . . . a full half-hour after the assault began," and joined the mob in its brutal work. Two of the sailors were killed; sixteen were seriously wounded; while of the mob but one was seriously hurt.

President Harrison's special message to Congress follows:

To the Senate and House of Representatives:

In my annual message, delivered to Congress at the beginning of the present session, after a brief statement of the facts then in the possession of this government touching the assault, in the streets of Valparaiso, Chile, upon the sailors of the United States steamship Baltimore, on the evening of the 16th of October last, I said:

> "This government is now awaiting the result of an investigation which has been conducted by the criminal court at Valparaiso. It is reported unofficially that the investigation is about completed, and it is expected that the result will soon be communicated to this government, together with some adequate and satisfactory response to the note by which the attention of Chile was called to this incident. If these just expectations should be disappointed or further needless delay intervene, I will, by a special message, bring this matter again to the attention of Congress for such action as may be necessary."

In my opinion the time has now come when I should lay before Congress and the country the correspondence between this government and the government of Chile, from the time of the breaking out of the revolution against Balmaceda, together with all other facts in the possession of the Executive Department relating to this matter. The diplomatic correspondence is herewith transmitted, together with some correspondence between the naval officers for the time in command in Chilean waters and the Secretary of the Navy and also the evidence taken at the Mare Island navy yard since the arrival of the Baltimore at San Francisco. I do not deem it necessary in this communication to attempt any full analysis of the correspondence or of the evidence. A brief restatement of the international questions involved and of the reasons why the responses of the Chilean government are unsatisfactory is all that I deem necessary.

It may be well, at the outset, to say that, whatever may have been said in this country or in Chile in criticism of Mr. Egan, our minister at Santiago, the true history of this exciting period in Chilean affairs, from the outbreak of the revolution until this time, discloses no act on the part of Mr. Egan unworthy of his position or that could justly be the occasion of serious animad-

version or criticism. He has, I think, on the whole borne himself, in very trying circumstances, with dignity, discretion, and courage, and has conducted the correspondence with ability, courtesy, and fairness.

It is worth while also at the beginning to say that the right of Mr. Egan to give shelter in the legation to certain adherents of the Balmaceda government who applied to him for asylum has not been denied by the Chilean authorities, nor has any demand been made for the surrender of these refugees. That there was urgent need of asylum is shown by Mr. Egan's note of August 24, 1891, describing the disorders that prevailed in Santiago, and by the evidence of Captain Schley as to the pillage and violence that prevailed at Valparaiso. The correspondence discloses, however, that the request of Mr. Egan for a safe-conduct from the country, in behalf of these refugees, was denied. The precedents cited by him in the correspondence, particularly the case of the revolution in Peru in 1865, did not leave the Chilean government in a position to deny the right of asylum to political refugees, and seemed very clearly to support Mr. Egan's contention that a safe-conduct to neutral territory was a necessary and acknowledged incident of the asylum. These refugees have very recently, without formal safe-conduct, but by the acquiescence of the Chilean authorities, been placed on board the Yorktown and are now being conveyed to Callao, Peru. This incident might be considered wholly closed, but for the disrespect manifested toward this government by the close and offensive police surveillance of the legation premises which was maintained during most of the period of the stay of the refugees therein. After the date of my annual message and up to the time of the transfer of the refugees to the Yorktown the legation premises seem to have been surrounded by police, in uniform, and police agents or detectives, in citizen's dress, who offensively scrutinized persons entering or leaving the legation and, on one or more occasions, arrested members of the minister's family. Commander Evans, who, by my direction, recently visited Mr. Egan at Santiago, in his telegram to the Navy Department, described the legation as "a veritable prison," and states that the police agents or detectives were, after his arrival, withdrawn during his stay. It appears further, from the note of Mr. Egan of November 20, 1891, that on one occasion at least these police agents, whom he declares to be known to him, invaded the legation premises, pounding upon its windows and using insulting and threatening language towards persons therein. This breach of the right of a minister to freedom from police espionage and restraint seems to have been so flagrant that the Argentine minister, who was dean of the diplomatic corps, having observed it, felt called upon to protest against it to the Chilean Minister of Foreign Affairs. The Chilean authorities have, as will be observed from the correspondence, charged the refugees and the inmates of the legation with insulting the police; but it seems to me incredible that men whose lives were in jeopardy and whose safety could only be secured by retirement and quietness should have sought to provoke a collision which could only end in their destruction, or to aggravate their condition by intensifying a popular feeling that at one time so threatened the legation as to require Mr. Egan to appeal to the Minister of Foreign Affairs.

But the most serious incident disclosed by the correspondence is that of the attack upon the sailors of the Baltimore in the streets of Valparaiso on the 16th of October last. In my annual message, speaking upon the information then in my possession, I said:

"So far as I have yet been able to learn, no other explanation of this bloody work has been suggested than that it had its origin in hostility to these men as sailors of the United States, wearing the uniform of their government, and not in any individual act or personal animosity."

We have now received from the Chilean government an abstract of the conclusions of the Fiscal General upon the testimony taken by the judge of crimes in an investigation which was made to extend over nearly three months. I very much regret to be compelled to say that this report does not enable me to modify the conclusion announced in my annual message. I am still of the opinion that our sailors were assaulted, beaten, stabbed, and killed, not for anything they or any one of them had done, but for what the government of the United States had done, or was charged with having done, by its civil officers and naval commanders. If that be the true aspect of the case, the injury was to the government of the United States, not to these poor sailors who were assaulted in a manner so brutal and so cowardly.

Before attempting to give an outline of the facts upon which this conclusion rests, I think it right to say a word or two upon the legal aspect of the case. The Baltimore was in the harbor of Valparaiso by virtue of that general invitation which nations are held to extend to the war-vessels of other powers with which they have friendly relations. This invitation, I think, must be held ordinarily to embrace the privilege of such communication with the shore as is reasonable, necessary, and proper for the comfort and convenience of the officers and men of such vessels. Captain Schley testifies that when his vessel returned to Valparaiso, on September 14, the city officers, as is customary, extended the hospitalities of the city to his officers and crew. It is not claimed that every personal collision or injury in which a sailor or officer of such naval vessel visiting the shore may be involved raises an international question; but I am clearly of the opinion that where such sailors or officers are assaulted by a resident populace, animated by hostility to the government whose uniform these sailors and officers wear and in resentment of acts done by their government, not by them, their nation must take notice of the event as one involving an infraction of its rights and dignity; not in a secondary way, as where a citizen is injured and presents his claim through his own government, but in a primary way, precisely as if its minister or consul or the flag itself had been the object of the same character of assault. The officers and sailors of the Baltimore were in the harbor of Valparaiso under the orders of their government, not by their own choice. They were upon the shore by the implied invitation of the government of Chile and with the approval of their commanding officer; and it does not distinguish their case from that of a consul that his stay is more permanent or that he holds the express invitation of the local government to justify his longer residence. Nor does it affect the question that the injury was the act of a mob. If there had been no participation by the police or military in this cruel work and no neglect on their part to extend protection, the case would still be one, in my opinion, when its extent and character are considered, involving international rights.

The incidents of the affair are, briefly, as follows:

On the 16th of October last Captain Schley, commanding the U. S. S. Baltimore, gave shore leave to one hundred and seventeen petty officers and sailors of his ship. These men left the ship about 1.30 P. M. No incident of violence occurred; none of our men were arrested; no complaint was lodged against them; nor did any collision or outbreak occur until about 6 o'clock P. M.

Captain Schley states that he was himself on shore and about the streets of the city until 5.30 P. M.; that he met very many of his men who were upon leave; that they were sober and were conducting themselves with propriety, saluting Chilean and other officers as they met them. Other officers of the ship and Captain Jenkins, of the merchant ship Keweenaw, corroborate Captain Schley as to the general sobriety and good behavior of our men. The Sisters of Charity at the hospital to which our wounded men were taken, when inquired of, stated that they were sober when received. If the situation had been otherwise, we must believe that the Chilean police authorities would have made arrests. About 6 P. M. the assault began, and it is remarkable that the investigation by the judge of crimes, though so protracted, does not enable him to give any more satisfactory account of its origin than is found in the statement that it began between drunken sailors. Repeatedly in the correspondence it is asserted that it was impossible to learn the precise cause of the riot. The Minister of Foreign Affairs, Matta, in his telegram to Mr. Montt, under date December 31, states that the quarrel began between two sailors in a tavern and was continued in the street, persons who were passing joining in it.

The testimony of Talbot, an apprentice who was with Riggin, is that the outbreak in which they were involved began by a Chilean sailor spitting in the face of Talbot, which was resented by a knock-down. It appears that Riggin and Talbot were at the time unaccompanied by any others of their shipmates. These two men were immediately beset by a crowd of Chilean citizens and sailors, through which they broke their way to a street car and entered it for safety. They were pursued, driven from the car, and Riggin was so seriously beaten that he fell in the street apparently dead. There is nothing in the report of the Chilean investigation made to us that seriously impeaches this testimony. It appears from Chilean sources that almost instantly, with a suddenness that strongly implies meditation and preparation, a mob, stated by the police authorities at one time to number 2000 and at another 1000, was engaged in the assault upon our sailors, who are represented as resisting "with stones, clubs, and bright arms." The report of the Intendente of October 30 states that the fight began at 6 P. M. in three streets which are named, that information was received at the Intendencia at 6.15, and that the police arrived on the scene at 6.30, a full half-hour after the assault began. At that time he says that a mob of 2000 men had collected, and that for several squares there was the appearance of a "real battle-field."

The scene at this point is very graphically set before us by the Chilean testimony. The American sailors, who, after so long an examination, have not been found guilty of any breach of the peace, so far as the Chilean authorities are able to discover, unarmed and defenceless, are fleeing for their lives, pursued by overwhelming numbers, and fighting only to aid their own escape from death or to succor some mate whose life is in greater peril. Eighteen of them are brutally stabbed and beaten, while one Chilean seems, from the report, to have suffered some injury; but how serious or with what character of weapon, or whether by a missile thrown by our men or by some of his fellow rioters, is unascertained.

The pretence that our men were fighting "with stones, clubs, and bright arms" is, in view of these facts, incredible. It is further refuted by the fact that our prisoners, when searched, were absolutely without arms, only seven penknives being found in the possession of the men arrested, while there were

received by our men more than thirty stab wounds, every one of which was inflicted in the back, and almost every contused wound was in the back or back of the head. The evidence of the ship's officer of the day is that even the jackknives of the men were taken from them before leaving the ship.

As to the brutal nature of the treatment received by our men, the following extract from the account given of the affair by the *La Patria* newspaper, of Valparaiso, of October 17, cannot be regarded as too friendly:

"The Yankees, as soon as their pursuers gave chase, went by way of the Calle del Arsenal towards the city car station. In the presence of an ordinary number of citizens, among whom were some sailors, the North Americans took seats in the street car to escape from the stones which the Chileans threw at them. It was believed for an instant that the North Americans had saved themselves from popular fury, but such was not the case. Scarcely had the car begun to move, when a crowd gathered around and stopped its progress. Under these circumstances and without any cessation of the howling and throwing of stones at the North Americans, the conductor entered the car and, seeing the risk of the situation to the vehicle, ordered them to get out. At the instant the sailors left the car, in the midst of a hail of stones, the said conductor received a stone blow on the head. One of the Yankee sailors managed to escape in the direction of the Plaza Wheelright, but the other was felled to the ground by a stone. Managing to raise himself from the ground where he lay, he staggered in an opposite direction from the station. In front of the house of Señor Mazzini he was again wounded, falling then senseless and breathless."

No amount of evasion or subterfuge is able to cloud our clear vision of this brutal work. It should be noticed, in this connection, that the American sailors arrested, after an examination, were, during the four days following the arrest, every one discharged, no charge of any breach of the peace or other criminal conduct having been sustained against a single one of them. The judge of crimes, Foster, in a note to the Intendente, under date of October 22 — before the despatch from this government of the following day, which aroused the authorities of Chile to a better sense of the gravity of the affair — says: "Having presided temporarily over this court in regard to the seamen of the U. S. cruiser Baltimore, who have been tried on account of the deplorable conduct which took place," etc. The noticeable point here is that our sailors had been tried before the 22d of October and that the trial resulted in their acquittal and return to their vessel. It is quite remarkable and quite characteristic of the management of this affair by the Chilean police authorities that we should now be advised that Seaman Davidson, of the Baltimore, has been included in the indictment, his offence being, so far as I have been able to ascertain, that he attempted to defend a shipmate against an assailant who was striking at him with a knife. The perfect vindication of our men is furnished by this report; one only is found to have been guilty of criminal fault, and that for an act clearly justifiable.

As to the part taken by the police in the affair the case made by Chile is also far from satisfactory. The point where Riggin was killed is only three minutes' walk from the police station and not more than twice that distance from the Intendencia; and yet, according to their official report, a full half-hour elapsed after the assault began before the police were upon the ground. It has been stated that all but two of our men have said that the police did their duty. The evidence taken at Mare Island shows that if such a statement was procured from our men it was accomplished by requiring them to sign a writing in a language they did not understand and by the representation that it was a mere declaration that they had taken no part in the disturbance.

Lieutenant McCrea, who acted as interpreter, says in his evidence that when our sailors were examined before the court the subject of the conduct of the police was so carefully avoided that he reported the fact to Captain Schley on his return to the vessel.

The evidences of the existence of animosity towards our sailors in the minds of the sailors of the Chilean navy and of the populace of Valparaiso are so abundant and various as to leave no doubt in the mind of any one who will examine the papers submitted. It manifested itself in threatening and insulting gestures towards our men as they passed the Chilean men-of-war in their boats, and in the derisive and abusive epithets with which they greeted every appearance of an American sailor on the evening of the riot. Captain Schley reports that boats from the Chilean war-ships several times went out of their course to cross the bows of his boats, compelling them to back water. He complained of the discourtesy and it was corrected. That this feeling was shared by men of higher rank is shown by an incident related by Surgeon Stitt of the Baltimore. After the battle of Placilla he, with other medical officers of the war-vessels in the harbor, was giving voluntary assistance to the wounded in the hospitals. The son of a Chilean army officer of high rank was under his care, and when the father discovered it, he flew into a passion and said he would rather have his son die than have Americans touch him, and at once had him removed from the ward. This feeling is not well concealed in the despatches of the foreign office, and had quite open expression in the disrespectful treatment of the American Legation. The Chilean boatmen in the bay refused, even for large offers of money, to return our sailors, who crowded the Mole, to their ship when they were endeavoring to escape from the city on the night of the assault. The market-boats of the Baltimore were threatened, and even quite recently the gig of Commander Evans, of the Yorktown, was stoned while waiting for him at the Mole.

The evidence of our sailors clearly shows that the attack was expected by the Chilean people, that threats had been made against our men, and that, in one case somewhat early in the afternoon, the keeper of one house, into which some of our men had gone, closed his establishment in anticipation of the attack which he advised them would be made upon them as darkness came on.

In a report of Captain Schley to the Navy Department he says:

> "In the only interview that I had with Judge Foster, who is investigating the case relative to the disturbance, before he was aware of the entire gravity of the matter, he informed me that the assault upon my men was the outcome of hatred for our people among the lower classes, because they thought we had sympathized with the Balmaceda government on account of the Itata matter, whether with reason or without he could, of course, not admit; but such he thought was the explanation of the assault at that time."

Several of our men sought security from the mob by such complete or partial changes in their dress as would conceal the fact of their being seamen of the Baltimore, and found it then possible to walk the streets without molestation. These incidents conclusively establish that the attack was upon the uniform — the nationality — and not upon the men.

The origin of this feeling is probably found in the refusal of this government to give recognition to the Congressional party before it had established itself, in the seizure of the Itata for an alleged violation of the neutrality law, in the cable incident, and in the charge that Admiral Brown conveyed

information to Valparaiso of the landing at Quinteros. It is not my purpose to enter here any defence of the action of this government in these matters. It is enough for the present purpose to say that if there was any breach of international comity or duty on our part it should have been made the subject of official complaint through diplomatic channels or of reprisals for which a full responsibility was assumed. We cannot consent that these incidents and these perversions of the truth shall be used to excite a murderous attack upon our unoffending sailors and the government of Chile go acquit of responsibility. In fact, the conduct of this government during the war in Chile pursued those lines of international duty which we had so strongly insisted upon on the part of other nations when this country was in the throes of a civil conflict. We continued the established diplomatic relations with the government in power until it was overthrown, and promptly and cordially recognized the new government when it was established. The good offices of this government were offered to bring about a peaceful adjustment, and the interpositions of Mr. Egan to mitigate severities and to shelter adherents of the Congressional party were effective and frequent. The charge against Admiral Brown is too base to gain credence with any one who knows his high personal and professional character.

Recurring to the evidence of our sailors, I think it is shown that there were several distinct assaults, and so nearly simultaneous as to show that they did not spread from one point. A press summary of the report of the Fiscal shows that the evidence of the Chilean officials and others was in conflict as to the place of origin, several places being named by different witnesses as the locality where the first outbreak occurred. This, if correctly reported, shows that there were several distinct outbreaks, and so nearly at the same time as to cause this confusion.

La Patria, in the same issue from which I have already quoted, after describing the killing of Riggin and the fight which from that point extended to the Mole, says: "At the same time in other streets of the port the Yankee sailors fought fiercely with the people of the town, who believed to see in them incarnate enemies of the Chilean navy."

The testimony of Captain Jenkins, of the American merchant ship Keweenaw, which had gone to Valparaiso for repairs, and who was a witness of some part of the assault upon the crew of the Baltimore, is strongly corroborative of the testimony of our own sailors when he says that he saw Chilean sentries drive back a seaman, seeking shelter, upon a mob that was pursuing him. The officers and men of Captain Jenkins' ship furnish the most conclusive testimony as to the indignities which were practised towards Americans in Valparaiso. When American sailors, even of merchant ships, can only secure their safety by denying their nationality, it must be time to readjust our relations with a government that permits such demonstrations.

As to the participation of the police, the evidence of our sailors shows that our men were struck and beaten by police officers before and after arrest, and that one, at least, was dragged with a lasso about his neck by a mounted policeman. That the death of Riggin was the result of a rifle shot fired by a policeman or soldier on duty is shown directly by the testimony of Johnson, in whose arms he was at the time, and by the evidence of Charles Langen, an American sailor not then a member of the Baltimore's crew, who stood close by and saw the transaction. The Chilean authorities do not pretend to fix the responsibility of this shot upon any particular person, but avow

their inability to ascertain who fired it, further than that it was fired from a crowd. The character of the wound, as described by one of the surgeons of the Baltimore, clearly supports his opinion that it was made by a rifle ball, the orifice of exit being as much as an inch or an inch and a quarter in width. When shot, the poor fellow was unconscious and in the arms of a comrade, who was endeavoring to carry him to a neighboring drug-store for treatment. The story of the police that, in coming up the street, they passed these men and left them behind them, is inconsistent with their own statement as to the direction of their approach and with their duty to protect them, and is clearly disproved. In fact, Riggin was not behind, but in front of the advancing force, and was not standing in the crowd, but was unconscious and supported in the arms of Johnson when he was shot.

The communications of the Chilean government in relation to this cruel and disastrous attack upon our men, as will appear from the correspondence, have not in any degree taken the form of a manly and satisfactory expression of regret, much less of apology. The event was of so serious a character that, if the injuries suffered by our men had been wholly the result of an accident in a Chilean port, the incident was grave enough to have called for some public expression of sympathy and regret from the local authorities. It is not enough to say that the affair was lamentable, for humanity would require that expression, even if the beating and killing of our men had been justifiable. It is not enough to say that the incident is regretted, coupled with the statement that the affair was not of an unusual character in ports where foreign sailors are accustomed to meet. It is not for a generous and sincere government to seek for words of small or equivocal meaning in which to convey to a friendly power an apology for an offence so atrocious as this. In the case of the assault by a mob in New Orleans upon the Spanish consulate in 1851, Mr. Webster wrote to the Spanish minister, Mr. Calderon, that the acts complained of were "a disgraceful and flagrant breach of duty and propriety," and that his government "regrets them as deeply as Minister Calderon or his government could possibly do"; that "these acts have caused the President great pain, and he thinks a proper acknowledgment is due to her Majesty's government." He invited the Spanish consul to return to his post guaranteeing protection, and offered to salute the Spanish flag if the consul should come in a Spanish vessel. Such a treatment by the government of Chile of this assault would have been more creditable to the Chilean authorities; and much less can hardly be satisfactory to a government that values its dignity and honor.

In our note of October 23 last, which appears in the correspondence, after receiving the report of the board of officers appointed by Captain Schley to investigate the affair, the Chilean government was advised of the aspect which it then assumed and called upon for any facts in its possession that might tend to modify the unfavorable impressions which our report had created. It is very clear from the correspondence that, before the receipt of this note, the examination was regarded by the police authorities as practically closed. It was, however, reopened and protracted through a period of nearly three months. We might justly have complained of this unreasonable delay, but, in view of the fact that the government of Chile was still provisional, and with a disposition to be forbearing and hopeful of a friendly termination I have awaited the report which has but recently been made.

On the 21st instant I caused to be communicated to the government of Chile, by the American minister at Santiago, the conclusions of this government after a full consideration of all the evidence and of every suggestion affecting this matter, and to these conclusions I adhere. They were stated as follows:

> "First. That the assault is not relieved of the aspect which the early information of the event gave to it, viz. that of an attack upon the uniform of the United States Navy, having its origin and motive in a feeling of hostility to this government, and not in any act of the sailors or of any of them.
>
> "Second. That the public authorities of Valparaiso flagrantly failed in their duty to protect our men, and that some of the police and of the Chilean soldiers and sailors were themselves guilty of unprovoked assaults upon our sailors before and after arrest. He (the President) thinks the preponderance of the evidence and the inherent probabilities lead to the conclusion that Riggin was killed by the police or soldiers.
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> "Third. That he (the President) is therefore compelled to bring the case back to the position taken by this government in the note of Mr. Wharton, of October 23 last . . . and to ask for a suitable apology and for some adequate reparation for the injury done to this government."

In the same note the attention of the Chilean government was called to the offensive character of a note addressed by Mr. Matta, its Minister of Foreign Affairs, to Mr. Montt, its minister at this capital, on the 11th ultimo. This despatch was not officially communicated to this government; but, as Mr. Montt was directed to translate it and to give it to the press of this country, it seemed to me that it could not pass without official notice. It was not only undiplomatic, but grossly insulting to our naval officers and to the Executive Department, as it directly imputed untruth and insincerity to the reports of the naval officers and to the official communications made by the Executive Department to Congress. It will be observed that I have notified the Chilean government that, unless this note is at once withdrawn and an apology as public as the offence made, I will terminate diplomatic relations.

The request for the recall of Mr. Egan, upon the ground that he was not *persona grata*, was unaccompanied by any suggestion that could properly be used in support of it, and I infer that the request is based upon official acts of Mr. Egan which have received the approval of this government. But, however that may be, I could not consent to consider such a question until it had first been settled whether our correspondence with Chile could be conducted upon a basis of mutual respect.

In submitting these papers to Congress for that grave and patriotic consideration which the questions involved demand, I desire to say that I am of the opinion that the demands made of Chile by this government should be adhered to and enforced. If the dignity as well as the prestige and influence of the United States are not to be wholly sacrificed, we must protect those who in foreign ports display the flag or wear the colors of this government against insult, brutality, and death, inflicted in resentment of the acts of their government, and not for any fault of their own. It has been my desire in every way to cultivate friendly and intimate relations with all the governments of this hemisphere. We do not covet their territory; we desire their peace and prosperity. We look for no advantage in our relations with them, except the increased exchanges of commerce upon a basis of mutual benefit. We regret every civil contest that disturbs their peace and paralyzes their development, and are always ready to give our good offices for the restoration of peace. It must, however, be understood that this government, while

exercising the utmost forbearance towards weaker powers, will extend its strong and adequate protection to its citizens, to its officers, and to its humblest sailor when made the victims of wantonness and cruelty in resentment, not of their personal misconduct, but of the official acts of their government.

Upon information received that Patrick Shields, an Irishman and probably a British subject, but at the time a fireman of the American steamer Keweenaw, in the harbor of Valparaiso for repairs, had been subjected to personal injuries in that city, — largely by the police, — I directed the Attorney-General to cause the evidence of the officers and crew of that vessel to be taken upon its arrival in San Francisco; and that testimony is also herewith transmitted. The brutality and even savagery of the treatment of this poor man by the Chilean police would be incredible if the evidence of Shields was not supported by other direct testimony and by the distressing condition of the man himself when he was finally able to reach his vessel. The captain of the vessel says: "He came back a wreck, black from his neck to his hips from beating, weak and stupid, and is still in a kind of paralyzed condition, and has never been able to do duty since."

A claim for reparation has been made in behalf of this man, for, while he was not a citizen of the United States, the doctrine long held by us, as expressed in the consular regulations, is: "The principles which are maintained by this government in regard to the protection as distinguished from the relief, of seamen are well settled. It is held that the circumstance that the vessel is American is evidence that the seamen on board are such; and in every regularly documented merchant vessel the crew will find their protection in the flag that covers them."

I have as yet received no reply to our note of the 21st instant, but in my opinion I ought not to delay longer to bring these matters to the attention of Congress for such action as may be deemed appropriate.

BENJ. HARRISON.

EXECUTIVE MANSION, January 25, 1892.

IV. INSOLENCE OF THE CHILIAN AUTHORITIES

The entire diplomatic correspondence with the Chilian government relating to this affair shows on its part not only an utter lack of good faith, but also an amazing impudence, and a general attitude of "What are you going to do about it?" The complete official correspondence may be found with the "Message of the President of the United States respecting the Relations with Chili, 1892." The letters of Mr. M. A. Matta, who acted as Minister of the Foreign Department of the Chilian Government, are in general expressed in discourteous language, with no effort to conceal his hostility to the United States.

He spoke of Minister Egan's letter of October 26 as "aggressive in purpose and virulent in language"; he spoke of the "undue pretensions and refusals" of the American minister; and at other times he used language which would put to blush even the "shirt-sleeve diplomacy" of later days.

On December 11, 1891, Señor Matta, with the consent of the

Chilian "President," sent to its so-called "Senate" a communication which was ordered telegraphed to the Chilian minister in Washington, and which was sent to Chilian representatives in all parts of the world, for general publication. The despatch ran thus:

SANTIAGO, December 11, 1891.

Señor PEDRO MONTT, Washington.

Having read the portion of the report of the Secretary of the Navy and of the message of the President of the United States, I think proper to inform you that the statements on which both report and message are based are erroneous or deliberately incorrect.

With respect to the persons to whom an asylum has been granted, they have never been threatened with cruel treatment, nor has it been sought to remove them from the legation, nor has their surrender been asked for.

Never has the house nor the person of the plenipotentiary, notwithstanding indiscretions and deliberate provocations, been subjected to any offence, as is proved by the eleven notes of September, October, and November.

With respect to the seamen of the Baltimore, there is, moreover, no exactness nor sincerity in what is said at Washington.

The occurrence took place in a bad neighborhood of the city, the *Maintop* of Valparaiso, and among people who are not models of discretion and temperance.

When the police and other forces interfered and calmed the tumult, there were already several hundred people there, and it was ten squares or more from the place where it had begun.

Mr. Egan sent, on the 26th of October, a note that was aggressive in purpose and virulent in language, as is seen by the copy and the note written in reply on the 27th.

On the 18th the preliminary examination had already been commenced; it has been delayed owing to the non-appearance of the officers of the Baltimore and owing to undue pretensions and refusals of Mr. Egan himself.

No provocation has ever been accepted or initiated by this department. Its attitude, while it has ever been one of firmness and prudence, has never been one of aggressiveness, nor will it ever be one of humiliation, whatever may be or have been said at Washington by those who are interested in justifying their conduct or who are blinded by erroneous views.

The telegrams, notes, and letters which have been sent to you contain the truth, the whole truth, in connection with what has taken place in these matters, in which ill-will and the consequent words and pretensions have not emanated from this department. Mr. Tracy and Mr. Harrison have been led into error in respect to our people and government.

The instructions [recommending] impartiality and friendship have not been complied with, either now or before.

If no official complaint has been made against the minister and the naval officers, it is because the facts, public and notorious both in Chili and the United States, could not, although they were well proved, be urged by our confidential agents. Proof of this is furnished by the demands of Balmaceda and the concessions made in June and July, the whole Itata case, the San Francisco at Quintero, and the cable companies.

The statement that the North American seamen were attacked in various localities at the same time is deliberately incorrect.

As the preliminary examination is not yet concluded, it is not yet known who and how many the guilty parties are.

You no doubt have the note of November 9, written in reply to Minister Egan, in which I request him to furnish testimony which he would not give, although he had said that he had evidence showing who the murderer was and who the other guilty parties of the 16th of October were.

That and all the other notes will be published here. You will publish a translation of them in the United States.

Deny in the mean time every thing that does not agree with these statements, being assured of their exactness as we are of the right, the dignity, and the final success of Chili, notwithstanding the intrigues which proceed from so low [a source] and the threats which come from so high [a source].

M. A. Matta.

V

Señor Matta's letter was regarded by both President Harrison and his Secretary of State as a grave insult. The latter outlined the feelings of the administration in the following letter to Mr. Egan.

Department of State, Washington, January 21, 1892.

I am directed by the President to say to you that he has given careful attention to all that has been submitted by the government of Chile touching the affair of the assault upon the crew of the U. S. S. Baltimore in the city of Valparaiso on the evening of the 16th of October last, and to the evidence of the officers and crew of that vessel, and of some others who witnessed the affray; and that his conclusions upon the whole case are as follows:

First. That the assault is not relieved of the aspect which the early information of the event gave to it, viz. that of an attack upon the uniform of the United States Navy, having its origin and motive in a feeling of hostility to this government, and not in any act of the sailors or of any of them.

Second. That the public authorities of Valparaiso flagrantly failed in their duty to protect our men, and that some of the police and of the Chilean soldiers and sailors were themselves guilty of unprovoked assaults upon our sailors before and after arrest. He thinks the preponderance of the evidence and the inherent probabilities lead to the conclusion that Riggin was killed by the police or soldiers.

Third. That he is therefore compelled to bring the case back to the position taken by this government in the note of Mr. Wharton of October 23 last (a copy of which you will deliver with this), and to ask for a suitable apology and for some adequate reparation for the injury done to this government.

You will assure the government of Chile that the President has no disposition to be exacting or to ask anything which this government would not, under the same circumstances, freely concede. He regrets that, from the beginning, the gravity of the questions involved has not apparently been appreciated by the government of Chile, and that an affair in which two American seamen were killed and sixteen others seriously wounded, while only one Chilean was seriously hurt, should not be distinguished from an ordinary brawl between sailors in which the provocation is wholly personal and the participation limited. No self-respecting government can consent that persons in its service, whether civil or military, shall be beaten and killed in a

foreign territory in resentment of acts done by or imputed to their government, without exacting a suitable reparation. The government of the United States has freely recognized this principle, and acted upon it, when the injury was done by its people to one holding an official relation to a friendly power, in resentment of acts done by the latter. In such case the United States has not sought for words of the smallest value or of equivocal meaning in which to convey its apology, but has condemned such acts in vigorous terms and has not refused to make other adequate reparation.

But it was not my purpose here to discuss the incidents of this affair, but only to state the conclusions which this government has reached. We have given every opportunity to the government of Chile to present any explanatory or mitigating facts and have had due regard to the fact that the government of Chile was, for a considerable part of the time that has elapsed since October 16th, upon a provisional basis.

I am further directed by the President to say that his attention has been called to the note of instructions sent by Mr. Matta, Secretary of Foreign Affairs, to Mr. Montt, under date of the 11th ultimo. Mr. Montt very prudently, and, I must suppose, from a just sense of the offensive nature of the despatch, refrained from communicating it officially to this government.

But in view of the fact that Mr. Montt was directed to give it to the press of this country, and that it was given the widest possible publicity throughout the world, this government must take notice of it. You are therefore directed to say to the Chilean government that the expressions therein imputing untruth and insincerity to the President and to the Secretary of the Navy in their official communications to the Congress of the United States are in the highest degree offensive to this government.

Recognizing the usual rules of diplomatic intercourse and of the respect and courtesy which should characterize international relations (which he cannot assume are wholly unfamiliar to the Chilean foreign office), the President was disposed to regard the despatch referred to as indicating a purpose to bring about a suspension of diplomatic relations; but, in view of the fact that Mr. Matta was acting provisionally and that a reorganization of the Chilean cabinet was about to take place, and afterwards in further view of the expectation that was held out of a withdrawal and of a suitable apology, notice of this grave offence has been delayed. I am now, however, directed by the President to say that if the offensive parts of the despatch of the 11th December are not at once withdrawn, and a suitable apology offered, with the same publicity that was given to the offensive expressions, he will have no other course open to him except to terminate diplomatic relations with the government of Chile.

Mr. Montt, in a note of January 20, has advised me that he has been directed by his government to inform the government of the United States that you are not *persona grata* to the government of Chile, and to request your recall. This has been laid before the President, and he directs you to say that, in view of the foregoing, he does not deem it necessary to make any present response thereto. It will be quite time to consider this suggestion after a reply to this note is received, as we shall then know whether any correspondence can be maintained with the government of Chile upon terms of mutual respect.

You will furnish to the Minister of Foreign Affairs a full copy of this note.

BLAINE.

"'But what good came of it at last?' quoth little Peterkin." The mass of impressive correspondence produced but a meagre result. The charity of the United States toward the Latin-American countries usually seems inexhaustible, and no precedents were broken this time. A "new government" was organized in Chili. There had been an "election," and "Provisional President" (*i. e.*, Military Dictator) Jorge Montt now became "President." In this new shuffle of the cards the venomous Matta had been superseded by a Chilian gentleman of smoother tongue, Señor Luis Pereira. Pereira was disposed to apologize rather than take chances. So he withdrew the offensive portions of Matta's despatch of December 11, and Chili agreed to pay to the wounded Americans and the families of those murdered an indemnity in the munificent sum of seventy-five thousand dollars. Minister Egan was notified soon thereafter that this sum was at his disposal, and, on orders from Washington, he accepted it.

Prior to this date Secretary Blaine had become alienated from President Harrison, and now took the opportunity, at a banquet given by a distinguished foreign diplomat, to criticise severely the President on account of his policy towards Chili. Mr. Blaine's criticism was telegraphed all over the United States the next morning. Mr. Blaine's comments seem disingenuous, perhaps unjust. President Harrison's preferences in this matter were perhaps thwarted by the indifference of Congress, and he probably thought that in accepting the indemnity offered by Chili, he was making the best of the situation.

CHAPTER XVII

REIGN OF TERROR UNDER THE BLOODY LOPEZ

A DESCRIPTION of Francisco Solano Lopez, the fiend incarnate, Dictator of Paraguay from 1862 to 1870, is given in the chapter on "Typical Latin-American Dictators — the Worst." During the war, from 1865 to 1870, which he provoked with the allies, Brazil, Argentina, and Uruguay, there were committed by this monster in human form more assassinations and other outrages than can be charged to Nero, Caligula, or any other human beast of history. A strange combination of ignorance, superstition, cunning, crime, and insanity, instinct with a certain military genius not to be despised and a resourcefulness seldom possessed by one of his type, Lopez thought himself to be, as a matter of course, the Napoleon of South America, and the terror-stricken populace bowed before him at his own valuation.

During this long and frightful time of carnage Lopez perpetrated inconceivable atrocities against all classes of men and women, irrespective of age or nationality. With war raging all around him, and his soldiers decimated by great battles and swept away by fevers and other calamities, Lopez augmented the general terror by torturing and murdering the victims of his displeasure. In one of these massacres, in 1868, Lopez put to death many distinguished foreigners, accusing them of a conspiracy against him, — a wretched figment of his degenerate imagination.

It seems incredible that such a monster should have been able to sway and rule a whole nation, — that thousands of men should have stood by, ready to aid his hellish purposes and carry out his diabolical orders.

But such were the facts, and even to-day terrible facts like these exist in many other Latin-American dictatorships, of which the most conspicuous is Venezuela.

Akers says: [1]

"How frightful the war was for the Paraguayans may be judged from the fact that in 1863 the population was 1,337,489. In 1871 the returns showed only 221,079 persons resident in the Republic. This attenuated population comprised 28,746 men, 106,254 women, and 86,079 children. The adult

[1] Mr. Akers' figures are based on Paraguay's alleged "statistics," which of course are guesswork.

males were those who from infirmity or weight of years had been incapable of bearing arms. In other words, the whole able-bodied male population had been sacrificed. In the latter part of the struggle women had been utilized as beasts of burden, and when no longer available for transport purposes were left to die by the roadside."

What a strange thing was that species of human nature which allowed this ferocious beast in human form practically to exterminate it? And what indecent wretches are those who will laud such a being to the skies, who will fawn and flatter at his heels like a dog at the feet of a leper, who will praise him and deify him, and call his butchery sacred, and extol his mistress as if she were a woman immaculate and holy, and place under anathema or put to mortal torture any one who does not join in the grovelling!

I

Charles A. Washburn, a distinguished man, tactful and honorable, was the American minister to Paraguay during much of this era of blood. Mr. Washburn thus describes how Lopez grasped the presidency:

"He was elected in October, 1862. His father died in August, 1862, I think. He elected himself. He was the minister of war under his father, and had command of the army, and he just took possession when the old man died. The government at Asuncion has to each district a chief and a judge, and they constituted the government of that district, and sent to the congress in Asuncion the men that Lopez wished; but even then he was afraid there was a conspiracy, and there were a great many people arrested. It was reported that his brother, who has since been shot, was engaged in the conspiracy, and that Padre Maiz, who has been a sort of head inquisitor lately, was getting up a conspiracy against Lopez. At any rate there were very strong precautions taken, and there was a great military demonstration made. The congress was held in the *Cabildo*, or government house. It was surrounded by soldiers. One of the richest men in the country ventured to remark in the congress that Francisco Solano Lopez was not the proper person to be elected; that the Constitution of the country declared that the government should not be the heritage of any one family, and that therefore the son of the deceased president should not succeed him. The objection was negatived, and everybody voted for Francisco Solano Lopez, and he was elected. This gentleman was immediately put in prison, and was never heard of afterwards."

Mr. Washburn's description of the "court" atmosphere of Asuncion is strikingly suggestive of the conditions in Caracas, Bogotá, and other cities in Latin America under tyrant domination:

"Nobody there dared say a word but 'Viva el gran Lopez!' His little paper is filled up with nothing but flourishing adulations of the great Marshal Lopez. All the time before the evacuation they were holding public meetings — every week or two — to make presents to Lopez. Even the women and

children had to give away everything they could scrape, to show their appreciation and gratitude to him; there was no resisting it. Nobody dared to hold back or to refuse to contribute. They gave him a great big album with gold covers a quarter of an inch thick, — those people who could not get enough to eat themselves. That was going on all the time. I lived there so long that I got the confidence of quite a number of people, Paraguayans. They thought I was a safe person to talk to. They even told me that there was the most universal hypocrisy there; that there was not a man, woman, or child who would not be delighted to know that Lopez was forty feet under ground. They had to go to those meetings and to make speeches and to offer their lives, fortunes, and everything else; even the women offered to take up arms under his imported mistress, who generally took the lead among the women — I mean Mrs. Lynch."

By the time Lopez had reached the cruellest stage of his bloodthirsty career, and assassinations had come to be of daily occurrence, he had looted many of the foreign legations, and had perpetrated grave indignities and imposed intolerable restrictions upon *attachés* of the American legation. Lopez hated Washburn, as a criminal hates a gentleman, and the minister's life had been made a burden to him and was actually in danger, while Mrs. Washburn was in a serious nervous condition brought on by the atrocities taking place around her. Moreover, Mr. Washburn's task was made especially difficult, his experiences were rendered especially hazardous, through the daily appeal to him for aid of hundreds of refugees, despairing victims of unspeakable cruelty.

Finally things arrived at so flagrant, so unbearable, a pass that the United States government sent a vessel for the return of Mr. and Mrs. Washburn, their suite and household.

The Paraguayan Nero had previously demanded from the American minister the surrender of two members of his legation, — Porter Cornelius Bliss, an American, and George F. Masterman, an Englishman by birth. Lopez had conceived grudges against these men and had determined to punish them.

When Mr. Washburn was leaving Paraguay, he demanded passports not alone for himself and family, but also for the members of his legation, including Bliss and Masterman. But Lopez refused to issue papers in favor of Bliss and Masterman, and, despite the minister's protests, he placed both men under arrest and submitted them to various tortures in order to extort "confessions from them."

II

There was an investigation by Congress. I quote from the report of the Committee as follows:

"On Mr. Washburn's return to Asuncion he soon found that during his absence of nearly two years great changes had taken place in Paraguay. At the time of his departure the country was in the enjoyment of profound peace,

and the people engaged in their usual vocations; on his return he found the country involved in a disastrous war; terror, alarm, and distrust prevailed on every side; industry paralyzed; the citizens denied their most precious rights, and all the resources and energies of the country pressed into the military service. Lopez, the 'Marshal President of Paraguay,' was entering upon that era of blood so indelibly impressed upon his subsequent career. He possessed absolute authority, and governed by his unrestrained will a country whose history presents a continued series of tyrannical exactions on the part of its rulers and of submissive obedience on the part of its people.

"As the tyrant is ever the slave of jealousy and suspicion, it is natural to find that Lopez, in his imagination, saw himself constantly surrounded by enemies conspiring his overthrow.

"This caused him to establish a system of espionage so general and so thorough that almost every citizen became a voluntary or involuntary informer. Torture was resorted to for the purpose of extorting confession of crimes or criminal intentions which never existed, and charges were fabricated by these means, which involved alike all who were subject to his unjust suspicions, including even those of his own blood.

"The testimony shows that the victims of his cruelty are numbered not by tens but by hundreds.

"Dr. Stewart, who resided for twelve years in Paraguay and who occupied the position of inspector-general of the hospitals and medical adviser of the Lopez family, having thus full opportunity of knowing that to which he testifies, states in his evidence the following:

"'I was an eyewitness of the horrible atrocities committed upon many hundreds of human beings who were accused of conspiracy. I saw them heavily laden with irons, and heard their cries and implorings to their torturers for mercy; Lopez knew all that was going on.

"'Torture was almost indiscriminately applied, and those who survived its barbarities were put to death.

"'No fewer than eight hundred persons, comprising natives of nearly every country in the civilized world, were massacred during those terrible months of June and December, 1868. . . .

"'The next relative whom Lopez seized was his own brother-in-law, Don Saturnino Bedoya, who in July, 1868, was tortured to death by the *cepo uruguayano*, — a mode of torture correctly described in the published statements of Mr. Masterman and Mr. Bliss.

"'I saw Lopez's two brothers, Venancio and Benigno, in irons, and heard, from many witnesses of the butchery, that Benigno had been cruelly scourged and afterward executed in December, 1868.

"'General Barrios attempted suicide after the imprisonment of his noble wife, the sister of Lopez, but recovered, and was then laden with irons. I saw him professionally before his execution, and found him quite insane; . . . and had Mr. Washburn been thrown into prison, as was at one time suggested by Mrs. Lynch and by the late bishop of Paraguay, I am convinced that he would have been tortured and made away with, like the other victims of Lopez.'

"The evidence submitted with this report fully corroborates the testimony of Dr. Stewart, and proves that cruelties have been practised to such an extent that the sacred name of home and the blessings of civilization are almost unknown in Paraguay. That in the prosecution of the deplorable struggle in which that unhappy country has been involved for the last five years, old men, the youth of tender age, and in some instances even the gentler sex, have from time to time been ruthlessly swept into the constantly diminishing ranks of the army, until the country is almost depopulated.

"In the absence of positive information on this subject, it is estimated, by those who have had opportunities of judging, that the population of Paraguay at the commencement of this war was about six hundred thousand, which in the short space of five years has been reduced by disease, famine, war, and its attendant evils, to less than one hundred and fifty thousand persons, this number consisting almost entirely of women and children." (Paraguayan Investigation, 1870, pp. xi *et seq.*)

The Congressional Committee reported fully upon the arrest, imprisonment, and torture of Messrs. Bliss and Masterman, and recounted with horrifying vividness the methods of torture.

Unfortunately for Bliss and Masterman in particular, and for the United States in general, the American navy was at that time represented in South American waters by marplotting naval officials, who seemed to be more anxious to curry favor with Lopez than to protect American interests or the honor of the flag.

The Congressional Committee, in summing up, presented these resolutions:

"*Resolved*, That Rear Admiral S. W. Godon, in neglecting to aid Mr. Washburn in reaching the government to which he was accredited, failed to discharge his duty as commander of the South Atlantic squadron.

"*Resolved*, That Bliss and Masterman were members of the personal suite of Mr. Washburn, and were therefore, under the law of nations, entitled to the protection of the officers of the United States.

"*Resolved*, That the forcible arrest and detention of Bliss and Masterman by the government of Paraguay was a violation of the law of nations, and a gross insult to the honor and dignity of the United States.

"*Resolved*, That we approve the action of the President in withdrawing our minister (General McMahon) from the government of Paraguay, and in declining to hold further diplomatic intercourse with said government.

"*Resolved*, That it is clearly the duty of our naval officers on foreign stations to render all reasonable assistance to the diplomatic officers of the United States in the discharge of their duties; and that a refusal or neglect to render such assistance when required, or any discourtesy by such naval officers toward such diplomatic officers, should be the subject of inquiry and punishment by the Navy Department." (Paraguayan Investigation, 1870, pp. xi *et seq.*)

III

The foregoing excerpts from the Committee report seem mild indeed in view of the evidence before the Committee, from which I here quote as follows:

"Captain Don Adolfo Saguier has furnished us with the following details relating to the acts of barbarity perpetrated by Lopez.

"He, Lopez, caused the prisoners to receive five hundred, a thousand, and even two thousand lashes before shooting them.

"Dr. Carraras was flogged thus most barbarously. Captain Saguier, who was placed within sight of Dr. Carraras, and, like him, in fetters for five

months, saw the punishment inflicted, and speaks of his shrieks, wrung from him by the blows inflicted with a hide rope and with sticks.

"Berges was also flogged before being shot. Don Benigno Lopez (the President's younger brother) before execution was almost cut to pieces. Captain Saguier saw it done, and knows the executioner who flogged him; he is named (Major) Aveiros, and was formerly a secretary in the internal revenue office.

"The Marquis de Caxias holds as prisoner a captain of cavalry named Matios Goiguru. It was he who commanded at the execution of Benigno Lopez, General Barrios, the Bishop, Dean Bogado, the wife of Colonel Martinez, Doña Mercedes Egusquiza, Doña Dolores Recalde, and others, whose names he does not remember.

"This took place on the 21st of December, 1869, and their execution was witnessed, by order of Lopez, by his two sisters, Innocencia, wife of General Barrios, and Rafaela, widow of Don Saturnino Bedoya (who had been put to death, as Lopez had directed, by the prolonged infliction of the torture called the *cepo uruguayana*), and his brother Venancio. They were, after the execution was over, shut up in a large bullock cart and sent away, but he does not know whither.

"The greatest number of the prisoners suffered tortures of all kinds before being made away with, such as the *cepo uruguayana*, flogging, and hunger. Many of those unhappy men who had been put to the torture died, sometimes five or six a day, from the agony or from starvation." (Paraguayan Investigation, 1870, p. 291.)

IV

Don Matias Goiburu stated, under oath, —

"that in the battle of the 3d of November, in Tuyuti, there were taken from two hundred to three hundred prisoners, of whom not more than one hundred were staked out and whipped with cords, and forty-five were shot; that, in order to consummate this cruelty, a mutiny in the encampment was invented by a man called the Viscount of Porto Alegre; that the person who did not declare all that was demanded of him by the prosecuting attorney was invariably staked out and flogged, until the confession which was demanded was obtained.

"The treatment received by prisoners in the periods later than that which is before mentioned became every day more and more cruel and barbarous; and as the position of Lopez became greatly difficult, he multiplied chastisements and diminished the food of the prisoners, and loaded them with every species of suffering; that, from the time Lopez abandoned Humaita, the officers who were in charge of the prisoners had orders to shoot every one who became tired out in the marches; and that he knows that in the marches made from San Fernando to Lomas there were shot or lanced many who had the misfortune not to be able to walk, and [were] weighed down by misery, suffering, and disease; that in later times every person who deserted the Paraguayans or was taken prisoner, whether officer or soldier, was flogged until he declared whatever was demanded of him; and that many have died through the effect of the scourge with which they suffered, others having been shot afterward; that he knew the Lieutenant-Colonel Don Gaspar Campos;

that he knows that he arrived at Villeta; that when he saw him last he was very much attenuated, and he has heard it said that he died of misery lately; that he knows that Lieutenant Morillo, of the Argentine artillery, was put to death by lancing; that many others were also sacrificed."

V

Alonzo Taylor, an Englishman, who was imprisoned by Lopez without known cause, stated under oath to the Committee, that after being arrested he was heavily ironed and compelled to undergo a terrible journey to the place of imprisonment. He says:

"After hours of incessant toil we arrived in San Fernando, a place never to be forgotten in the history of Paraguay, for it was there that nearly all the victims of Lopez perished, and under tortures, too, inflicted with fiendish ingenuity.

"Daily I saw men tortured in the *cepo de uruguayana*, of which more hereafter; others, and women, flogged, many of them to death, or shot or bayoneted in the most cruel way, during the months of July, August, and September, all of them charged with treason and rebellion, but quite innocent of those crimes. More than seven hundred of them were slaughtered altogether.

"On arriving there I saw Mr. Stark, a kind old gentleman and a British merchant. He had resided in Asuncion many years, and was greatly esteemed and respected. He looked very ill and dejected. I was not allowed to speak to him, but I saw him flogged and often treated very brutally in other ways. He was shot, with a batch of other prisoners, about the beginning of September. John Watts, another Englishman, who was chief engineer of one of the gunboats, and Manlove, an American, were shot on the same day. To the best of my knowledge only two Englishmen were shot by Lopez; the other, Mr. Oliver, died from starvation and exposure, as did one of my companions the day after our arrival.

"Old Sortera held out through months of starvation and suffering, but died eventually at Villeta of ague.

"At San Fernando were hundreds of other prisoners in the same deplorable condition as ourselves, but as we were not allowed to speak to each other, we could not compare notes, and it was only after my release that I learned that they were all charged with treason.

"Our so-called prison was only a piece of ground about twenty yards square, staked out, and with the sky for a roof. The mode of securing us was equally simple, but dreadfully painful. To one of the stakes a hide rope was made fast; prisoner number 1 lay down on his back, and loops were knotted fast around both ankles; then number 2 lay down two yards off and was tied to the same rope. This was repeated until the row was full; then another was commenced in the same way, and so on. The ends of the ropes were secured to other stakes, and they were stretched by the full length of two or three men until they were as taut as harp strings. We suffered terribly; my ankles were soon covered with sores, and almost dislocated by the strain on them. In each prison space lay about fifty men. This mode of securing prisoners is called *el cepo de lazo*, or rope stocks. Thus we lay night and day, with the exception of a short time in the morning, when we

were marched into the woods under a strong guard. Sometimes those who tied us up were more merciful than others, and did not strain the rope so tight, but frequently the agony was dreadful beyond expression.

"A chain of sentries surrounded us, and used to kick and thrash us as they pleased. They had orders to shoot or bayonet any who tried to escape. A request but for a little water was often answered by a severe flogging.

"There we lay exposed to the burning sun, to the rain and storm, and almost maddened by the biting and crawling of the thousand insect plagues of the tropics, with very little food, and that only the offal of the beasts killed for the troops. We got no salt and no tobacco, which was the greatest privation of all.

"The prisoners were of all nationalities and of all grades and positions, but with the heat, wear, and tear, the rain and wind, they were soon all alike nearly naked. And our guards used to offer us pieces of bread or a few spikes of maize for our clothes, and, suffering from hunger as we did, we were glad to purchase a day's life at the price of a coat or a shirt. Amongst them were many women, some of them belonging to the best families in the country; some quite old and gray-headed, others young and pretty, especially Dolores Recalde, a very tall and beautiful girl, and Josefa Requelme, a handsome woman, with very fine eyes. They suffered much, poor creatures, though they had little A-shaped straw huts to shelter them, as did some few of the other prisoners of the highest class; and used to weep piteously over their miserable fate.

"The torture is as follows, and this is how I suffered it: I sat on the ground with my knees up; my legs were first tied tightly together, and then my hands behind me with the palms outward. A musket was then fastened under my knees; six more of them, tied together in a bundle, were then put on my shoulders, and they were looped together with hide ropes at one end; they then made a running loop on the other side from the lower musket to the other, and two soldiers hauling on the end of it forced my face down to my knees and secured it so.

"The effect was as follows: First the feet went to sleep, then a tingling commenced in the toes, gradually extending to the knees, and the same in the hands and arms, and increased until the agony was unbearable. My tongue swelled up, and I thought that my jaws would have been displaced; I lost all feeling in one side of my face for a fortnight afterwards. The suffering was dreadful; I should certainly have confessed if I had had anything to confess, and I have no doubt many would acknowledge or invent anything to escape bearing the horrible agony of this torment. I remained two hours as I have described, and I considered myself fortunate in escaping then, for many were put in the *uruguayana* twice, and others six times, and with eight muskets on the nape of the neck.

"Señora Martinez was tortured six times in this horrible way, besides being flogged and beaten with sticks until she had not an inch of skin free from wounds."

As intimated in the foregoing statements and extracts, the testimony of Bliss, Masterman, Dr. William Stewart, and many others can be found in the "Paraguayan Investigation, 1870." See also the Hon. Charles A. Washburn's valuable work, "The History of Paraguay."

VI

During this reign of terror what did our beloved superstition, the Monroe Doctrine, accomplish toward the amelioration of conditions? What part did the United States take in protecting the interests of its own citizens, or those of other civilized persons, in Paraguay?

What did the United States achieve in the defence of civilization itself?

Members of its legation were thrown into prison and tortured, without cause, its flag was insulted, outrages were heaped upon its minister; and what did the United States *do?*

It is not pleasant to tell what it did; for that infinitesimal creature, that human microbe, the little American, was in activity. He was in command of the South Atlantic squadron, in the person of S. W. Godon; he was a Rear Admiral of the navy in the person of C. H. Davis; he was Commander in the navy in the persons of Francis M. Ramsay and W. A. Kirkland; later he was United States Minister in the person of General McMahon; and there were others, among whom let us not forget the minority members of the Congressional Investigating Committee.

The little American seemed to play into the hands of Lopez, to suspect any one whom Lopez desired to torture to death, to regard as a criminal any one whom Lopez disliked.

The attempt was made to injure Minister Washburn's influence, to harass him in his official and personal relations, to discredit him as much as possible at home and abroad.

When the demon Lopez and his attendant fiends extorted from Bliss and Masterman, in their agony, alleged confessions, implicating Mr. Washburn, themselves, and others, in conspiracies — all such alleged confessions being absolutely false, wrung from Bliss and Masterman by torture — the little American professed to believe these "confessions," and sought to humiliate, to the extent of his miserable authority and power, the victims of these unspeakable outrages.

And after the Committee on Foreign Affairs had concluded its investigation of the case, that same minute being, the little American, was astir with his minority report.

"Mr. Wood, on behalf of Mr. Swann, submitted the following resolutions for the minority of the Committee on Foreign Affairs:

"*Resolved,* That the forcible arrest and detention of Messrs. Bliss and Masterman, while under the protection of the American flag, was an outrage which demanded prompt reparation.

"2. That Mr. Washburn, in submitting to the insult of President Lopez in his refusal to grant passports to Messrs. Bliss and Masterman, and in separating himself from them in the streets of Asuncion, and leaving them in the

hands and at the mercy of the Paraguayan authorities, caused a serious compromise of the American flag, and could not be justified upon any consideration of personal safety; and that Minister Washburn, in justice to his position and in honor of his flag, ought not to have accepted his passport until permitted to withdraw with every member of his legation.

"3. That in the hostile or unfriendly attitude assumed by Minister Washburn toward Lopez and the Paraguayan government in his relations and intercourse with the President of that Republic, and in associating Bliss and Masterman with his legation (one a British subject, suspected by Lopez of a conspiracy with his enemies and the enemies of his country — both adventurers and of doubtful reputation) Minister Washburn committed a grave act of imprudence, which resulted in most, if not all, of the complications attending his residence in Paraguay.

"4. That Admirals Godon and Davis, in command of the South Atlantic squadron, have committed no act to subject them to the censure of this government or the investigation of a court-martial, said officers having, to the best of their judgment and understanding, complied with the instructions of the Navy Department and received its approval.

"5. That no legislation is required on the part of Congress, growing out of the facts stated in this record and the correspondence now on file in the State and Navy Departments.

"6. That this Committee be discharged from the further consideration of the subject."

So solicitous for the honor of the flag are these gentlemen of the minority! Had *they* been in Asuncion, there would they have remained for Lopez to shoot down. Of such wonderful stern stuff is the little American when there is no danger in sight! In fact, however, this minority should have known that had Minister Washburn conducted himself in any such inane manner as they have above outlined, he would doubtless have been murdered by Lopez; and that not only the position of Bliss and Masterman would not have become more secure, but the chances of their execution would have been considerably enhanced.

But the especial *animus* of the minority report is found in the third resolve — an attack upon gentlemen shown by the evidence to be quite as high-principled as any member of the Committee on Foreign Relations; and these strictures are seen to have been doubly despicable in view of the almost inconceivable outrages already endured by the men assailed.

Let us turn back with relief to the majority report. Surely, after this, some redress was exacted; some good came at last from these trenchant, ringing resolves? Not an iota. The government of the United States continued to trudge stolidly along its beaten path, to maintain its traditional do-nothing policy, — its policy of affording absolutely no protection whatever, either before or after the fact, to its citizens in those lands of Cimmerian darkness.

That "gem of purest ray serene," the Monroe Doctrine, gleamed on, as lustrous as ever; our dainty and modest "Sister," Paraguay, had not been rudely accosted by any of the rapacious monarchies of Europe. As for the innocent and helpless men, women, and children who had been tortured and slaughtered by Lopez — who cares for them!

CHAPTER XVIII

THE BLOCKADE OF VENEZUELAN PORTS, 1903

MOST Americans think that the blockade of Venezuela, instituted in 1903 by England, Germany, and Italy, was an unjustifiable infringement of the Monroe Doctrine, and an assault upon a weak and innocent nation for the purpose of compelling it to pay debts of doubtful validity, which "accrued under absolute freedom of contract"; and, furthermore, that the creditors, having taken their risks knowingly, were hardly within the pale of our sympathies.

At the beginning of that blockade not only was the average American "yellow" newspaper ready for war against the allies, but even the most responsible journals and the weightiest magazines were greatly aroused. A correspondent who wanted to abuse the allies was welcome to all the space he wished, but one who sought to show the true status of affairs was generally denied the opportunity.

I was a member of the latter category, and usually my communications were declined without thanks.

In the spring of 1903 one of my articles, "Is the Monroe Doctrine a Bar to Civilization?" — "By an American business man," was published by the "North American Review"; but as a whole the attempts by myself and others conversant with the facts to place the truth before the American people through the press were futile. It seems a practical impossibility to get into an American newspaper such facts and arguments upon the Monroe Doctrine as do not correspond to the previously conceived notions of the editors or to the "policy" of the paper.

During the episode of the blockade not one American newspaper or magazine, so far as I am aware, defended the allies, or expressed any sympathy for the hundreds of Englishmen, Germans, Italians, and other civilized men who had been murdered, imprisoned, or robbed by the Venezuelans.

Even our most distinguished orators and writers were unreservedly hostile to the allies; and President Roosevelt was criticised as if he had shown an excess of forbearance toward them. In a typical article in the "North American Review" for March, 1903, "A Jeffersonian Democrat" says:

"It is possible, if not probable, that the unavowed purpose of the British, German, and Italian governments, in their undertaking to enforce certain claims against Venezuela by acts of war, was to ascertain whether the American people would uphold the definition of the Monroe Doctrine set forth by President Roosevelt in his last Annual Message. That is to say, would they uphold the principle that a European government has the right, not only to inflict exemplary damages on an American republic for insults to its flag or to its official representatives, or for wrongs perpetrated on its subjects, but also to resort to the same process of violent coercion for the collection of ordinary debts — by which are meant debts that are the outcome of absolute freedom of contract — and to confiscate for the payment thereof the customs revenue of an American republic for an indefinite period? That is the fundamental and momentous question upon which the outcome of the Venezuela imbroglio will be likely to throw some light."

Having begun in this frame of mind, the "Jeffersonian Democrat" takes but a few minutes to decide that —

"The facts show, however, that, under the pretext of exacting reparation for wrongs, a secondary, if not the principal, aim of the joint expedition is the enforcement of the payment of ordinary debts due from the government or citizens of Venezuela to British, German, and Italian creditors."

Of course this is a very wrongful purpose, in the opinion of the "Jeffersonian," and dire consequences may be apprehended. He continues:

"If thirty per cent of the customs levied at certain Venezuelan ports can be sequestrated for the payment of ordinary debts, it follows that the *whole* customs revenue of another South-American republic may be confiscated, if such wholesale confiscation be needed to provide interest and a sinking fund on the debts due to European creditors. . . . There is not, indeed, a single Latin-American republic, with the possible exception of Chili, the customs revenue of which would not, soon or late, be exposed to confiscation, if the American people at this time acquiesce in the assertion of the principle that European powers are at liberty to collect by force ordinary debts from the Commonwealths of Central and South America."

Quite a mare's nest our Jeffersonian Democrat is discovering, indeed! He proceeds:

"Did or did not Mr. Roosevelt mean to say by the words ('just obligations') which we have quoted from his second Annual Message, that debts of the kind last mentioned are collectable by acts of war? Apparently, that is what the British, German, and Italian governments have undertaken to find out by their joint demonstration against Venezuela; or, rather, they have gone further, and propose to extort by coercion the payment even of those ordinary debts upon which no judgment has yet been obtained from Venezuelan courts."

"Jeffersonian Democrat" himself ought to have the experience of trying for a judgment against a military Jefe in the "Venezuelan

courts"! If he ever succeeds in obtaining such a judgment, he will not need any foreign government to collect it for him! But let him proceed:

"Mr. Roosevelt has not yet seen fit to explain that he did not include ordinary debts in the 'just obligations' which, as he said in his second Annual Message, were collectable by any acts of war that should stop short of the permanent occupation of the debtor's territory. We hope that such explanation will yet be forthcoming from him, and we are pretty sure that the American people will demand it when they are thoroughly awakened to the danger of allowing European Powers to exact from Latin-American republics the payment of ordinary debts by a 'temporary' or 'provisional' occupation of seaports, or by the confiscation of customs duties for an indefinite period. We have put the words 'temporary' and 'provisional' in quotation marks, because those were the soothing phrases applied to the occupation of Egypt by Great Britain."

These are sad words about Egypt! Is it not deplorable that England does not withdraw her army, and abandon Egypt to the tender mercies of the Porte, so that it may sink back into the barbarism that it formerly enjoyed! Oh, these Boston anti-imperialists and Jeffersonian Democrats — if they would only remove to the countries they profess to love so much!

But I have digressed. Here follows a final extract:

"It is unquestionably true that, if President Roosevelt should determine that fidelity to the letter and spirit of the Monroe Doctrine would require him to protest against attempts on the part of European Powers to enforce by acts of war upon Latin-American commonwealths the payment of ordinary debts, — that is to say, debts accruing, or alleged to have accrued, under absolute freedom of contract, — he would feel it to be his duty, as a matter of decorum and consistency, to impose a similar rule upon our State Department. Unfortunately, it is undeniable that the power and influence of our Federal Executive have more than once been employed to extort from our sister American Republics the payment, not only of ordinary debts acknowledged to be valid, but also of claims known from the outset to be questionable and subsequently proved to be fraudulent. All honest Americans deplore the pressure that was at one time brought to bear by our State Department to compel Mexico to acknowledge and pay the notorious Weil and La Abra claims. There is reason to believe that claims, almost equally indefensible, against Haiti and Dominica have at times received diplomatic support from the United States. If we purpose to go into an international court on behalf of our Latin-American friends and to demand the application of the maxim 'caveat emptor,' we must do so with clean hands. Our State Department must refrain hereafter from assisting our native creditors in the collection of ordinary debts from the governments or citizens of Latin-American Commonwealths. In the case of Latin-American Republics, as in the case of Great Britain, France, or Germany, American creditors must content themselves with an appeal to the courts of the debtor country, and then with a clear conscience we can insist that European creditors shall be relegated to the same remedy.

"This is, as we have said, the logical, the practical, and the equitable interpretation of the Monroe Doctrine, as it was originally formulated. It remains to be seen whether this construction will commend itself to the good sense, the foresight, and the sympathies of the American people."

The above statement that "Unfortunately, it is undeniable that the power and influence of our Federal Executive have more than once been employed to extort from our sister American Republics the payment . . . of claims known from the outset to be questionable, and subsequently proved to be fraudulent," is happily not borne out by the facts, but the intellectual peculiarities of the writer of the statement have doubtless blinded him to the enormity of such an unfounded charge. His argument, on the whole, is dignified and dispassionate in comparison with the average newspaper screed.

Having thus briefly noted the color and nature of the lens through which the American people were permitted to view the conduct of the allies, let us examine the facts leading up to the blockade of Venezuelan ports.

I

A long series of outrages on British and German subjects, including insults to the British and German flags, and violations of the laws of nations in seizing English and German ships, that were equivalent to piracy, were prominent factors in instigating the blockade.

On March 16, 1901, the Governor of Trinidad sent a despatch to the British Colonial office, describing an outrage perpetrated on British subjects by the Venezuelan gunboat Augusto.

On March 22, 1901, the British minister in Caracas reported to the Marquis of Lansdowne the details of outrages on J. N. Kelly of Trinidad by Venezuelan and also by revolutionary soldiers.

Off the northwest horn of Trinidad is situated the small British island of Patos. In or about the spring of 1901 Venezuela was making violent claims to sovereignty over Patos, and there were many assaults on English subjects in that vicinity.

On April 17, 1901, the British minister in Caracas informed his home government of the burning and plundering of the English sloop Maria Teresa, by a Venezuelan gunboat, off La Guaira. The crew of the Maria Teresa were shamefully maltreated.

This minister on the same date also informed his home government of a similar outrage committed on the vessel Sea Horse, owned by John Craig, a British subject of Trinidad. The crime was committed by a Venezuelan *guardacosta*, which landed a force of men on the island of Patos, assaulted the British subjects, and seized their property. The only satisfaction that the British minister obtained in this matter was a statement from the Venezuelan foreign minister that Patos belonged to Venezuela.

October 3, 1901, the Governor of Trinidad informed Mr. Cham-

berlain of the seizure of the sloop Pastor, by the Venezuelan gunboat Tutono, off Patos.

January 25, 1902, the British Colonial Office called attention to "the seizure and detention by the Venezuelan authorities of a Colonial British-owned and British-registered sloop, the Indiana, in the waters of the Barima River, in Venezuelan territory."

May 12, 1902, the Governor of Trinidad called Mr. Chamberlain's attention to the destruction of the British vessel In Time, by the Venezuelan gunboat General Crespo, at Pedernales, and to the outrage there committed upon British subjects.

June 30, 1902, the British minister at Caracas reported to the Marquis of Lansdowne "the seizure by a Venezuelan man-of-war on the high seas of the British vessel Queen."

September 1, 1902, this minister informed his government of the wrongful imprisonment by the Venezuelan authorities of the British subject A. Martin Gransaul, in the dungeon at Puerto Cabello.

October 22, 1902, this minister reported to his government a cold-blooded, unprovoked assault by the Caracas police on John Jones, a British subject, in which assault Jones was seriously cut and maimed.

Concurrently with Venezuela's piratical and outrageous deeds above mentioned against British vessels and subjects, a very large number of crimes, outrages, and other diabolic acts were being committed against the citizens of other countries.

"On December 17, 1902 (No. 194), Count Metternich communicated to the British government a memorandum which was communicated to the German Reichstag by Count Bulow on December 9, 1902:

"By the civil wars which have taken place in Venezuela during the years 1898 to 1900 and again since the end of last year, numerous German merchants and landowners have suffered serious injury, partly through the exaction of forced loans, partly by the appropriation without payment of supplies found in their possession, especially cattle for feeding the troops, and, lastly, by the plundering of their houses and the devastation of their lands. The total of these damages, as regards the civil wars during the years 1898 to 1900, amounts to, roughly, 1,700,000 bolivars (francs), while for the last civil war damages to the extent of, roughly, 3,000,000 bolivars have already been reported. Some of the injured parties have lost almost the whole of their property, and have thereby inflicted loss on their creditors living in Germany. . . .

"It may be added that the Germans in the latest civil war have been treated in a particularly inimical manner. The acts of violence, for instance, which were committed by the government troops when they plundered Barquisimeto, were principally committed at the expense of German houses. This attitude of the Venezuelan authorities would, if not punished, create the impression that Germans in Venezuela were abandoned without protection to the arbitrary will of foreigners, and would be calculated seriously to detract from the prestige of the Empire in Central and South America, and be detrimental to the large German interests which have to be protected in those regions.

"It is also here stated that the claim on behalf of the Great Venezuelan Railway, a German enterprise, equals about £300,000."

How widespread was the destruction of the lives and property of foreigners during this period may be inferred from the list of cases before the several arbitral commissions, later formed to consider claims against Venezuela. It is sufficient here to say that civilization has been practically extinguished in that country, that foreign interests have been to all intents and purposes obliterated, and that Venezuela is to-day more barbarous than it was seventy years ago.

II

Dictator Castro contemptuously received and as contemptuously dismissed the protests of the several governments and although requested by the governments of Germany and England to submit the claims of their citizens to international arbitration, refused to do so.

On January 24, 1901, he had issued a decree defining how claims should be established before his own so-called courts. This decree made it clear that it would be suicidal for any foreigner to attempt to secure any redress in these "courts."

Later his minister coolly informed the remonstrating governments that —

> "It is to be observed that the Venezuelan law which regulated the mode of preferring claims against the nation does not admit of testimonial proof unless it can be shown that the officer who caused the damage refused to give the voucher in the case, or that it was impossible to obtain it in good time." (Venezuelan Yellow Book, letter of R. Lopez Baralt, August 12, 1902.)

The British and German governments naturally objected to any such rigorous limitations by Venezuela of proof of claims (for such limitations meant nothing less than that a "confidence game" was being attempted upon the victims of the outrages); and these governments endeavored to obtain an agreement from Venezuela which should cover specifically —

1. The final determination of the sums to be paid.
2. The mode of payment.
3. Settlement of claims dating from a period earlier than May 23, 1899.

The Caracas government refused to treat with England and Germany along these lines. It insisted that the methods established by the Dictator for determining liabilities incurred by Venezuela should be employed, and those methods only; and that in no event could international law prevail over Venezuela's so-called domestic legislation, — in other words, the *decretas* of the Dictator.

Long-winded arguments on this subject fill pages of the "Yellow Book," the following being a fair sample:

> "After careful consideration of the confidential memorandum of the honorable legation of Germany, dated the 8th instant, and presenting its views

concerning the decree of the 24th of January last for the settlement of claims growing out of the war, it is found, with regret, that all its remarks revolve around an idea to which it is impossible to assent without detriment to the general principle that secures to every State the right to establish its own domestic legislation. On the one hand, the memorandum tends to deny the judicial validity of the law of February 14, 1873, regarding the manner of preferring claims against the nation, and, on the other hand, endeavors to restrict, in a certain sense, the action of the government as affecting the claims submitted to the board of classification, recently created. Such ideas, which amount to making an exception in favor of German interests in the Republic possible, could be entertained if there were two legislations in existence, — one intended to govern the interests of the Nationals and another relating to the property of foreigners. No long meditation is necessary to realize the grave injury that would be done by such a dual legislation to the nations, like the greater part of those in America, in whose development foreign immigration and the influx of foreign capital are important factors. In the course of a few lustrums the inequality of conditions between natives and foreigners would create numberless difficulties which would go so far as to make national sovereignty a mere illusion of fancy." (Ven. Ministry of Foreign Relations, March 19, 1901.)

The Venezuelan minister continued to ring the changes on this balderdash, and the government of Germany continued to stand firm.

III

The British, German, and Italian governments were anxious to avoid friction with the United States. They knew well how deeply ingrained is our primordial superstition, the Monroe Doctrine. They knew that a fetish surviving from olden days may lead a good and civilized people to react toward even fanatical extravagances. They remembered Cleveland's Message, and wished to steer clear of similar complications. So those patient countries apprised the United States freely and fully of all the wrongs they had suffered at Venezuela's hands, — indeed the facts were notorious, — but at the same time they gave the United States ample assurances that they had no intention of treading on the tail of its Sacred Serpent, — the Monroe Doctrine. And yet be it noted that while they used soft words they carried a "big stick," — that mighty array which came down upon Castro's bailiwick was not placed on show solely to impress and overawe Venezuela.

Secretary of State Hay was informed, on November 11, 1902, by the British Ambassador at Washington (Sir Michael H. Herbert), that His Majesty's government has "within the last two years had good cause to complain of unjustifiable interference on the part of the Venezuelan government with the liberty and property of British subjects."

On December 7, 1902, the German and British governments presented their ultimata to Venezuela. Two days later Venezuela arrogantly refused to accede to these demands. As stated by the umpire of the British-Venezuelan Commission, —

> "The right of intervention on the part of Germany in behalf of her subjects is distinctly repudiated by Venezuela as being a 'judicial impossibility'; 'that such intervention is contrary to the *law* of the *country* and *therefore* inadmissible under the international law'; to which the German government replies that it holds 'that national laws which exclude diplomatic intervention are not in harmony with international law, because, according to the view of the powers of the Republic, all intervention of this character could be barred by means of municipal legislation.'"

The blockade by Great Britain, Germany, and Italy of the ports of Venezuela soon followed.

Could "Jeffersonian Democrat" or any sane man contend, in view of the facts in this case, that a war commenced by the United States against the allies on this issue would have been anything less than an indication of the insanity of its promoters over the Monroe Doctrine? And yet there were thousands of our citizens who wanted the government of Washington to declare war. When a vagary, like the popular dogma under discussion, gets a firm grip upon the national mind and conscience, it is impossible to predict into what diabolism it may not allure the most virtuous and till then the most hard-headed of people!

IV

In this connection there shall be briefly noted, rather as interesting side-lights than for such historic importance as they may possess, some Venezuelan happenings in which Mr. Herbert W. Bowen conspicuously figured.

When finally the blockade closed in upon the ports of Venezuela, Mr. Bowen, but recently appointed United States minister at Caracas, accepted a position as Castro's representative (with Secretary Hay's consent, strange to say), sprang into the "lime-light," and at once proceeded with extraordinary enthusiasm to perform his task.

He sought to accomplish by bluffing what he could not achieve by argument, always insinuating that the government of the United States was supporting his demands. From his language and attitude, a sufficiently artless person might well have inferred that his was the hand that held in leash, and, upon his decision, might "let slip the dogs of war"; indeed, Bowen plainly suggested Bonaparte — in self-confidence. The following letters are samples of the diplomatic style of this retiring gentleman in communicating with the governments of Great Britain and Germany:

Mr. Bowen to Sir Michael H. Herbert.

WASHINGTON, January 27, 1903.

DEAR SIR MICHAEL, — Please do not fail to state in your cablegram that I cannot consent to give preferential treatment to the allied powers, because, if the matter were referred to the Hague, all the creditor nations would be put on the same footing. The allied powers, therefore, should not try to press the point, as it would be unfair to do so.

Believe me, etc., HERBERT W. BOWEN.

Mr. Bowen to Baron von Sternburg.

WASHINGTON, D. C., February 10, 1903.

DEAR BARON VON STERNBURG, — I agreed to pay each of the allied powers £5500 in cash, with the understanding that no other cash demand would be made. I therefore refuse absolutely to pay Germany's new demand for a cash payment of 1,700,000 bolivars and Italy's new demand for a cash payment of 2,800,000 bolivars. Our agreement was that the 1,700,000 and the 2,800,000 bolivars were to be paid out of the 30 per cent of the customs receipts at the same time and in the same manner as were to be paid the claims of all the other creditor nations. The special agreement I concluded with Germany was that I should pay cash or give a sufficient guaranty. I gave the latter, and its sufficiency has never been disputed.

I am, etc., HERBERT W. BOWEN.

Notwithstanding Mr. Bowen's allegation that if the matter were referred to the Hague "all the creditor nations would be put on the same footing," quite the opposite occurred; and he did yield to the demands of Germany, although he had said so positively that he would not.

That Bowen did really valuable service for Venezuela there is no doubt, yet, after all he had done on her behalf (and his deeds comprised not only bluster, but hard work), when he returned to Caracas he was received with disdain. Our "sister Republic," accustomed to find some ulterior motive lurking behind such generosity, was suspicious. Soon appeared in *El Monitor*, of Caracas, an article reflecting seriously on the honor of Mr. Bowen and saying that he had been paid large sums for his services. At the same time it was stated among the Venezuelans generally that Bowen (of course through his friends) was to receive from General Castro "concessions" which would be worth "millions."

Mr. Bowen took official cognizance of these attacks upon his honor by writing General Castro as follows:

CARACAS, March 4, 1904.

ESTEEMED FRIEND, — In *El Monitor* of this morning they published that Venezuela has paid to me B. 169,382.70, and that there had been paid to the arbitral commissioners and in the Hague B. 416,001.95.

I pray Your Excellency that you will please defend my honor, as I have defended the honor of Your Excellency and of Venezuela.

I will never be satisfied unless they punish the Director of said paper at once, and unless there is published in said daily, and in the *Gazeta Oficial* the truth with reference to Venezuela having paid me $5000, and that they have paid for the expenses of her three representatives at the Hague $4500.

I have raised my most energetic protests to the Minister of Foreign Affairs this afternoon, and I protest now against such calumnies to Your Excellency.

Your affectionate friend,

HERBERT W. BOWEN.

To the Most Excellent General CIPRIANO CASTRO, President, etc.

To this the secretary of the "Esteemed Friend" coolly responded that the press was free in Venezuela, just as in the United States, and that therefore the government would take no action in the premises.

Mr. Bowen the next day wrote in reply, submitting that, as during the last two years various periodicals had been suppressed by the Venezuelan government, he had supposed that such a method was the most convenient one for dealing with the calumny, to the end that the editor might be compelled to retract it and be punished for it. But, he continued, as President Castro refused to intervene in the affair and gave him to understand that he must defend himself, "tomorrow I will convoke a reunion of the Diplomatic Corps, and after it has been effectuated, I will inform you of the steps which I have decided to take." It is said that Castro stood up bravely under this fearsome threat.

Mr. Bowen accordingly attempted to assemble the Diplomatic Corps, — the representatives of the same governments that he and Wayne MacVeagh (chief counsel of the United States in the Venezuelan arbitration before the Hague Tribunal) had been but a short time before so eager to vanquish.

These gentlemen had held their tempers and kept civil tongues in their heads while the subjects of their governments were being assassinated and robbed, their flags insulted, and the ships of their compatriots looted and destroyed. They had schooled themselves to self-reserve in the face of dangers and outrages, and Mr. Bowen's ebullition of wounded feelings must have fallen upon stony ground. At all events, none of them attended the indignation meeting.

After this little *fiasco* Bowen's position grew even more uncomfortable. The other legations, remembering his professional *status* during the blockade, treated him with scant sympathy, and concerned themselves very little over the systematic insults to which Castro and his clique subjected him. His experience should be a warning to others.

When a man leaves a position as representative of the greatest and best government on this earth for a position in the service of the rottenest, let him alone bear the consequences of his act.

CHAPTER XIX

WIDESPREAD DESTRUCTION OF FOREIGN INTERESTS IN VENEZUELA

THERE have been several international arbitrations with Venezuela, because of the destruction of foreign property, and the outrages committed on foreign citizens by that government. In each one of these arbitrations those international mixed commissions which were under American influence have resolved every technicality in favor of Venezuela; hence that government has never been compelled to pay for the hundredth part of the property that it has actually confiscated or destroyed.

The decisions of the mixed commissions have merely encouraged each successive Dictator of Venezuela to be more grasping than his predecessors. The seizure of a foreigner's property means net profit and little or no risk. The august Monroe Doctrine raises a mighty barrier against foreign invasion, and unless the outrages become so extensive or so rank as to arrest the attention of the world, nothing is done toward redress. No single European nation wishes to risk war with the United States, and so the cries of its citizens go unheard, save when the volume of many-tongued laments swells to arouse all Europe. But foreign interests have now been so nearly obliterated that no really effective outcry can be anticipated. Nor is there any probability that foreign interests will soon increase, either in Venezuela, or in Colombia, Ecuador, Central America (except Costa Rica), San Domingo, or Haiti, for an attempt to establish a business in any one of the countries on this list is tantamount to an attempt to commit financial suicide.

It is evident that the foreign company would not (unless its case were desperate) present an international claim, and thus bring down upon its head the bitter hostility and reprisals that would be sure to follow. Ordinarily it would prefer to suffer, to yield to extortion, to divide its profits (if it had any) with the Dictator, in short, do everything within the bounds of reason, to avoid a collision.

While examining the cases of partial or total destruction of foreign companies, one should critically consider the extraordinary difference between the sums claimed and the amounts allowed as damages. In order justly to appreciate the enormity of the outrages committed,

and the preposterously inadequate damages allowed, one should study carefully the decisions made in typical cases by the several umpires of these mixed commissions.

So infamous were the decisions of the mixed commissions that a great many of the complainants withdrew their cases, doubtless believing that it is better to "bear those ills we have than fly to others that we know not of." If the reader will bear in mind the character of these decisions as fully described in the typical cases discussed in other parts of this work, he will obtain an idea of the extent and nature of the sufferings by foreign interests in Venezuela since the preceding international arbitration; in fact the foreign interests there have been substantially destroyed.

I. Destruction of Foreign Interests in Venezuela

In Ralston's "Report of Venezuelan Arbitrations," 1903, will be found substantially complete summaries of the claims for damages made by foreigners before the mixed commissions. From those summaries the following figures have been compiled:

Number of Claimants	Nationality of Claimant	Amount Claimed	Amount Disallowed	Amount Allowed
		[1] Bolivars	Bolivars	Bolivars
55	American	81,410,952	78,254,369	436,450
76	British	14,743,572	5,111,451	9,401,267
4	Belgian	14,921,805	4,023,161	10,898,643
261	French	17,888,512	15,224,534	2,667,079
73	German	7,376,685	5,332,723	2,091,908
377	Italian	39,844,258	37,075,172	2,975,906
30	Dutch	5,242,519	536,894	544,301
183	Spanish	5,307,626	2,158,473	1,974,818
8	Swedish	1,047,701	887,443	174,359

The enormous difference between the "Amount claimed" and the "Amount allowed" is especially noteworthy in the case of the American claims.

II. Extent of American Interests in Venezuela

The following correspondence is self-explanatory:

Caracas, Ven., December 8, 1903.

Hon. W. W. Russell, in charge of American Legation.

Dear Sir, — I am interested in knowing how many American citizens there are in Venezuela, where located, and in what business they are engaged. The only ones I know anything about are the following:

Maracaibo, — David Fleming, U. S. & V. Co.; J. H. Jardine, U. S. & V. Co.; —— Leichtner, Electric Light Co. Puerto Cabello, — W. H. Volkmar,

[1] The bolivar = about 20 cents gold.

Electric Light Co. Valencia, — W. B. Stoughton, Electric Light Co. Guanoco, — Perry and Kuhn, N. Y. & Bermudez Co. Santa Catalina, — George P. Boynton, Orinoco Co. ltd.; W. P. Scott, Orinoco Co. ltd. Ciudad Bolivar, — R. Henderson, Walter & Co.; J. Henderson, Walter & Co. La Guayra, — —— Frost, railway employé. Caracas, — L. Frost; Rudolph Dolge, laundry business; E. Henry, Singer sewing-machine; Edward Eichborn, mercantile business; —— Schleuter, engineer of gas works; Robert K. Wright, N. Y. & Bermudez Co.; Fred W. Rudloff; Del Genovese, contractor; A. F. Jauret, editor; Elois De Sola, bank clerk; Rev. Thos. S. Pond, missionary; Rev. Girard A. Bailly, missionary.

I understood there are some natives of Morocco, Tangiers, etc., who have been naturalized in the United States; also some Porto Ricans here. Aside from coffee-buyers, or investments in Electric works, I only know of three American companies actually doing business in Venezuela, namely, U. S. and Venezuela Company, Maracaibo; New York and Bermudez Co., Guanoco; and Orinoco Steamship Co., whose actual headquarters is Trinidad.

If you know of any others aside from those engaged in the diplomatic and consular service, I would thank you very much for the information.

Yours,

George W. Crichfield.

Legation of the United States, Caracas, December 9, 1903.

Mr. Geo. W. Crichfield.

Dear Sir, — I know of no other Americans, besides the ones you have mentioned, engaged in business in Venezuela. Mr. H. C. Stuart, who is living at your hotel, is the representative of the International Rubber and Trading Company lately established in the Orinoco region.

Very respectfully,

(Signed) W. W. Russell.

At the date of Cipriano Castro's ascension to power as Military Dictator, there were in the neighborhood of fifty Americans in Venezuela, engaged in various kinds of business. Among these were several electric-light concerns, trading-companies, contractors, a steamship company, and a small railway running from La Vela to Coro, and other small interests. Quite a number of valuable concessions of various kinds were also held by Americans, and several million dollars' worth of asphalt property was owned by American corporations. To-day there is scarcely a vestige of American interests left in that country. While the United States has become even more solicitous than before for the welfare of the Monroe Doctrine, the Venezuelan Dictator has determined more than ever to destroy the insignificant investments that Americans still hold in Venezuela. Substantially every concession owned by Americans has been cancelled by General Castro; every American company doing business in that country has been shut down, except one or two concerns in which the Dictator is reputed to be personally interested; and so there are to-day but a handful of Americans remaining in that country, and most of them are there

merely as custodians of property which has been despoiled or shut down by the extortions of Castro and his associates. So notorious are these facts that the Secretary of State, Mr. Elihu Root, has officially called attention to them in communications to the American minister at Caracas and otherwise, and the United States government has been placed in the humiliating position of publishing to the world the fact that American interests have been annihilated in a country in whose behalf, as our protégé, under the Monroe Doctrine, we have been on the verge of war more than once with probably the whole civilized world. The following letter from Secretary Root to Minister Russell, under date of February 28, 1907, may be regarded as the most humiliating confession ever emanating from the pen of the Secretary of State of a great government:

"You will call the attention of the government of Venezuela to the fact that, notwithstanding the long and unbroken friendship manifested by the United States for Venezuela; notwithstanding the repeated occasions upon which the United States has intervened as a friend in need to relieve Venezuela from disagreeable and dangerous complications with other powers; notwithstanding the patience and consideration which have always characterized the action of this government towards Venezuela, the government of Venezuela has within the last few years practically confiscated or destroyed all the substantial interests of Americans in that country.

"This has been done sometimes in accordance with the forms of law and contrary to the spirit of the law, sometimes without even forms of law, by one device or another, with the action of the government apparently always hostile to American interests, until of the many millions of dollars invested by American citizens in that country practically nothing remains."

III. The American Claims against Venezuela

Among the more important claims of American citizens against Venezuela the following may be noted:

1st. The claim of the United States & Venezuela Company, an American corporation with principal office at No. 1 Broadway, New York City, of which Mr. Ralph T. Rokeby is president. General Cipriano Castro himself personally made and entered into the contract, on behalf of the government of Venezuela, with the representative of this corporation. Castro was, at the date of the signing of said contract, on April 20, 1901, the unbridled, autocratic Military Dictator of Venezuela, — the government, and the sole government, and the only government in existence in that country, and so recognized by the United States and other foreign powers. He had taken possession of the country at the head of a victorious army, had abolished the constitution, and called a commission of his satellites, to form a so-called Asamblea Constituyente for the purpose of promulgating a so-called constitution, a humbug which each succeeding despot goes through with as a matter of form. The United States & Venezuela

Company had purchased a large and exceedingly valuable asphalt mine in the uninhabited and almost unimpenetrable wilderness about seventy miles west of Maracaibo, and desired the privilege of building a railroad from the head of navigation of the Rio Limon to its said mine. Under these circumstances the representative of the corporation applied to the Dictator of Venezuela for permission to build a railroad to transport the products of the mine, and such authorization was granted in the form of a contract, reasonable and fair in its provisions, and duly signed by the representatives of the corporation and by the government of Venezuela, all documents complying with the most rigorous exactness with every possible provision of the law, and drawn up by the most skilled lawyers of Venezuela, with an almost infinite number of stamps, certifications, and legal formalities. Before finally making any investment on the faith of this contract, the representative of the corporation asked the American minister in Caracas as to the legal status of the Castro government, and he was informed that Castro was the only government in Venezuela, that his government was so recognized by the United States, and that a contract made with the said government would unquestionably be binding under international law.

Under these circumstances the United States & Venezuela Company went ahead with extraordinary energy, built a splendid railroad from the Rio Limon to its mine, developed a vast section of country hitherto uninhabited, and made it a land of industry and prosperity. The company erected a large asphalt refinery, machine shops, and other appurtenant works, while a village of more than one thousand people was quickly built in the vicinity, composed mostly of employés of the company and their families. A church and school were established by the company, the native peons were taught to save their money and educate their families, and the inhabitants of the entire western part of Venezuela will testify, even to this day, to the honest, broad-minded, liberal policy of this company. The difficulties overcome in building this railroad and establishing this plant were almost insuperable, with tropical fevers and diseases of all sorts decimating the men, while revolutions and brigandage under government sanction were raging all around the works. Notwithstanding these extraordinary obstacles, the corporation had its railroad and equipment in operation within fifteen months after the date of its contract with the government of Castro. It actually invested more than six hundred thousand dollars in American gold in its enterprise, and its great asphalt lake and other property were estimated to be reasonably worth at least $2,000,000. The first year's operation of the company showed a net profit of nearly $100,000, while it was clear that, under the conditions of the business at that time, future years might be expected to show more than double the gains of the first year.

After having by his own contract induced this corporation to spend

in good faith this large sum of money in his country, General Cipriano Castro confiscated the property of the company by the simple expedient of declaring the contract which he himself made with the corporation to be unconstitutional. He did not even go through the pretence of having one of his alleged tribunals make this declaration. Castro's first pretence was that the contract had not been approved by his so-called "Congress," every member of which was appointed by himself; but when his attention was called to the fact that his Congress had passed a general act approving all the actions of himself during the period in question, and that this general approval unquestionably included the contract of the United States & Venezuela Company, he raised the issue of constitutionality, and generously offered to submit the question to his own courts to decide the issue. Thereupon he shut the corporation down and put it out of business, and when the United States asked him to arbitrate the case before an international tribunal he refused to do so.

2d. The claim of the New York and Bermudez Company is quite fully discussed in Chapters VIII and IX of this volume. The great and extremely valuable property of this corporation has been, by the methods outlined in the foregoing chapters, wholly confiscated and its income appropriated by the Dictator of Venezuela. The grounds of this confiscation are twofold:

(*a*) That the corporation had not complied with the terms of the Hamilton concession, as regards the cleaning of rivers, building of roads, and exploiting natural products, other than asphalt, from the State of Bermudez. This contention, of course, is trumped up absurdity, because the corporation owned its asphalt lake under a ninety-nine year concession, regularly granted in accordance with the provisions of the general mining law. In reason and equity, therefore, the validity or invalidity of the Hamilton concession is of no importance.

(*b*) The second contention is that the corporation aided the Matos revolution. If Castro were himself innocent of revolutionary procedure, this pretext might be taken more seriously. It happens, however, that Castro himself obtained power by revolution, and that he had a somewhat unique experience as revolutionary leader and guerrilla on the frontier of Colombia long before he became the immaculate Jefe-Supremo of our Sister Republic. It also happens that General Castro, upon his arrival at power, punished in the most vindictive manner all foreigners, as well as natives, who refused to contribute to his revolutionary propaganda. It is true that preceding military dictators of Venezuela have done the same thing, and it is very probable that General Matos, if successful, would have rewarded his friends and punished his enemies. As General Matos actually administered the *de facto* government of a large section of Venezuela, including that in which the New York and Bermudez Company was

operating, during periods varying from a few weeks or months to nearly a year and a half, and as the government of Matos, where its authority was exercised, was quite as legitimate as that of the government of Castro, and very much more honest and decent, it must be confessed that the support of Matos by the New York and Bermudez Company at the least had extenuating circumstances. If Matos was in actual control of that territory at the time the contribution was made, and if, as the corporation claims, the one hundred and thirty thousand dollars was paid to Matos for the purpose of protecting its property against revolutionary damages, another element would be presented for consideration in this case. A manager of a foreign company in Venezuela knows that if his property is burned, looted, or destroyed by revolutionary troops, there is absolutely no redress, either before the State Department at Washington, the so-called government of Venezuela, or an international tribunal, and therefore in that emergency he is disposed to pay large sums for the purpose of preventing the destruction of property.

3d. The case of the Orinoco Steamship Company, known as the Olcott case, is discussed at some length in Chapter XXII of this volume. The denial of justice resulting from the opinion of the Umpire Harry Barge placed upon the United States the difficult burden of securing a revision of this award. Umpire Barge threw practically the whole case out of court on a quibble so absurd that it calls in question the intellectual capabilities or the good faith of the judge. Umpire Barge had taken his solemn oath carefully to examine and impartially to decide according to justice all claims submitted to him which were owned by citizens of the United States against Venezuela. The decision was to be made on the basis of absolute equity, without any regard to local legislation. The umpire wholly disallowed the three most important items of the claim, or rather refused to consider them at all, and his decision was of such a character that it could not be said, in any sense of the term, to be a final decision.

It is a well-known doctrine in international law that an award may be set aside or disregarded for any one of several reasons:

(*a*) Bribery or fraud will vitiate an award;

(*b*) When the judgment is vague, uncertain, or clearly due to gross error;

(*c*) When the tribunal has exceeded its jurisdiction or entered a judgment in violation of international law;

(*d*) When the judgment is unconscionable, a flagrant denial of justice, or one which would shock common sense, the award has occasionally been set aside, and a new protocol drawn up.

On one or more of the foregoing grounds the United States requested Venezuela to agree to a revision of the Olcott award. Venezuela exhibited virtuous indignation at this request. On February 2, 1905, the Minister of Foreign Affairs of Venezuela wrote:

"As to the revision of the award of Mr. Olcott, although it is not known that any protest about the matter has been made by him, the case, in the opinion of the Federal Executive, would be of such gravity, if it were made, that in his judgment all the protocols would be annulled which your Excellency signed in Washington in the name and as the representative of Venezuela. Nothing creditable would then result to the government of the Republic from its acceptance."

On April 23, 1907, the Minister of Foreign Affairs of Venezuela replied to the United States:

"Regarding the second, third, and fourth points, the government of the United States is well aware that the questions involved in them have become *choses jugées*, and that the revision which is proposed in memorandum of the awards of the Venezuelan-American Mixed Commission in two of these matters although it would finally be favorable to Venezuela, in view of the right which is on her side, it could not then be explained why there should not be a revision of all awards of the Mixed Commission whereby Venezuela was sentenced contrary to her right which she maintained on various questions."

While Venezuela was refusing to agree to a revision of the Olcott award, on the ground that such a proceeding would be an insult to the Dutch umpire, Harry Barge, and that if this case could be reopened all other arbitrations could be set aside, etc., *ad nauseam*, it is curious to observe that Venezuela was protesting vigorously against certain other awards by international commissions where the judgments were adverse to her. Thus the Venezuelan Minister of Foreign Affairs reported to the Congress of 1904 as follows:

"The fact that Venezuela subscribed to the agreements to which I have referred [the protocols of 1903], and that by virtue of said agreements the Mixed Commissions entered upon an examination of the claims of foreign subjects, did not impose upon the government the duty of indiscriminately accepting the sentences they might render. In such cases the very faith that is to be placed in treaties, as well as the importance of arbitration in the solution of international litigations, makes it incumbent upon the governments availing themselves of it to become zealous guardians of the procedure of the persons to whom they confide such a high mission as that of settling their disagreements. The presumption that the arbiters must discharge their functions in a proper manner may at times be unfounded, and then the sentences ought not to deserve the respect, nor do they have the authority, which the protocol gives them. The character of a final decision cannot always be conceded to arbitral decisions merely because they proceed from the persons appointed to constitute an arbitration commission, for if the treaty attributes such a character to them beforehand, it is only in the belief that such decisions would not be vitiated in any manner that could render them ineffectual. The cause of arbitration will suffer severe injury if the principle should come to be accepted that all arbitral decisions must be carried out, whatever they may be. Publicists have already declared unanimously in favor of the right that governments have to seek invalidation of certain sentences, and well known are the causes that, in their opinion, may lead to that recourse."

At all events, the arguments made by Venezuela against a revision of the Olcott award did not change the opinion of the Washington State Department. On February 28, 1907, Secretary Elihu Root wrote to W. W. Russell, at Caracas, a letter pressing five American claims against Venezuela. With reference to the Orinoco Steamship case Mr. Root said:

"What the claimant now asks is the re-examination of this award by a competent and impartial tribunal. To this reasonable request, that the case of the Orinoco Steamship Company be reopened and that the case be submitted in its entirety to an impartial and international re-examination, the government of Venezuela presents as an objection the fact that this decision of the American-Venezuelan Mixed Commission on Claims is final, and that to reconsider the decision of an arbitrating court would be equivalent to ignoring the force of such decision.

"To this there is an obvious and very reasonable reply, to wit: that a decree of an arbitrating court is only final when the court proceeds within the terms of the protocol which established the jurisdiction of the court, and that when such terms are ignored the decision is necessarily deprived of the right of final force. In this individual case the protocol specifically said that 'the Commissioners, or in case they should not agree, the Arbitrator, shall decide all the claims upon a basis of absolute equity, without paying attention to objections of a technical character nor to the provisions of local legislation.'

"The equity alluded to is clearly not the local equity, that is, not necessarily the equity of the United States nor the equity of Venezuela, but the spirit of justice applied to a particular question without attention to local statutes, regulations, or interpretations. . . . It is difficult to see how the arbitrator could have more clearly ignored the most common principles of justice and equity. . . . The award of the arbitrator, therefore, which ignored these simple yet essential considerations, is in every respect unacceptable. He assumed, it is true, the jurisdiction; but the error which he made is so serious and evident that this government cannot ask its citizens to accept this award as final.

"Although the attention of Venezuela has been called several times to these arguments, and it has been courteously and trustingly requested to submit the case of the claimant in its entirety to re-examination by a competent and impartial tribunal, the Venezuelan government has briefly objected that the awards of the Commissioners, and in case that they do not agree, 'those of the Arbitrators, shall be final and conclusive.' At the very same time, and almost at the very moment that Venezuela declared the final force of the awards of the Commission, it was engaged in protesting against the Mexican and Belgian awards, although the protocols in conformity with which these two Commissions were established stipulated that 'the decisions of the Commissioners, and in case they should not agree, those of the Arbitrators, shall be final and conclusive.' To a disinterested party it would seem, therefore, that the awards in favor of Venezuela are final and conclusive, but that awards adverse to her are not final nor absolutely conclusive. In this conflict between theory and practice this government naturally invokes the practice of Venezuela. . . .

"In view, therefore, of the circumstances of the case and of the express

violations of the terms of the protocols, or of errors in the final award arising from serious errors of law and of fact, and in the light of the history of both nations in the matter of arbitral awards, this government insists upon the reopening and resubmission of the entire case of the Orinoco Steamship Company to an impartial and competent tribunal, and confidentially expects them."

4th. On September 22, 1883, Mr. C. C. Fitzgerald entered into a contract with the Venezuelan government for the development of a vast tract of territory, comprising about ten thousand square miles, in the delta of the Orinoco. This was at a time when England lay claim to much of the country in question, and the Venezuelan Dictator believed that if an American citizen or corporation were granted the enormous privileges specified in the concession, it would enable him to enlist the United States on his side in any war which he might have with England regarding territorial rights in that district. Mr. Fitzgerald, a well-known American engineer, evidently took the concession seriously (although the Venezuelan Dictator obviously had not the slightest intention of respecting the provisions of this contract, which was entered into purely for the sinister tactical purpose above described), and he proceeded to organize an American corporation, and to raise large sums of money for the purpose of developing the property. He organized the Manoa Company, Limited, with a capital stock of several million dollars, a considerable amount of which was paid in cash, and he transferred the Orinoco concession, with the consent of the Venezuelan government, to said company on June 14, 1884. Some three or four years later Guzman Blanco, the Military Autocrat of Venezuela, without even taking the trouble to secure any pretended annulment of the Fitzgerald concession, entered into a new contract covering the identical subject matter and expressed in almost the same language, the new concessionaire being an American, George Turnbull. This new concession was signed on January 1, 1886. On September 9, 1886, Blanco declared the Fitzgerald contract cancelled, on account of alleged non-fulfilment of its terms and conditions on the part of Fitzgerald, and on April 28, 1887, the so-called Congress of Venezuela approved the Blanco-Turnbull concession.

It is far beyond the scope of this work to follow the complicated and almost interminable skein of litigation connected with the Orinoco concession from the date of the original grant up to the present time. There have been lawsuits and counter lawsuits between the grantees, and their successors in interest, and the succeeding Military Dictators of Venezuela. There have been intrigues and reprisals, assaults and surprises, murders and hair-breadth escapes, extortion by local and national military despots, squandering of corporate funds, assignments, and bankruptcies growing out of this concession, surpassing by far the record of the New York and Bermudez case, and equalling

in unique interest perhaps the record of any other corporate venture in history.

On June 18, 1895, General Crespo cancelled the Turnbull concession and reinstated Fitzgerald. The Manoa Company, Limited, then sold out to the Orinoco Company, Limited, and on October 10, 1900, General Cipriano Castro issued an executive decree destroying the rights of the latter company and declaring the original Fitzgerald concession to be void. Before the Mixed Commission in the Venezuelan arbitration of 1903 George Turnbull appeared with a claim of one million three hundred thousand dollars; the Manoa Company, Limited, claimed five million dollars, and the Orinoco Company, Limited, one million three hundred thousand dollars, for having been despoiled of their property, and of money invested in virtue of the Turnbull and Fitzgerald concessions. The umpire of the Mixed Commission, in a brainless and conscienceless decision, dismissed these claims, and left the innocent investors in these enterprises helpless. Since that date the Orinoco Corporation has acquired all the rights and interests of all claimants, and it has requested that the case be submitted to a competent international tribunal for the purpose of rendering final judgment thereon.

Secretary of State Root, who may be regarded as one of the ablest lawyers in the United States, or perhaps in the world, looked into this case thoroughly, and it is stated that he regarded the Fitzgerald concession as a valid and binding contract, — that as an agreement between two parties it could not be cancelled by either without the consent of the other, and that the case in equity ought to go to an international tribunal for its final determination.

On this point Secretary Root requested of Venezuela that it should submit to the arbitration of The Hague, or to some other competent international tribunal, the following questions:

> "Whether the contract rights of the Orinoco Corporation have been destroyed, or the value of its concession injured, by alleged unjust acts of the Venezuelan government; whether loss has been caused to the Manoa Company, Limited, to the Orinoco Company, Limited, and the Orinoco Corporation, or to any of them, while they have been in partial or entire possession, or constructively in possession, of rights under the so-called Fitzgerald concession; to fix the damages arising to the present holders of the Fitzgerald concession from alleged acts of opposition or usurpation by the Venezuelan government."

5th. There are several minor claims of American citizens against Venezuela which the State Department has repeatedly pressed for consideration and always without success. One of these is the case of F. J. Jaurett, an American citizen who was formerly editor of the "Venezuelan Herald," in Caracas. Mr. Jaurett was summarily expelled by Dictator Castro without excuse or pretext. Of course this destroyed Mr. Jaurett's newspaper property. The few remaining

American interests in Venezuela which have been destroyed by Dictator Castro are relatively unimportant as regards magnitude. The concession of the International Rubber and Trading Company, an American concern, was cancelled by General Castro, and the enterprise driven into bankruptcy. The electric light works at Maracaibo, an American corporation, has been in hot water for a long time through governmental interference, but, observing the course of our State Department at Washington, has very prudently decided to endure without complaint anything short of complete annihilation. The railroad from La Vela to Coro is in substantially the same fix. An American cannot live and do business in Venezuela at the present time, this is certain.

IV. Dictator Castro refuses to arbitrate

On January 28, 1905, Secretary Hay instructed Minister Bowen to try to get Venezuela to agree to the principle of an impartial arbitration of the pending claims. Castro refused, but he was willing, so he stated, to have an international tribunal decide whether or not the cases presented by the United States were diplomatic questions.

This ridiculous proposition was met by a reply from the State Department, on January 30, 1905, saying that it could not agree to submit to any tribunal to decide whether any question is or is not a diplomatic question. That would be an innovation. The United States requested that the pending claims be submitted to arbitration on their merits.

On February 2, 1905, Mr. Bowen reported to the State Department: "The President declines to arbitrate the five American cases and to submit to arbitration whether pending questions are diplomatic or not, and finally to submit to a tribunal of arbitration to fix the sum that should be paid out of the customs revenues."

The wily Castro now took a new tack. He offered to make a general treaty of arbitration covering future diplomatic questions, but he held that the pending claims were before his courts, and hence were not diplomatic and could not become such. He therefore refused at all hazards to arbitrate pending claims. As a matter of fact, the claims under discussion involved every American citizen in Venezuela, for the last vestige of American interests has been practically destroyed by Castro and his satellites. There is no probability of fresh diplomatic questions between the United States and Venezuela in the immediate future, growing out of any new American interests to be hereafter developed in that country, and hence a general arbitration treaty applicable to future diplomatic questions, with Castro himself to decide what are and what are not diplomatic questions, would amount to nothing.

Secretary Hay stated that Venezuela's proposition "to enter into

a treaty of arbitration to determine what questions may become diplomatic cannot be taken seriously."

Mr. Bowen wrote to Secretary Hay under date of February 5, 1905:

"I am decidedly of the opinion that we should not make a treaty with him of that kind until he settles all pending questions in conformity with our repeated requests, and consents to accept our definition of what are diplomatic questions. His evident purpose is to maintain the Calvo doctrine in its integrity, and he has no doubt he can do so if he can persuade the government of the United States to agree to make with Venezuela a general treaty of arbitration of settling questions that may become diplomatic according to the rules of international law."

In passing it is worth while to note that Mr. H. W. Bowen recently wrote a magazine article criticising the Washington administration for its alleged refusal to arbitrate with Venezuela. Mr. Bowen evidently forgot that his written reports as American minister at Caracas would be published in "Foreign Relations of the United States." On pages 1023 and 1024, "Foreign Relations for 1905," Mr. Bowen says:

"I have just had a talk with General Ybarra, the Minister of Foreign Affairs. He told me that he has cabled to Washington in the hope of securing your assent to the making of a general arbitration treaty. I expressed the opinion that he would not succeed unless he is willing to submit to arbitration the asphalt case and all other pending cases that cannot be settled by mutual consent. He replied that President Castro was anxious to make only one treaty and to have that cover everything. That might be possible, I remarked, 'If he really would let it cover everything, but so far he has excluded everything. Send for me the moment he consents to submit the asphalt case and other questions to arbitration, and we will then see what we can do.'"

Mr. Bowen reported to Secretary Hay on March 4, 1905, that President Castro "did not take the correspondence seriously and attached but little importance to it."

Under date of April 5, 1905, Mr. Bowen reported to Secretary Hay:

"As my correspondence with the government in regard to arbitration ended in an absolute refusal on the part of President Castro to favor any of my suggestions, and was interpreted by him as evidence that I was attempting to impair the good relations between the United States and Venezuela, I decided to submit to him a copy of your note of March 10, in order that he might have the opportunity to ponder carefully your views and conclusions, and to answer them without being influenced by any feeling of personal animosity, as he may have been when he replied to my notes.

"That he failed to avail himself of the opportunity is very apparent. The whole tone of his answer to your note is exceptionally impetuous, while the arguments he employs are distinctly disingenuous and obviously absurd."

Under date of March 10, 1905, Secretary Hay sent the following letter to Minister Bowen, at Caracas:

"I have to acknowledge the receipt of your 385, on the 5th ulto. in regard to the pending negotiations between the United States and Venezuela.

"In reply I have to say that the Department approves your opinion that we should not make a general arbitration treaty with Venezuela until all pending questions between the two governments have been settled in conformity with the Department's instructions heretofore given. In the light of President Castro's statement to you, contained in the note of the minister of foreign affairs of February 2, 'The very fact of submitting to an arbiter the decision as to whether a question is diplomatic or not would be not only a proof that it was not, but even prejudicial to the exact investigation of the questions by the chancelleries that are to discuss them.' This language of the President completely demonstrates the futility of proposing or discussing the formation of an arbitration treaty for the purpose of deciding the question whether a case is diplomatic or not.

"In short, the language quoted shows the inability of this government to accede to any arbitration of the question proposed. Taking the Bermudez Asphalt Company case as an example, if the question were submitted to a tribunal to decide whether or not the case is diplomatic, it would involve the presentation before an international tribunal of many details in connection with prosecutions instituted against the Bermudez Company which this government would wish to be spared the necessity of presenting. Incidents such as have characterized the successive prosecutions of the Bermudez Company were fully considered by the Department of State before it determined whether or not the government ought to intervene with the Venezuelan government for the protection of the company. Once its decision to intervene is taken and an arbitration arranged, the case then goes to the tribunal on its merits, and it would be very inconvenient, since it might lead to recriminations creating resentments, if the intervening government had to show the many serious charges and proofs adduced that the Executive had overawed the courts and by removals and imprisonments of judges and of attorneys, and by interposing other obstacles to the due and impartial administration of justice, had thus finally convinced the intervening government of the propriety and necessity of its action. Expositions and discussions of this nature would not conduce to the maintenance of that mutual respect and friendship which should continue in spite of serious controversies between differing governments.

"The revision of the Olcott award could not have the serious consequences supposed in the note of the minister addressed to you on February 2. The protocol for the revision of that award would be so drawn that the action of the reviewing tribunal would have no effect on the previous protocol and awards. It would have the effect, however, and this the Department asks, that the tribunal might fairly and fully reconsider the whole case and render to Mr. Olcott that justice which appears to have been denied by the award given under the previous protocol.

"The attitude of the Venezuelan government toward the government of the United States and toward the interests of its citizens who have suffered so grave and frequent wrongs arbitrarily committed by the government of Venezuela require that justice should now be fully done, once for all. If the government of Venezuela finally declines to consent to an impartial arbitra-

tion, insuring the rendition of complete justice to these injured parties, the government of the United States may be regretfully compelled to take such measures as it may find necessary to effect complete redress without resort to arbitration. The government of the United States stands committed to the principle of impartial arbitration, which can do injustice to nobody, and if its moderate request is peremptorily refused it will be at liberty to consider, if it is compelled to resort to more vigorous measures, whether those measures shall include complete indemnification, not only for the citizens aggrieved, but for any expenses of the government of the United States which may attend their execution."

This brought forth a reply, under date of March 23, 1905, from Alejandro Ybarra, Venezuelan Minister of Foreign Relations, as follows:

"I limit myself to acknowledging the receipt of your Excellency's note of the 19th instant and of the enclosure of his Excellency, Mr. John Hay, of the 10th, because I believe, with good foundation, that the Venezuelan government has in reality no pending questions with the government of the United States, it being an evident fact, supported by every kind of evidence, that the Venezuelan government arranged in Washington, by its protocols signed in 1903, the subjects that could be matters for discussion and that were decided by the Mixed Commission that afterwards met in Caracas.

"As, on the other hand, one of the matters which is treated by his Excellency Mr. Hay is found contained in those decisions, which is the same as if we should say that it has already the potency of things adjudicated, and because the Venezuelan government would consider it as an offence to the honor of the Dutch nation and of the Dutch umpire, Mr. Harry Barge, who decided the Olcott claim, acquiescence could not be given to such an unreasonable request without failing in the respect which is due to that which has been agreed upon, and it would be at the same time even a reason for believing that not even a new agreement, judgment, or arbitration could be executed; so with the matter of the New York and Bermudez Company, his Excellency Mr. Hay ought to know that by its nature it is one of the cases that belong to the ordinary courts of the country, to which the laws now existing remit the case, and to which are subject all those of foreign nationality who come to reside or make contracts here.

"The Provisional President of the Republic charges me, then, to say to your Excellency, in order that you may in turn communicate to his Excellency Mr. John Hay, that this government, in order to consider his note, needs to know at once and for the aforesaid reasons whether the matter in question relates to the sovereignty and independence of this Republic, — that is to say, whether or not the government of the United States respects and reveres the legislation of this Republic and the nobility of its tribunals, and whether it respects and reveres equally the agreements and arbitral decision which it, representing the Venezuelan government, concluded."

PART V — ARBITRATIONS WITH LATIN-AMERICAN COUNTRIES

CHAPTER XX

SUNDRY ARBITRATIONS BETWEEN THE UNITED STATES AND LATIN-AMERICAN COUNTRIES

O judgment! thou art fled to brutish beasts,
And men have lost their reason.

SHAKESPEARE: *Julius Cæsar.*

THE following are the principal arbitrations between the United States and the countries of Latin America, Mexico excepted. The results of these arbitrations constitute a failure of justice such as can have no parallel in the history of the world's judiciary.

I. PANAMA RIOT AND OTHER CLAIMS UNDER THE CONVENTION OF SEPTEMBER 10, 1857

The massacre of American citizens at Panama on April 15, 1856, is described in another chapter. President Franklin Pierce seemed disposed to ignore or minimize this atrocious crime against defenceless men, women, and children. In his Message to Congress in December, 1856, President Pierce referred to this affair, but his language was brief and perfunctory. Instead of seeing to it that justice, summary and dreadful, was meted out to the perpetrators of that awful carnage, and that swift financial redress was awarded to the victims or their representatives, the State Department (administrations of Pierce and Buchanan) drifted along for about a year and a half, until, on September 10, 1857, a convention with New Granada was executed at Washington to submit to a Board of Commissioners all claims against New Granada "which shall have been presented prior to the 1st day of September, 1859." An additional year or two was spent in the exchange of "ratifications" by the two governments, but finally the Commission met, in Washington, on June 10, 1861.

Elias W. Leavenworth, of New York, was the Commissioner for the United States; José Marcelino Hurtado, for New Granada; and N. G. Upham, of New Hampshire, was selected as umpire.

The Commission, after having spent much time over questions of procedure and other technicalities, began in December, 1861, to call the calendar of claims. Some of the quibbles raised by New

Granada's agent, Mr. James M. Carlisle, indicate the spirit that animated his principal; thus, although, by the first article of the convention, New Granada had expressly acknowledged and assumed liability for the injuries and losses of citizens of the United States by reason of the riot of April 15, 1856, Mr. Carlisle argued that the Commission should dismiss all the cases on the ground that "the language of the first article was a mere confession on the part of New Granada of liability to have the claims made against her, and not of liability for their payment"!

At last the Commission got to work upon the 262 separate claims filed. Before its work was half finished, however, it adjourned *sine die*, on March 9, 1862. The time had now expired within which, under the convention, the Commission could decide; yet it had been frittering away months of valuable time over technicalities and inane quibbles.

On March 11, 1862, United States Commissioner Leavenworth reported to Secretary of State William H. Seward, that the Commission had decided 109 cases, and also had made two partial awards; that 107 cases still remained unsettled; that of the 111 cases decided, 89 were by agreement of the Commissioners, and 22 by the umpire; that of the 89 cases decided by the Commissioners, 51 were decided in whole or in part favorably to the claimants, and 38 were wholly disallowed.

The 51 awards made by the Commissioners were:

For seven deaths	$33,500.00
Injuries to eight persons	18,550.00
For seizure cargo schooner Mechanic	27,337.21
For property and personal injuries in thirty-six cases	20,370.00
	$99,757.21

The umpire made the following awards:

For eight deaths	$40,000.00
Four cases of personal injury	12,250.00
Personal property, thirteen cases	10,740.00
	$62,990.00

Thus did the mountain labor and bring forth a mouse. The Board of Commissioners rejected many claims on technicalities, — either the proofs were not satisfactory, or the claim was presented too late, or it was not within the treaty. The Board adopted a cheese-paring policy with the claims it did allow; it made the whole subject of arbitration seem absurd, if not odious; and yet this Board was one of the very best and most efficient arbitration commissions that has convened throughout our dealings with the Latin-American countries. Especially was the umpire a man of brains and integrity.

The "Umpire Cases"

Among the claims referred to Umpire Upham (the Commissioners disagreeing) were five which became noted, as showing the perversity of mixed arbitral commissions. The umpire's awards in these cases were as follows:

No. 80.	La Constancia	$146,508.50
No. 25.	Ship Good Return	44,291.78
No. 26.	Brig Medea	43,347.49
No. 9.	John D. Danels	92,787.67
No. 12.	R. W. Gibbes	6,952.60
		$333,888.04

In each case the records showed that the Commissioners had disagreed, and that the Secretary had been directed in regular form to submit the papers, briefs, opinions, etc., to the umpire. The case of Gibbes was submitted to the umpire on February 5, 1862; the Good Return, Medea, and John D. Danels cases, on February 18, 1862; and La Constancia, on March 2, 1862.

On March 9, 1862, the umpire handed down his awards as above stated.

Señor Hurtado entered a protest against these decisions, on the alleged ground that these cases (known as the "Umpire Cases") had been submitted to the umpire on some collateral question, and not on the main issue; he therefore refused to sign the awards, and demanded their withdrawal. Commissioner Leavenworth filed a counter protest, showing the absurdity and bad faith of Hurtado's contention. The umpire likewise made a statement to this effect. Nevertheless, General Herran, the Minister of New Granada to the United States, forwarding to Secretary Seward on March 16, 1862, a list of awards, omitted from his list the awards under discussion. Secretary Seward in acknowledging the receipt of this list remarked upon the absence therefrom of the awards in the cases of Gibbes, Danels, Good Return, La Constancia, and Medea, suggested that the journal of the Commission showed these cases to have been duly and regularly submitted to the umpire, and added: "These awards, I have the honor to inform you, have been transmitted to the Treasury, with those bearing the certificates of both Commissioners, and will be fully protected by the government of the United States."

These are statesmanlike words, but unfortunately Mr. Seward, in his subsequent acts, failed to "make good." For this result, however, Attorney-General Speed appears to have been at least partly responsible.

II. Convention between the United States and Colombia, February 10, 1864

In order that the large number of claims not disposed of by the previous Commission might be taken up, a new Board of Arbitrators was agreed upon, with Sir Frederick W. A. Bruce, of the British Legation at Washington, as umpire. Colombia was steadily not only refusing to pay but even to recognize the awards in the "Umpire Cases." Moreover, revolutions were rife throughout Colombia, the disorder bordered on anarchy, and payments on awards were not being made promptly even to the extent of the trivial amounts acknowledged to be due.

In this conjuncture Attorney-General Speed advised Secretary Seward that the new Commission was merely a continuation of that under the convention of 1857 (a most preposterous opinion, because it was created under the convention of 1864, an entirely new convention); that the new Commission had power "only to determine such claims as were presented to and left undetermined by the former joint Commission," and that it "must of necessity determine what cases had been decided by the old Commission." The Attorney-General thus assumed that the new Commission was invested with certain authority which clearly appertained exclusively to the State Department, namely, the right to decide what claims should, and what should not, be considered by the Arbitrators.

Under this ruling of the Attorney-General, Umpire Sir Frederick W. A. Bruce, on April 25, 1866, announced as his opinion that all the "Umpire Cases" "must be submitted *de novo* to the actual Commission with a view to a fresh re-examination and decision on their merits." And so the Commission of 1864 proceeded to reopen and redetermine these cases, the awards upon which Secretary Seward had declared would be "fully protected by the government of the United States."

The counsel for Gibbes protested and withdrew the claim. The other "Umpire Cases" were taken up by this new Commission, and Sir Frederick Bruce, the new umpire, in each instance disallowed the claim, — a record of judicial iniquity and miscarriage of justice which must shock every right-thinking man.

Referring now to the other claims, in a few cases insignificant damages were allowed. After waiting for years, men and women who had been wounded and whose health had been shattered in the murderous affair at Panama, received in several instances only fifty or a hundred dollars. About two hundred claims were wholly disallowed.

The Commission finished its work on May 18, 1866. Its total awards amounted to $88,367.69, — a sum which was probably no more than the actual counsel fees of the claimants. (For a full ac-

count of these cases, see John Bassett Moore's "History and Digest of International Arbitrations, Vol. II, pp. 1361–1420.)

Were the decisions of Umpire Bruce due to ignorance, prejudice, or bad faith? It is hard to say. Many a judge is a man of good personal appearance and fine social standing, and possesses a retentive memory, so that the ignorant may consider him qualified to discern and expound justice, when in fact his reasoning faculty has become atrophied, and is now biological rather than psychological in its processes.

III. Agreement of August 17, 1874, between Colombia and the United States in the Montijo Case

On April 6, 1871, Colombian revolutionists, under command of Herrera and Diaz, seized the American steamer Montijo (owned by H. and J. Schuber, United States citizens), while on its way from David to Panama, and within the jurisdiction of Colombia. About one hundred and twenty revolutionists took possession of the steamer, and, capturing the captain and crew, compelled them to run the steamer back to David, which was taken the following night by the insurgents. On April 8 Herrera proclaimed himself President of the provisional government, and soon afterwards notified Mr. Long, the American consul at Panama, that he, Herrera, was then in authority in the departments of Chiriqui, Veragua, Los Santos, and Coele.

Consul Long demanded that Herrera release the Montijo, but the "President" replied with the usual Latin-American denials, evasions, and subterfuges, and added that his "government" had offered to pay for all the services which the steamer might render. The vessel and crew were forcibly detained forty-three days.

Diplomatic representations were made by the United States to the federal government of Colombia, which denied all responsibility for losses by foreigners in consequence of the commission of "common crimes," such as the seizure of the Montijo. However, after more than three years had elapsed, Colombia joined the United States in an arbitration agreement (August 17, 1874).

The Commission was composed of Meriano Tanco, Colombian Commissioner, Bendix Koppel, of Denmark, United States Commissioner, and Robert Bunch, resident British Minister at Bogotá, umpire.

On July 25, 1875, Mr. Bunch awarded the owners of the vessel $33,401. In the group of arbitrations under discussion this is one of the few cases resulting in anything like justice.

Mr. Bunch's opinion (see Moore's "International Arbitration," Vol. II, pp. 1421 *et seq.*) is well reasoned and logical, and reflects credit upon him. His views here quoted and summarized, however, seem open to comment.

"But the undersigned, while deciding on the liability to the owners, does not see any necessity for indemnifying either Mr. John Schuber, the captain, the engineer, or the petty officers and crew of the Montijo. No personal injury seems to have been suffered by any of these persons, and the inconvenience they experienced appears to have been small. In the case of the officers and crew probably there was none at all. The wages of all these latter have doubtless been paid by the owners, so that it really must have been a matter of indifference to them whether they were sailing under the orders of Captain Saunders or of Señor Herrera. As to Mr. John Schuber, the undersigned can scarcely consider as a case of false imprisonment his retention on board his own vessel. That he was not a free man is true, and that he suffered some inconveniences, and possibly some loss of business, by the act of which he complains, is probably the case. It is also possible that a court of law might consider him entitled to personal damages." [But, to make a long story short, the umpire did not, and that ended it.]

Captain Saunders doubtless considered it a compliment to his ability and popularity "that it really must have been a matter of indifference to" the crew whether they were taking orders from him or from a revolutionary leader, with a drunken, irresponsible bandit army aboard; while "the petty officers" would naturally be delighted to be serving under capture, in daily expectation of an attack from a government warship amid scenes of carnage galore, and with good reason to fear that, if taken by government troops, they would certainly be imprisoned and possibly executed, under charges that they had sympathized in, and actively aided the revolution.

But, damages aside, what is to be said of the government of the United States, tolerating and relegating to diplomatic measures the seizure and detention for forty-three days, by a band of revolutionists, of a vessel owned by United States citizens? Why did not the government at Washington despatch a war-ship to recapture the Montijo?

IV. Convention between Chili and the United States, November 10, 1858, in the Case of the Brig Macedonian

The Macedonian is a very cogent illustration of the law's delay.

On May 9, 1821, a body of Chilian troops under the command of Lorenzo Balderama, arrested Captain Eliphalet Smith in the valley of Sitana, on the road from Arica (a seaport now claimed by Chili) to Arequipa, Peru, and wrongfully dispossessed him of $70,000, silver, the proceeds of the Macedonian's cargo from China, which Captain Smith had sold in Arica. The vessel was owned by John S. Ellery of Boston. The memorial to the State Department was presented by Thomas H. Perkins, part owner of the cargo. Lord Cochrane, Chilian Admiral, had ordered the seizure; and the money was distributed amongst the vessels of his squadron.

It is unnecessary to follow the tortuous path of diplomacy in this

case. Thirty-seven years elapsed before the United States succeeded in obtaining an agreement to arbitrate. On November 10, 1858, a convention to submit the case to Leopold, King of the Belgians, was executed. On May 15, 1863, the royal Arbitrator awarded the United States $42,400, with interest at six per cent from March 19, 1841, to December 26, 1848.

As an illustration of the marvellous mental processes of some great minds, the chain of reasoning by which the King deduces the length and period of time for the running of interest, is worthy of the study of the psychologist. Here follows the chain, in links:

"The fact has been established that the parties interested have been deprived, since May 9, 1821, of the interest on the sum seized:

"Whereas, since the seizure was not a rightful one, the restitution of the principal seized should involve that of the interest;

"Whereas, however, nothing was done by the United States government to hasten a settlement until March 19, 1841;

"Whereas, moreover, from December 26, 1848, the high contracting parties were, in principle, agreed as to the necessity of arbitration;

"Whereas, finally, the legal rate of interest in the State of Massachusetts, of which State Captain Smith and the claimants were citizens, is six per cent;

"We are of the opinion that, in addition to the principal of $42,400, the government of Chili should pay that of the United States interest on this sum at the rate of 6 per cent *per annum* from March 19, 1841, to December 26, 1848."

As a sample of splendid logic, this opinion should be cited in the text-books. Framers of syllogisms should study it with care and admiration. The King's logic establishes absolutely that the careful and provident government in need of funds will seize the money of the first helpless foreigners who may happen within reach of its armies, rather than borrow in the world's markets. A burden for eight years compared to a burden for forty-two, — why, the eight years' burden seems almost like a privilege!

V. The United States and Chilian Claims Commission; Convention of August 7, 1892

This arbitration dealt with destruction of American property and outrages on American citizens in Chili, occurring for the most part during Chili's war with Peru in 1878–1882, and its Civil War of 1890–1891. The Commissioner on behalf of the United States was John Goode; the Chilian representative was Domingo Gana; and the third member was Alfred de Claparede, Swiss Minister at Washington, selected in accordance with the protocol by the President of the Swiss Confederation.

The decisions of this Commission are among the most flagrant denials of justice that disfigure the pages of international arbitration;

they are fully as rank as the unspeakable findings under the Venezuelan Arbitration of 1903. Moore's "International Arbitrations," Vol. II, pp. 1477–1479, enumerates the following schedule of cases considered and determined by the Chilian Claims Commission:

"Claim No. 1. Central and South American Telegraph Company *v.* Chili, for damages to telegraph line, etc., in 1891, during Congressional Revolution; amount claimed, $163,858.55; award against Chili for $40,725.89, Commissioner Gana dissenting.

"Claim No. 2. Edward C. Du Bois *v.* Chili, for damages and destruction of railroad property at Chimbote in 1880–1882, during war with Peru; amount claimed $2,451,155.58; award against Chili for $155,232, Commissioner Gana dissenting.

"Claim No. 4. Winfield S. Shrigley *v.* Chili, for destruction of property in 1891, during Congressional Revolution; amount claimed, $12,717.51; award against Chili for $5086.

"Claim No. 5. Eugene L. Didier *et al.* *v.* Chili, for breach of contract with Chili in 1817; amount claimed, $1,111,760.63; dismissed on demurrer, Commissioner Goode dissenting.

"Claim No. 6. John L. Thorndike *v.* Chili, for damages to railroad property at Mollendo in 1880, during war with Peru; amount claimed, $190,361.34; dismissed on hearing, Commissioner Goode dissenting.

"Claim No. 9. Gilbert Bennet Borden *v.* Chili, for damages, false arrest, and detention of ship in 1883; amount claimed, $32,209.10; award against Chili for $9187.50, Commissioner Gana dissenting.

"Claim No. 10. Wells, Fargo & Co. *v.* Chili, for seizure of Peruvian money tokens in 1880; amount claimed, $58,389.97; compromise award for $29,194.98.

"Claim No. 11. Charles G. Wilson *v.* Chili, for destruction of property in 1891, during Congressional Revolution; amount claimed, $142,487; dismissed on demurrer.

"Claim No. 13. Jennie R. Read *v.* Chili, for destruction of property in 1891, during Congressional Revolution; amount claimed, $8,253.40; award against Chili for $1,137.98.

"Claim No. 15. Charles Watson *v.* Chili, for destruction of property in 1880, during war with Peru; amount claimed, $278,205.84; dismissed for failure to amend, Commissioner Goode dissenting on demurrer.

"Claim No. 16. Grace Brothers & Co. *v.* Chili, for damage to 200 bags of sugar in 1883; amount claimed, $14,521.68; dismissed for want of jurisdiction, Commissioner Goode dissenting.

"Claim No. 17. Frederick Selway *v.* Chili, for personal damages in 1847; amount claimed, $50,000 with interest at six per cent from 1847; dismissed on merits.

"Claim No. 19. Grace Brothers & Co. *v.* Chili, for detention of vessel in 1880, during war with Peru; amount claimed, $15,593.74; dismissed for want of jurisdiction, Commissioner Goode dissenting.

"Claim No. 20. Grace Brothers & Co. *v.* Chili, for seizure of cargo of coal in 1879, during war with Peru; amount claimed, $3,989.20; dismissed for want of jurisdiction, Commissioner Goode dissenting.

"Claim No. 21. Grace Brothers & Co. *v.* Chili, for illegal seizure of guano and nitrate deposits in 1879, during war with Peru; amount claimed,

$240,040.26; dismissed for want of jurisdiction, Commissioner Goode dissenting.

"Claim No. 22. William R. Grace & Co. *v.* Chili, for seizure of nitrate deposits in 1879; amount claimed, $1,076,764.67; dismissed for want of jurisdiction, Commissioner Goode dissenting.

"Claim No. 23. Patrick Shields *v.* Chili, for personal damages in 1891; amount claimed, $100,000 and interest on the award; dismissed on demurrer, for want of jurisdiction.

"Claim No. 24. Andrew McKinstry *v.* Chili, for personal damages in 1891; amount claimed, $25,000; dismissed on demurrer for want of jurisdiction.

"Claim No. 29. Grace Brothers & Co. *v.* Chili, for loss of shares in nitrate company of Peru in 1879 during war with Peru; amount claimed, $866,945.99; dismissed for want of jurisdiction, Commissioner Goode dissenting.

"Claim No. 34. Stephen M. Chester *v.* Chili, for personal damages in 1881, during war with Peru; amount claimed, $86,000; dismissed for want of evidence.

"Claim No. 36. Elizabeth C. Murphy *et al.* *v.* Chili, for destruction of property in 1881, during war with Peru; amount claimed, $17,122.50; dismissed on hearing, Commissioner Goode dissenting.

"Claim No. 38. John C. Landreau *v.* Chili, for damages for seizure of certain guano deposits in 1881; during war with Peru; amount claimed, $5,000,000 with interest at six per cent from 1882; dismissed on demurrer, Commissioner Goode dissenting.

"Claim No. 39. T. Ellet Hodgskin *v.* Chili, for damages for seizure of certain guano deposits in 1881, during war with Peru; amount claimed, $3,333,000 with interest at six per cent from 1882; dismissed on demurrer, Commissioner Goode dissenting.

"(Claims Nos. 38 and 39 are different claimants for the same subject matter.)

"Claim No. 43. Frederick H. Lovett *v.* Chili, for personal damages, detention and loss of bark Florida in 1852; amount claimed, $225,800; dismissed on demurrer."

It is impracticable to discuss these cases *in extenso*. The work of the Commission was a *fiasco* from start to finish. For one thing, the Convention did not allow one quarter as much time as the proper presentation and due consideration of the cases would have required. The Convention stipulated that the Commission, after organization, should notify the respective governments, that thereupon claims should be presented within two months after the first meeting, and that the Commissioners should "be bound to examine and decide upon every claim within six months from the day of their first meeting for business as aforesaid." Of course this limitation was an absurdity, for in several of the claims it would take six months to procure necessary evidence from Chili and Peru.

Consequently Mr. Shields, the agent of the United States, on April 30, 1894, reported to Secretary Gresham as follows:

"In addition to the cases that were disposed of by the Commission, and which have been heretofore mentioned, the following cases —

"No. 18. The South American Steamship Company *v.* United States, claim for $226,242, United States gold coin;

"No. 27. Ricardo L. Trumbull *v.* United States, claim for $6000, United States gold coin;

"No. 33. Julia L. Williams and Frank A. Robinson *et al. v.* Republic of Chili, claim for $130,600, United States gold coin;

"No. 35. Austin D. Moore *v.* Republic of Chili, claim for $15,930, United States gold coin;

"No. 37. James M. Hallowes *v.* Republic of Chili, claim for $117,266, Chilian currency, and $10,400, United States gold coin.

"No. 40. William W. C. Dodge *v.* Republic of Chili, claim for $5387, gold coin United States —

could not be made ready for submission to the Commission, under the rules thereof, within the time limit of the treaty, and if they had been ready, as the sequel shows, could not have been disposed of by the Commission.

"The following cases —

"No. 3. Henry Chauncey *v.* Republic of Chili, claim for $1,435,815, gold coin United States;

"No. 25. Andrew Moss *v.* Republic of Chili, claim for $74,092, United States gold coin;

"No. 42. Peter Bacigalupi *v.* Republic of Chili, claim for $49,262, United States gold coin —

were submitted by both parties, but the Commission, for lack of time, failed to consider the same, and so announced at their last meeting.

"The following cases —

"No. 7. The North and South American Construction Company *v.* Republic of Chili, claim for $6,334,000, United States gold coin;

"No. 8. Kate E. Leach *et al. v.* Republic of Chili, claim for $517,500, United States gold coin;

"No. 12. Michael O'Brien *et al. v.* Republic of Chili, claim for $40,811, United States gold coin;

"No. 14. Clifford D. Blodgett *v.* Republic of Chili, claim for $3972, United States gold coin;

"No. 26. Henry Chauncey *et al. v.* Republic of Chili, claim for $60,427, United States gold coin;

"No. 30. Henry S. Prevost *et al. v.* Republic of Chili, claim for $7829, United States gold coin;

"No. 31. Grant Walker *et al. v.* Republic of Chili, claim for $76,409, United States gold coin;

"No. 32. George W. L. Mayers *v.* Republic of Chili, claim for $88,286, United States gold coin;

"No. 41. Mauricio Levek *v.* The Republic of Chili, claim for $279,800, United States gold coin —

were submitted on the part of the United States, but were not submitted on the part of Chili, the time limit preventing the necessary testimony from being taken; consequently the cases were not passed upon by the Commission."

At the conclusion of this farcical "arbitration," the United States Commissioner, Mr. Goode, filed a solemn protest, stating "that he

withheld his acquiescence from the dismissals and disallowances in said cases of citizens of the United States against the Republic of Chili, and reasserts his abstention to participate in the aforesaid judgments."

VI. Convention between the United States and Paraguay, February 4, 1859

Mr. Cave Johnson, of Tennessee, may claim the doubtful distinction of writing the opinion which resulted in the most shameful miscarriage of justice that blots the record of international arbitrations in the Western Hemisphere. The case was that of the "United States and Paraguay Navigation Company," a Rhode Island corporation, having paid-in stock of $100,000 with authority to increase the same to $1,000,000. It may be noted that financially the company suffered heavily at the outset of its career, losing two vessels (El Paraguay and the E. T. Blodget) in storms off the South American coast.

In 1853 Mr. Edward A. Hopkins, the company's manager, arrived in Paraguay. He was received by the Dictator, Carlos A. Lopez, with every demonstration of friendliness, and he was made to believe that his company would be perfectly safe in investing there. Attentions were showered upon him, and all signs now pointed to a successful business career.

Mr. Hopkins established a sawmill, a cigar factory, and other industries. The cigar factory, at Asuncion, employed 115 operatives, turned out 897,000 cigars per month, and showed an average monthly profit of $6,279. Upon the operations of the sawmill, the first and only one in Paraguay, the company claimed an estimated profit of about $35,000 per year. The company also operated a large brick machine (imported from the United States) at an annual profit according to the company's statement, of about $32,000. Moreover, the company owned much other property, lands, personalty, etc.; and claimed valuable patent rights and certain exclusive privileges by virtue of the laws of Paraguay, and contracts with its government.

After the company's investments had become thoroughly and irretrievably embedded in Paraguayan territory, the Dictator entered upon a course of exactions and extortions from, and outrages against, the company and its agents, which ultimately caused its ruin; and the Arbitration Commissioner appointed by the United States government gave it the *coup de grâce!*

During the period of the blasting of this corporation's career, Dictator Lopez was ruling Paraguay with the high hand of tyranny. Although not so notoriously depraved as his son, who succeeded him, he was yet one of the world's worst men. Citizens were murdered or expelled at his whim, espionage and assassination were his weapons;

while fear and even terror had spread so far and wide that they now seemed normal elements of the condition of the inhabitants.

The affair between Lopez and Hopkins seems to have sprung from an assault made by a soldier upon Hopkins' brother. The brother, who was riding with a French lady, was beaten by the soldier with his sword. The soldier claimed that he did this because the riders did not comply with his request that they should turn aside to let pass some cattle that he was driving.

Mr. Hopkins, who was American consul as well as the agent of the Navigation Company, wrote a letter of protest to Lopez, alleging that numerous similar assaults had been made upon Americans and other foreigners and demanding the punishment of the soldier. The letter offended the tyrant, or afforded a pretext for offence, and from that day the troubles of the Company commenced.

Lopez promulgated numerous decrees designed to hinder and vex the company, and manifold insults and annoyances were heaped upon its representatives by the populace and soldiers, — such persecution, of course, emanating from the government; for in Paraguay no step, however insignificant, is taken except under superior orders or sanction. One of these decrees prohibited the use of foreign titles by concerns transacting business in Paraguay. As the Navigation Company was chartered in Rhode Island, and its title was designated in the legislative act, Mr. Hopkins was of course not authorized to change such title. Such an act on his part would have invalidated or jeopardized the evidences of ownership of its Paraguay property. Yet Mr. Cave Johnson, Arbitration Commissioner, severely criticised Mr. Hopkins for not changing the company's "foreign commercial title" in accordance with Lopez' decree, — a decree evidently directed against the company, and designed to afford a pretext for confiscating its property.

Lopez would not permit the cigar factory and other establishments to be operated without a license, and he now refused to grant a license unless the company would renounce its "foreign commercial title," well knowing that if the company should comply with this odious and impracticable condition, he could and would have his alleged courts hold that such disclaimer meant the dissolution of the corporation in Paraguay, and that thereby the way would be paved to the confiscation of the property in such a manner that the Great American Arbitrator would hold that such confiscation had been effected through "judicial process." Moreover Lopez continued to bleed and otherwise oppress the company, seized its property, and finally expelled Mr. Hopkins and his assistant Mr. Morales. Commissioner Johnson declared in his opinion that no expulsion took place, but he admitted that the Dictator would not allow Messrs. Hopkins and Morales to continue to carry on the business of the Navigation Company.

About this time the United States steamer Water Witch, under Lieutenant Thomas J. Page, was exploring for scientific and commercial purposes the tributaries of the Rio de la Plata, by agreement between the governments of the United States, Brazil, and the Argentine Confederation. In February, 1855, while proceeding up the Paraná River, the Water Witch was fired upon by the Paraguayan fort of Itapiru, the shots not only cutting the ropes and carrying away the wheel, but mortally wounding the helmsman.

During this period many other outrages were being committed in Paraguay against foreigners.

In 1858 President Buchanan concentrated a strong naval force (nineteen armed vessels) in the Plate, and despatched to Asuncion a commissioner authorized to negotiate an arbitration treaty. Lopez acquiesced; and the Convention of February 4, 1859, was concluded. Cave Johnson of Tennessee was the Commissioner on the part of the United States, and José Berges the Commissioner for Paraguay. Both Commissioners took oath "that they will fairly and impartially investigate the said claims, and a just decision thereupon render, to the best of their judgment and ability." By Article I of the Convention the "government of the Republic of Paraguay binds itself for the responsibility in favor of the United States and Paraguay Navigation Company which may result from the decree of the Commissioners."

Space is lacking for the long, tedious arguments of counsel, and for the Commission's rambling, disjointed opinion delivered by Mr. Johnson. Such an opinion shocks and disgusts the reader, and outrages his sense of justice; but those who wish to investigate may find it in the report of this case on pages 1485–1549 of Moore's "International Arbitrations." It must suffice here to say that the company had been wholly ruined, and not a dollar was awarded to it.

Commissioner Johnson unfairly attempts to create prejudice against Mr. Hopkins by insinuating that he was arrogant and possibly immoral, and that the indignities and annoyances to which he was subjected are accounted for thus. Even if such charges were true, such failings of an agent could not justify the seizure by a third party of rights, titles, and other property owned by the corporation principal, and the consequent wreck of the interests of innocent investors. But there is ample collateral evidence that Mr. Hopkins was a man of fully as high character as Mr. Johnson, and far more enterprising and energetic than the latter.

The decision on the part of the American Commissioner was probably due to his peculiar mental obliquity, to defective reasoning powers, swayed by strong prejudices. President Buchanan was thoroughly dissatisfied with the nature of the award. (*Cf.* Richardson's "Messages and Papers of the Presidents," Vol. V, pp. 664–666.)

VII. Convention between the United States and Costa Rica, July 2, 1860

Under a Convention, signed at San José on July 2, 1860, referring to arbitration all pending claims of American citizens against Costa Rica save where it was proved that the claimant was a "belligerent during the occupation of Nicaragua by the troops of Costa Rica," the United States appointed Benjamin F. Rexford of New York as its Commissioner, and Costa Rica named as Commissioner Luis Molina, then its representative at Washington.

On February 8, 1862, the Commission met in Washington, and adopted rules. They received papers from the State Department, March 12, in thirteen claims, and later in twenty-one additional claims. On April 1, 1862, Chevalier Bertinatti, Italian Minister at Washington, was chosen umpire. On October 20, 1862, the Board called its calendar peremptorily; and on November 6, it adjourned *sine die*, without having allowed a single claim. It had rejected without comment thirteen claims amounting to $544,233.

Claims aggregating $1,222,870.86 had been referred to Umpire Bertinatti; and he, on December 31, 1862, delivered opinions relative to awards in thirteen cases, the awards totalling only $25,704.14. In most of those cases in which the claim was rejected by the umpire, he assigned no reasons for his decision.

To illustrate the calibre of this Commission, it will be sufficient to refer to but one case, that of David Colden, receiver of the Accessory Transit Company, an American corporation, which possessed a large number of steamers on the San Juan River and Lake Nicaragua. On February 26, 1856, the filibuster "government" led by the Tennessee adventurer, William Walker, in Nicaragua, seized twelve steamers belonging to the Transit Company, and issued decrees annulling its charter and abolishing the greater part of its property. In March, 1856, Costa Rica declared war upon the Walker government, and this war continued about two years. On October 9, 1856, Sylvanus M. Spencer, agent of the Accessory Transit Company, effected, through a body of Costa Rican troops, a recapture of fourteen of the steamers which had been seized by Walker, including the twelve of the Transit Company. On June 5, 1857, Spencer, by order of the company, made a formal demand on President Mora of Costa Rica for the steamers. This demand at first met with evasive answers, but later encountered a direct refusal. Commissioner Rexford, in commenting upon this position, said:

"These facts, it is understood, are not in any particular denied by Costa Rica; but it is claimed by her that these steamers, being in the possession of these freebooters, and being used by them for warlike and hostile purposes, at the time of their capture, no one could make a claim against her for the

property, — that she has a right to hold it as her own, and that, although it has been seized by the freebooters, in a raid made by them into Nicaragua, yet that such piratical seizure divested the true owners of their title, although they might not have been belligerents in any manner, and, on the contrary, were friendly, or at least neutral, toward Costa Rica. This argument would allow the person who had captured property from the thief or pirate who had stolen it to retain it as his own, because he found it in the thief's or pirate's hands!"

Mr. Rexford seems to have had a very clear idea of the merits of this case, however blind he may have been as regards other claims before the Commission; but his argument had no effect. Umpire Bertinatti crowned the confiscation by an opinion which seems more like the effort of a buccaneer than a jurist. He said:

"I cannot see also how the theory of the things retaken by neutrals from a pirate can be applied to this case. First of all, the wharf was not retaken, but burnt, and the steamers also mostly perished in the continued struggle for their possession; what remained of them would hardly pay the expense of capture. Second, as I have observed before, the Rivas-Walker government was the only one existing at Nicaragua, and was recognized as a regular government. Third, the proceedings of that government against the Accessory Transit Company were not acts of violence or open injustice; on the contrary, they were marked by a show of strict legality, and accompanied by an *exposé* of motives making a strong case in favor of that government."

For these reasons the umpire dismissed the case. The company had been ruined, its wharves had been burned, its steamers seized, its officers and men held prisoners and forced for many months to operate these steamers for the benefit of Costa Rica and in conjunction with her armies. But not one cent was awarded to this utterly ruined corporation; and yet the "government" of Costa Rica claims to be a civilized republic, and rather better than its neighbors!

And Chevalier Bertinatti — was he quite content with his pittance of intellectual acumen?

VIII. Convention between the United States and Ecuador, November 25, 1862

The Commission under this convention consisted of Mr. Frederick Hassaurek, American Minister to Ecuador, who represented the United States; Mr. Francisco Eugenio Tamariz, who represented Ecuador; and Dr. Alcides Destruge, Consul-General of Venezuela in Guayaquil, umpire. Mr. Hassaurek was an Austrian by birth, but a naturalized citizen of the United States.

The Commission finished its work on August 17, 1865, and Mr. Hassaurek reported to Secretary Seward that the following claims had been presented against Ecuador, and decisions rendered thereon:

"1. Abraham Johnson, for balance due on shoes sold to the *de facto* government of General Franco in 1860.

"2. Mathew Howland, for damages to schooner George Howland by the Ecuadorian convicts on the Galapagos Islands.

"3. Representatives of Commodore Danels, deceased, for value of Uruguay prizes taken from him by the Venezuelan navy.

"4. The Atlantic and Hope Insurance Companies, of New York, for illegal condemnation of cargo of schooner Mechanic by the Colombian prize courts.

"5. Harmony & Lopez, for breach of contract by the government of Ecuador for the purchase of a submarine cable.

"6. Peter Bonsquet, for illegal confiscation of schooner Economy at Maracaibo, Colombia.

"7. Representatives of John Clark, deceased, value of Uruguay captures taken from him by the Colombian navy.

"8. James H. Causten, attorney in fact of Robert W. Gibbes, for payment of a Colombian bond.

"9. H. & D. Cothcal, for illegal confiscation of schooner Ben Allen at Chagres, Colombia.

"10. Pond and others, value of Uruguay captures taken from them by the Colombian navy.

"11. Seth Driggs, illegal detention of a cargo of cocoa by the Colombian authorities.

"12. Harmony & Lopez, for payments illegally exacted by the municipality of Tulcan, Ecuador.

"13. J. Goodings, Colombian bonds.

"14. W. Goodings, Colombian bonds.

"In respect to which the following decisions were made:

1.	Abraham Johnson	$3,325.20
2.	Mathew Howland	50,000.00
4.	Atlantic and Hope Insurance Companies	15,467.69
6.	Peter Bonsquet	6,127.50
8.	James H. Causten	3,178.77
9.	H. & D. Cothcal	11,713.20
11.	Seth Driggs	3,336.41
13.	J. Goodings	1,477.34
14.	W. Goodings	173.45
	Sum total	$94,799.56

"Of the above awards the one numbered 8 was made by the umpire.

"The following claims were decided unfavorably, viz.:

"3. Commodore Danels (not an American claim).

"5. Harmony & Lopez (individual claim against President of Ecuador).

"7. John Clark (not an American claim).

"10. Pond and others (same).

"No. 12, being but for a very small amount ($79), will be paid at once by the Ecuadorian government."

The decisions of this Commission aroused considerable criticism, because of its rejection of the claims of the representatives of John

Clark, the representatives of Commodore Danels, and others,—claims which grew out of the seizure and confiscation of the vessels Medea and Good Return by the authorities of Colombia, of which Republic Ecuador formerly constituted a part.

In these last-mentioned cases the original claimants in the first quarter of the nineteenth century had received from Artigas, chief of the Banda Oriental (now Uruguay) commissions to prey upon the commerce of Spain, in the revolutionary wars against the latter country. While privateering under these commissions they captured the Spanish vessels Medea and Good Return. The authorities of Colombia seized the vessels from their captors; and Clark and Danels afterwards presented claims for them through the intervention of the State Department.

Commissioner Hassaurek held "that the claimants had no standing before the Commission as citizens of the United States, for the reason that their claims arose out of a transaction in which they violated the laws of the United States, disregarded solemn treaty stipulations, compromised the neutrality of their country, and rendered themselves liable to prosecution and punishment as pirates."

Mr. Hassaurek in this statement mixes a good deal of error with some truth. These privateers violated the laws of neutrality, but they were not pirates; their commissions from the *de facto* government of Uruguay differentiated them from buccaneers. As remarked by another umpire in this case, "the acquisition of the property by the Banda Oriental, under its power and flag, was rightful, though the parties in interest, the captors, were citizens of the United States." The Banda Oriental, then, in abandoning its rights in this property in favor of Clark and Danels, invested them with a good title. The real question was: would the United States government, in view of the manner in which this property was originally acquired, come to the assistance of these claimants? Here was a question of public policy; and the Secretary of State would have been justified in refusing to present these claims. But the Secretary of State decided differently; and, as representing the government of the United States, he intervened, to the extent of presenting the claims. The question of public policy was thus settled (and presumably concluded, as against an arbitration commission or similar body) by competent authority, namely, by the claimants' government. The claims therefore came before this Commission merely on the questions of titles and damages, and when Commissioner Hassaurek presumed to throw them out because of their alleged origin, he overstepped his jurisdiction, and assumed functions not within the authority with which he had been clothed, but exclusively within the authority of the government of the United States. His decision, therefore, was erroneous.

IX. Convention between the United States and Ecuador, February 28, 1893

In December, 1884, Julio Romano Santos, a naturalized citizen of the United States but a native of Ecuador, member of the firm of Santos, Hevia Hermanos at Bahia, was thrown into a Guayaquil jail, charged with complicity in a revolutionary plot. José María Placido Caamaño was at this time President of Ecuador. A revolution headed by General Alfaro was brewing, and the parents and family of Mr. Santos were friends of General Alfaro; but Mr. Santos strenuously denied that he was in any way connected with any revolutionary movement.

From the United States John Davis, Assistant Secretary of State, telegraphed, on December 29, 1884, to Mr. Beach, Consul-General at Guayaquil, instructing him to "communicate with the proper Ecuadorian authorities on the subject, with a view to securing to Mr. Santos an early hearing in his own behalf, and his prompt liberation if the charge be not sustained." Accordingly Mr. Reinberg, the American Vice-Consul-General, communicated with Ecuador's President, and with divers governors and generals, but they afforded him little or no satisfaction. It was commonly claimed on their part that Santos through his residence in Ecuador had forfeited his American citizenship.

On February 3, 1885, Mr. Reinberg, in a despatch to the department of State, said:

"The department will easily perceive the various causes which have so far prevented me from giving a specific report on Mr. Santos's cases, namely: (1) The want of communication with the prisoner, who has been taken from one place to another since his arrest. (2) The distance, about 150 miles of bad roads, which separate me from the prisoner, and that no mails could be sent there for more than a month by reason of the northern ports being closed. (3) The pretended ignorance of the local authorities of the charges of the government against Mr. Santos, as officially expressed in their answers to my various despatches requesting information. (4) The marked desire of the President, who, in this South American Republic, is the only judicial authority, and whose desires are always followed, to convict the prisoner, evidence of which is shown in the arbitrary confiscation of Mr. Santos's property."

In the latter part of January, 1885, the government at Washington had ordered the United States steamship Wachusett, Commander Mahan, to Guayaquil. In an instruction to Mr. Beach June 17, 1885, Secretary Bayard said:

"You will understand that the mission of the Wachusett is one of peace and good-will, to the end of exerting the moral influence of our flag toward a discreet and mutually honorable solution, and, in the event of Mr. Santos

being released, to afford him the means of returning to the country of his allegiance and domicil. The purpose of her presence is not to be deemed minatory; and resort to force is not competently within the scope of her commander's agency. If all form of redress, thus temperately but earnestly solicited, be unhappily denied, it is the constitutional prerogative of Congress to decide and declare what further action shall be taken."

Diplomatic discussion ran on for years over this case, and in 1893, during the Ecuadorian administration of Dr. Luis Cordero, a convention was concluded between the United States and Ecuador for the settlement of the matter by arbitration; but the episode was not actually closed until after the Alfaro party had burst forth anew into successful revolution. Mr. Santos had endured imprisonment for two hundred and twenty-six days, and a considerable portion of his property had been destroyed. General Alfaro's government, a decade or so after the event, agreed to pay him $40,000 gold for his damages; and the arbitrator who had been appointed receiving the consent of the United States, ratified the agreement.

X. Convention between the United States and Peru, December 20, 1862

On January 24, 1852, the Peruvian steamer Tumbez seized two American steamers which were loading guano, — the Lizzie Thompson of Kennebec, Maine, H. A. Wilson, Master, in the port of Pabellon de Pica, and the Georgiana of Boston, Stephen Reynolds, Master, in the port of Punta de Lobos. Both vessels were sold as contraband by Peru, and their crews were imprisoned.

These seizures were made during a period of civil war, under peculiar circumstances. General Ramon Castilla having led a successful revolution had become President of Peru. General Vivanco had started a counter-revolution against Castilla, had held Arequipa, Iquique, and a large section of southern Peru for some time, and had organized a provisional government.

A representative of General Vivanco's government licensed the vessels in question to load guano at the ports named; but the Tumbez in making the captures, represented the government of General Castilla. At the time of the license by Vivanco there was a general law of Peru in force prohibiting the loading of vessels with guano at these ports. Guano was a national monopoly, and decrees provided that it should not be exported to foreign parts save from the northern island of the Chincha group, and that the custom house at Callao should have the exclusive right to clear vessels with outgoing cargoes of this deposit. It was also decreed that guano exported by disturbers of the public peace or in virtue of contracts made with them could at all times be reclaimed as stolen public property, and the parties responsible therefor be prosecuted both civilly and criminally.

Jeremiah S. Black, as Attorney-General of the United States [later Secretary of State] in Buchanan's administration, delivered his opinion on the question of the seizures as follows:

"1. At the time when the Georgiana and the Lizzie Thompson went to Iquique, a state of civil war existed in Peru.

"2. At that time one of the parties to that civil war, having expelled the other, had possession, by conquest, of the port of Iquique, and the points where the guano was deposited.

"3. Being so in possession, and having officered and organized the local government of the port and the city and the guano deposits, the jurisdiction of the party headed by Vivanco was perfect, and an American vessel trading to the port was bound to conform to its decrees.

"4. The Georgiana and the Lizzie Thompson having obeyed the laws of the place then established, and having acted in pursuance of licenses given by the officers in authority, were guilty of nothing for which the other party to the civil war could punish or molest them afterward.

"5. The laws and jurisdiction of the Peruvian government were superseded at Iquique during the time that place was in possession of its domestic enemy, and its resumption of possession — supposing possession to have been resumed — gave it no power to punish American citizens for a supposed violation of its laws while they were suspended, nor to make any new law which would have a retroactive effect.

"The whole proceeding of the Peruvian government against the two vessels named was contrary to the law of nations, and repugnant to the principles of natural justice."

Peru denied every contention advanced by the United States, and a prolix international correspondence ensued, which eventually led to the suspension of diplomatic relations. Such relations were re-established by President Lincoln, but then came the great Civil War and for a time swept aside questions of this sort. At length, on December 20, 1862, a convention was signed at Lima between the United States and Peru, naming the King of Belgium as arbitrator. His Majesty declined to serve, but intimated that he inclined to the opinion that Peru had the stronger case. No further attempt at arbitration was made; and the United States wholly abandoned the claim.

And so let the ship-owner contemplating business with South America make a point of employing a reliable prophet, who will pick "the winner" in advance, so that the ship-owner may have business dealings with the winning side only; or let him keep entirely away from South American countries during periods of revolution — *i. e.*, during the greater portion of the time!

XI. Convention between the United States and Peru, January 12, 1863

Under this convention the United States and the Republic of Peru each appointed two Commissioners, who by agreement named an umpire; and it was provided that the decision of any three members

of this Commission should be conclusive as to all claims duly presented by either government on behalf of citizens thereof, against the other. The United States appointed Ephraim George Squier of New York, and James S. Mackie of Ohio; Peru's appointees were Felipe Barriga Alvarez and Santiago Tarrara; and these four agreed upon General Pedro Alcantara Herran of Colombia, as umpire.

The Commission of 1863 held its first meeting in Lima, Peru, on July 17, 1863, and adjourned on November 27, having disposed of the business before it. On the latter date Messrs. Mackie and Squier reported from Lima to William H. Seward, Secretary of State, as follows:

"The following claims were presented on the part of citizens of the United States against Peru, viz.:

1.	Josiah S. Monroe, owner of the William Lee	$32,424.14
2.	Alsop & Co., first claim	7,592.87
3.	Francis G. Rumler	396.00
4.	John R. Hyacinth	Indefinite
5.	Louis Brand	50,000.00
6.	Thomas R. Eldridge	7,928.81
7.	Samuel Churchman	11,576.00
8.	Dana & Co. ship Michael Angelo	3,219.00
9.	Joseph S. Allen	500.00
10.	Matthew Crosby, ship Washington	57,820.00
11.	Charles Easton	42,310.00
12.	Edward W. Sarton	118,755.00
13.	Henry Baker	5,000.00
14.	Henry W. Raborg, *et als.* (Rollin Thome)	800,000.00
15.	William Barney	608.37
16.	James Cunningham	500.00
17.	A. G. Benson	Indefinite
18.	Henry E. Kinney	8,000.00
19.	Alsop & Co., second claim	5,771.00

"In respect to which the following decisions were made:

"Allowed and awarded.

1.	Josiah S. Monroe, 'in the current money of Peru or its equivalent in the current money of the United States'	$22,000.00
6.	Thomas R. Eldridge, 'in the current money of Peru'	15,000.00
7.	Samuel Churchman, 'in *pesos fuertes*'	3,848.38
8.	Dana & Co., 'in *pesos fuertes*'	312.00
9.	Joseph S. Allen, 'in current money of Peru'	500.00
11.	Charles Easton, 'in current money, with interest at the rate of six per cent per annum, from April 30, 1854, to November 9, 1863'	19,000.00
12.	Edward W. Sarton, 'in current money of the country, with interest at the rate of six per cent per annum, from September 29, 1857, to November 24, 1863'	5,000.00
15.	William Barney, 'in current money of Peru'	1,536.85

"Of the preceding awards those numbered 6, 11, and 12 were made by the umpire.

"The following claims were decided unfavorably, viz.:

2. Alsop & Co., no jurisdiction.
3. Francis G. Rumler, no jurisdiction.

4. John R. Hyacinth, dismissed, no proof.
5. Louis Brand, disallowed.
7. Part of Samuel Churchman's claim, being for freight of ship Berlin, disallowed by umpire.
10. Matthew Crosby, disallowed by umpire.
13. Henry Baker, disallowed.
14. Henry W. Raborg, *et als.*, disallowed.
16. James Cunningham, proof of payment of claim furnished by Peru.
17. A. G. Benson, disallowed, having transferred his claim to José F. Lasarte, a citizen of Peru, as against the United States.
18. Henry E. Kinney, disallowed by umpire.
19. Alsop & Co., second claim, disallowed by umpire.

Some of the most interesting of these claims are given in Moore's "International Arbitrations," Vol. II, pp. 1629 *et seq.*:

Claims of Easton, Barney, and Allen.

In the year 1854 Dr. Charles Easton, a citizen of the United States, was engaged in working a mine in the province of Andahuaylas, when on the night of the 29th of April, 1854, his establishment was attacked and sacked by a body of partisans of a rebel chieftain then seeking to overthrow the constitutional government of Peru. His mills were burned, immense stones were rolled into his mine, his house was robbed of its contents, and Dr. Easton himself, besides being beaten, received two gunshot wounds from which he suffered a long and dangerous illness. While he was thus incapacitated for business, his mine filled with water, the supports gave way, and the whole was reduced to ruins. For the losses and injuries thus suffered by Dr. Easton in person and in property, a claim for indemnity was presented to the Peruvian government by the minister of the United States at Lima. After a somewhat protracted diplomatic discussion of the case, the council of ministers of Peru admitted the principle of indemnity, and authorized the minister for foreign affairs to settle the question of the amount. In accordance with this resolution, the minister for foreign affairs offered the sum of $5000, but the minister of the United States refused to accept it on the ground that it was inadequate as compensation for the personal injuries of the claimant alone. In due course the claim came before the present Commission, and finally before the umpire, the Commissioners having been unable to agree as to the amount of the indemnity to be allowed. The claimant asked for $42,010, with interest. The umpire allowed as principal the sum of $19,000 in current money, of which $5000 were for personal ill treatment, and, as the Commissioners reported, he allowed on the principal sum interest at the rate of 6 per cent.

"The award in favor of William Barney was for the value of some goods deposited in the custom house at Lambayeque, and stolen therefrom while in the custody of the authorities.

"The award in favor of Joseph S. Allen was for a sum of money which the government of Peru, by a decree of March 18, 1860, ordered to be paid to the claimant as indemnity for the injuries done to his ship, the Maid of Orleans, by an accidental cannon shot from the fort at Callao in 1855. The money was not paid to him in consequence of his failure to present himself to receive it, and the Commissioners, in making their award, merely 'recognized the unaccomplished order of the Peruvian government.'"

In the case of Stephen Montano against the government of the United States, this Commission of 1863 made a very curious decision, which should be read by persons interested in studying the peculiar psychological processes of these jurists. Montano was awarded $24,151.29 because a United States marshal at San Francisco had failed to collect on a writ of execution (placed in his hands by the claimant) against the Pilots' Association; the original basis of the judgment on which the execution had issued being that a pilot, a member of the Association at San Francisco, had run claimant's vessel aground and had thus damaged him to the above amount!

XII. Convention between the United States and Peru, December 4, 1868

Under this arbitration convention the American Commissioner was Michael Vidal of Louisiana, appointed by President Grant; the Peruvian Commissioner was Luciano Benjamine Cisneros. Two gentlemen were named for service as umpire, — Frederico Augusto Elmore, a British subject, by Mr. Vidal, and Teodoro Valenzuela, Colombian Minister at Lima, by Mr. Cisneros. In each case of need for an umpire, the choice, as between Mr. Elmore and Mr. Valenzuela, was to be determined by lot. The Commission met at Lima on September 4, 1869, and finished their work and adjourned *sine die* on February 26, 1870. On that date Mr. Vidal reported to the Secretary of State as follows:

"The following claims were presented on the part of citizens of the United States of America against Peru, viz.:

1.	Ruden & Co.	[1] $203,662.31
2.	George Hill	30,592.59
3.	Richard T. Johnson	21,725.92
4.	Francis L. Grannan	29,730.55
5.	Michael T. Eggart	55,000.00
6.	Alfred Lepoint	19,572.92
7.	Henry Milligan	302,777.77
8.	S. Crosby & Co.	13,990.89
9.	Adolph Rosenwig (No. 1)	13,272.86
10.	Richard Hardy	4,672.37
11.	Frank Isaacs	12,828.14
12.	Thomas J. Clark	22,129.81
13.	Santiago Cobb Montjoy	17,240.74
14.	Adolph Rosenwig (No. 2)	36,907.42
15.	Charles Weile	46,279.62
16.	Peter F. Hevner	6,256.59
17.	Abraham Wendall	72,222.22
18.	Fidelia C. Byers	31,645.18
19.	Rollin Thorne	236,501.48
20.	Henry Curtis	
21.	John Gillis	
22.	Maria Reyes de Cox	

[1] The amounts stated in this list are in United States gold. The nominal amount of all the claims against Peru, in Peruvian silver, was 1,271,179.16 soles.

"Of the above claims the last seven were either disallowed or dismissed by the Commissioners for the following reasons:

"Claims Nos. 20, 21, and 22 were dismissed for being presented to the Commission beyond the time allowed by Article 3 of the convention of December 4, 1868.

"Claim No. 19 was dismissed, the Commission having found that the claimant, an American citizen, had substituted himself for a Peruvian citizen who was the true claimant, in order to enjoy the privilege of having the case, already lost before the courts of Peru, adjusted by the Commission.

"Claim No. 18 was dismissed as arising out of a transaction of a date prior to the 30th of November, 1863, and being therefore, one of the cases which the Commission could not adjust, by virtue of Article 2 of the convention.

"Claim No. 17 was disallowed by the Commission for being *prima facie* a groundless one.

"Claim No. 16 was disallowed for being one of those claims which, in the opinion of the Commissioners, neither the United States of America nor Peru would willingly allow an international court to adjust.

Awards against Peru.

"Of the fifteen other claims, Nos. 1 and 2 were adjusted by Umpire Valenzuela, No. 3 by Umpire Elmore, and the other twelve by the Commissioners. The following awards were respectively made:

1.	Ruden & Co.	$7,099.18
2.	George Hill	5,555.55
3.	Richard T. Johnson	10,629.62
4.	Francis L. Grannan	6,481.48
5.	Michael T. Eggart	10,185.18
6.	Alfred Lepoint	3,611.11
7.	Henry Milligan	69,444.44
8.	S. Crosby & Co.	9,259.25
9.	Adolph Rosenwig (No. 1)	2,314.81
10.	Richard Hardy	2,314.81
11.	Frank Isaacs	2,777.77
12.	Thomas J. Clark	4,166.66
13.	Santiago Cobb Montjoy	10,185.18
14.	Adolph Rosenwig (No. 2)	17,985.18
15.	Charles Weile	32,407.40
	Total	$194,417.62

The particulars of some of these claims are thus given in Moore's "International Arbitrations," Vol. II, pp. 1652 *et seq.*:

"No. 4. F. L. Grannan, for ill treatment and losses during the riots at Batan Grande, Lambayeque, January 13, 1868, as described in Johnson's case, below.

"No. 5. Michael F. Eggart, for injuries and losses in the revolutionary disturbances at Chiclayo, as described in the case of Hill, below.

"No. 6. Alfred Lepoint, for losses and injuries in a riot.

"No. 11. Frank Isaacs, for the plundering of two cigar stores at Lima by a mob on the morning of November 6, 1865. It seems that the mob was attacking the presidential mansion, and that the shots fired by the soldiers who were defending that building did great damage to the stores. The soldiers in question were defeated, and the mob then broke into and plundered the stores.

"No. 13. Santiago Cobb Montjoy, for losses suffered in consequence of the act of the local authorities at Lambayeque in maliciously cutting off the water from his rice plantation. Montjoy was at the time a United States consul.

"No. 15. Charles Weile, for wrongful arrest and imprisonment. Weile, while United States consul at Tumbez, interfered to aid or protect a Peruvian woman who was fighting with her husband, and, as Peru alleged, dealt the husband a nearly fatal blow with his cane. For this act Weile was arrested and imprisoned, but he escaped before his trial was finished, and fled the country. It was alleged on the part of the United States that the wound on the husband's head was inflicted by the wife; that Weile's arrest was illegal and without a warrant, and that the consular office was broken into in order to effect it. The Peruvian Commissioner was opposed to awarding a large sum, though he was willing to allow something. The United States Commissioner "insisted on the importance of giving a decision which would, by the magnitude of the award, show the local authorities how wrong it is for them to act in a hasty manner when the liberty and honor of the consul of a friendly power are concerned."

"*Case of Ruden & Co.* In October, 1869, Alexander Ruden, a citizen of the United States and a partner in the firm of Ruden & Co., of Paita, presented to the Commission, as a partner in, and a representative of the firm, a claim for indemnity for the burning and destruction of the plantation of Errepon, in the department of Lambayeque, by an armed mob, January 14, 1868. Upon the merits of the claim the Commissioners differed. The United States Commissioner thought that the claim should be allowed in full. The Peruvian Commissioner thought that it should be dismissed; but that, if it should be held to be well founded, only so much of it should be allowed as represented the interest of Alexander Ruden in the firm, the other members of which were not citizens of the United States. The umpire in the Ruden case awarded the claimant (as above noted) $7,099.18.

"*Case of George Hill.* George Hill, an American citizen, worked as a carpenter at Chiclayo, Peru, in the establishment of a Mr. Solf, by whom he was employed. In December, 1867, the village, which had been seized by a revolutionary party, was besieged by government forces. On the night of January 6, 1868, Hill, fearing the vengeance of those who charged him with being in sympathy with the besiegers, set out with a few friends to a neighboring village, when he was fired on by a company of cavalry belonging to the revolutionary forces, and brought back as a prisoner to Chiclayo. Here he was thrown into prison for three days, without food or medical attendance. The house of Mr. Solf, in which there were $2000 in gold belonging to Hill, was robbed by the revolutionary party and then destroyed. The Commissioners disagreed as to the responsibility of the government of Peru for the acts of the revolutionary party, which subsequently became the ruling party. The umpire, Mr. Valenzuela, decided that Peru was not responsible for the loss of the $2000, but awarded the claimant 6000 Peruvian silver soles for personal ill treatment and loss of health and work.

"*Case of R. T. Johnson.* Richard T. Johnson, a citizen of the United States, claimed 23,000 soles from Peru for the destruction of his property, an

attempt to murder him, and blows and ill treatment causing permanent injuries. The acts complained of were committed on January 13, 1868, in the province of Lambayeque. The Commissioners differed as to liability of the Peruvian government, and the case was referred to the umpire, Mr. Elmore.

" Mr. Elmore, in rendering his decision, said that the only question in the case was whether Peru was responsible for what had occurred. The occurrences in Lambayeque were notorious, and the supreme government had declared them to be infamous. Mr. Johnson was one of the victims of that 'whirlwind of destruction.' The Constitution of Peru declared life and property inviolable, and Mr. Johnson reposed in that guaranty. Yet his property was destroyed, and he was personally and permanently injured by armed bands headed by the governors of adjacent towns, instigated by the superior authorities of the province, who were dependent upon and immediately represented the supreme government. The supreme government issued a decree to the effect that the injuries should be redressed; but nothing substantial was done, nor were any of the malefactors punished. The Peruvian Commissioner had contended that it was necessary that Johnson should have had recourse to the courts and have been denied justice. But it was known that the judges of the province of Lambayeque were menaced and controlled by the mob, and, if not in sympathy with them, in a panic; and that it would have been useless to appeal to them. Mr. Elmore declared, however, that there had been an actual denial of justice. By the circular of the minister of justice of Peru of September 13, 1853, the judges were forbidden to receive *expedientes* affecting the law of December 25, 1851, closing the consolidation of the public debt. By that circular the courts were closed against the sufferers at Lambayeque. Mr. Elmore cited two cases of the actual denial of petitions of persons injured in Lambayeque on the ground of the circular referred to. One of these was the case of Ruden & Co., who applied April 2, 1868, to the judge of Lambayeque and were denied a remedy on that ground. The claimants were thus without hope. If they applied to the courts, they were told they had no remedy. If they applied to the Commission, they were told that they must apply to the courts. Mr. Elmore therefore awarded the claimant the sum of 11,480 Peruvian silver soles."

On the whole, the work of this Commission was clearly far superior to that of the average international mixed commission. Some of the cases that it disallowed were doubtless entitled to relief, but others possessed only doubtful standing. If other commissions administered justice as efficiently as this one did, there would be fewer grounds for complaint.

XIII. Conventions between the United States and Venezuela, April 25, 1866, and October 5, 1888

The earlier of these arbitration conventions embraced a large number of claims of long standing against Venezuela. The United States Commissioner was David M. Talmage of New York; the representative of Venezuela was J. G. Villafane; and the umpire, nominated by the Russian minister in Washington, was Juan N.

Machado, a Venezuelan. The Commission met in Caracas on August 30, 1867, and held its final session on August 3, 1868. It passed upon forty-nine claims; of these it rejected twenty-five. The total amounts awarded aggregated $1,253,310.30.

Soon after the award Venezuela impeached the proceedings on the ground of fraud. It was alleged that between Thomas N. Stilwell (American minister at Caracas), Commissioner Talmage, and Umpire Machado had been plotted a conspiracy through whose machinations they were to receive from forty to sixty per cent of the sums awarded. The Congress of the United States took up the matter, and endless discussion about it ensued. Whether there was any truth in these charges it is hard to say, but Venezuela made out rather a strong circumstantial case.

After an extended interchange of views between the two governments, the convention of 1888 was signed, creating a new commission to revise *in toto* the awards of the preceding (and now discredited) board. This Commission consisted of John Little, of Xenia, Ohio, representing the United States, José Andrade, representing Venezuela, and John V. L. Findlay, of Baltimore, Maryland, third Commissioner. It was organized on September 3, 1889, and concluded its labors on September 2, 1890. It considered sixty-three cases, forty-nine of which had been also considered by the old Commission. The new Commission disallowed thirty-seven claims on lack of merit, and dismissed twelve for technical reasons. The claims before it totalled $9,529,499.29; it allowed but about ten per cent thereof, namely, $980,572.60.

CHAPTER XXI

ARBITRATIONS WITH PERU, BRAZIL, CHILI, HAITI, AND VENEZUELA

I. Convention between the United States and Peru, March 17, 1841

UNDER this convention, entered into with reference to the settlement of claims aggregating $1,200,000, Peru agreed to pay the United States $300,000 "on account of seizures, captures, detentions, sequestrations, and confiscations of their vessels, or for the damage and destruction of them, of their cargoes, or other property, at sea, and in the ports and territories of Peru, by order of said government of Peru, or under its authority." The money paid by Peru was distributed by the United States government, acting through the Attorney-General. Here follow some of the awards:

Ship Providence: for detention six days, and extortion of $3000 by the Peruvian naval authorities, $3840.

Ship Esther: seized by soldiers at Callao, December 28, 1822, condemned and fitted out as a war-ship, $28,110.10. (Other items awarded to persons interested in cargo.)

Ship General Brown: seizure of vessel and confiscation of cargo, $201,768.18; amount claimed, $600,000.

Ship Friendship, of Salem: detention thirty-six days, and sequestration of goods, $4600.

Brig Elizabeth Ann: unlawful detention, and other damages, $3950.

Loss of cargo of Elizabeth Ann, claim by Joseph A. Clay, administrator of estate of Charles G. Swett, $4435.56.

Ship Catharine: exaction of double duties, $1575.

Schooner Henry: unlawful detention, and confiscation of property, $8800.

Ship Flying Fish and Schooner Wasp: nominal amounts.

Bark Peru of Salem: detention and sequestration of the bark, and property stolen by soldiers, $1008.63.

Ship China: unlawful detention, and damages sustained through a twenty-four pound shot, $2710.

Schooner Robinson Crusoe: seized and destroyed, $10,000.

Brig Macedonian: vessel and cargo condemned and used by the government, $91,287.50.

Other awards brought up the total to $421,432.41. As the amount for distribution was but $300,000, the awards were subjected in payment to a *pro rata* deduction.

For the illegal arrest of Henry D. Tracy and damages to his commercial establishment nothing was awarded.

II. Convention between the United States and Brazil, January 24, 1849

Under this convention Brazil agreed to pay to the United States in settlement of all claims of American citizens, the sum of $530,000, *milreis*. In 1850 Mr. George P. Fisher, of Delaware, was appointed by President Taylor, under the act of Congress for carrying into effect the convention of 1849, Commissioner to pass upon the claims and distribute the fund amongst those entitled thereto. As the amount of the fund proved too small to pay the awards in full, a proportionate division of it became necessary.

The Commissioner began to hear claims on July 1, 1850. The following is a summary of findings and payments:

1. Bark Sarah and Esther, of Boston: amount claimed, $17,732.30; disallowed as presented too late.
2. Hayes, Engerer, & Co., amount claimed, *Rs*. 86, 329,732, and $160,000; disallowed on same ground as No. 1.
3. Brig Toucan, of Boston: amount claimed, $24,220.58; sum awarded, $19,453.83, of which claimant received, as its ratable proportion of the award, $15,008.19.
4. Sloop Morning Star, of Philadelphia: amount claimed, $10,728; disallowed on same ground as No. 1.
5. Bark Yeoman: amount claimed, $31,397; disallowed on same ground as No. 1.
6. Schooner Shilleleh, of Baltimore: amount claimed, $79,847.17; sum awarded, $74,302.69.
7. Ship Shamrock; amount claimed, $77,298; awarded, $26,977.50; proportion paid, $20,973.96.
8. Schooner John S. Bryan, of Boston: amount claimed, $11,270.25; awarded, $3249.17; paid, $2506.90. (Vessel seized in the province of Pará in June, 1836.)
9. Ship Shamrock, of Beverly, Massachusetts: amount claimed, $57,587.73; awarded, $23,777.80; paid, $18,344.12.
10. Brig Sally Dana, of Philadelphia: amount claimed, $13,023.72; disallowed on the ground "that, according to the principles of international law as uniformly acknowledged and acted upon by the government of the United States, it cannot enforce or demand any claim arising out of a mere contract between one of its citizens and a foreign government."

The learned Commissioner did not state the source of his knowledge of this marvellous "principle." Other men (perhaps not so wise as Commissioner Fisher) have an impression, possibly erroneous, that

the question whether a government will or will not endeavor to enforce a claim growing out of a mere contract between one of its citizens and a foreign government is a question relating solely to the foreign policy of the claimant's government, and having nothing whatever to do with "international law." Men of this stamp (possibly not gifted with the legal acumen of the Commissioner) believe that the competent authority to pass on this question is the government itself, and if the government, either by presenting the claim or by declining to present it, has decided the question, that such decision is conclusive; and that in any event a commissioner to settle claims is not called upon to decide what is or is not, or what ought to be or ought not to be, the foreign policy of his government.

11. Schooner Hope: amount claimed, $2292; awarded, $1130.30; paid, $872.08.
12. The Felicidade: amount awarded, $18,453.90; paid, $14,229.60.
13. Brig Aspasia: amount awarded, $2353.81; paid, $1810.65.
14. Ship Tarquin: amount awarded, $69,869.14; paid, $45,585.96.
15. Ship Canada, of New York: amount claimed, $25,827.92; awarded, $1559.78; paid, $1203.34.
16. Claim of Emanuel Gomez: rejected.
17. Case of Wright and Houghton: amount awarded, $14,678.27; paid, $11,208.30.
18. Bark Navarre: amount awarded, $196.99.
19. Bark Globe, of Philadelphia: amount awarded, $199.22.
20. Ship Louisiana, of New York: amount awarded, $577.94; paid, $445.87.
21. Ship Florence, of Boston: amount awarded, $1453.43; paid, $1121.29.
22. Bark Mystic, of New York: amount awarded, $30,656.75; paid, $23,651.04.
23. Case of Isaac Austin Hayes: amount claimed, $90,000; disallowed "because, the claim being one arising out of the alleged false imprisonment of the said Isaac Austin Hayes by the Brazilian authorities, all right to claim damages for said false imprisonment died with the person of said Hayes according to the well-established maxim of law, 'Actio personalis moritur cum persona.'"

The judge who would be willing to lay down and apply this cruel, preposterous doctrine would indicate unmistakably his reversion to barbarism. And so, after reargument, Judge Fisher to some extent abandoned his benighted position and awarded the heirs of this victim the munificent sum of $771.48.

24. Brig Brutus, of New York: amount allowed, $38,655.83; paid, $29,822.19.
25. Case of Captain Wolfe: amount allowed, $2150.27; proportion paid, $1658.88.
26. Brig Caspian, of Boston: allowance made, $54,632.95.
27. Brig Sally Dana, of Philadelphia: amount claimed, $7750; rejected

as a claim arising out of a contract with the government of Brazil, and hence not enforceable, under the alleged principles of "international law."

28. Case of Joseph Ray: claim rejected.

29. Brig Argus, of Boston: claim rejected.

30. Case of James Smith: amount awarded, $965; proportion paid, $757.34.

31. Ship Erie, of Newport: amount awarded, $1138.83; paid, $878.58.

32. Case of Lemuel Wells: rejected.

33. Ship Cincinnatus: rejected.

34. Brig Laine, of Salem: allowance, $53.30; paid, $41.11.

35. Bark Wave: claim for fine illegally imposed; rejected.

36. Schooner Amazon, of New York: amount allowed, $30,229.80; paid, $23,321.73.

37. Vessel Amazon, seizure of cargo. This vessel had engaged in traffic on the river Amazon, in response to an invitation, and in reliance upon a promise, made by the Brazilian *chargé d'affaires;* and at a time when the vessel was within the Brazilian jurisdiction the government seized it, and confiscated its cargo. Commissioner Fisher disallowed its claim for indemnity for the confiscation, on the ground that this promise of the Brazilian *chargé d'affaires* did not "amount to a grant by the said imperial government to the stockholders of said association or to any other persons of the right to traffic in merchandise along the coasts of said river." It seems that more "reasons" can be adduced to exculpate these South American countries for robbing civilized men than are contained in all other departments of the literature of fallacy combined!

38. Brig Orient: customs duty illegally exacted; award, $390.87.

A comparison of awards with amounts paid will indicate the scaling down that took place.

III. Convention between the United States and Brazil, March 14, 1870

This convention grew out of the seizure of the American whaleship Canada, 545 tons, Barton Ricketson, Master; Gideon Allen and others, of New Bedford, Massachusetts, owners. The circumstances of the case, as sworn to by the captain, were as follows: The Canada sailed from New Bedford for the Northern Pacific, via the Horn. On the 27th of November, 1865, the ship went on the Garcas Reef, near the mouth of the Rio del Norte, and about nine miles off the Brazilian shore. The captain and crew after five days' work had nearly succeeded in getting her off the reef, when they were attacked by a party of Brazilian soldiers, who took possession of the ship and refused to allow them to continue their work or have anything further to do with their vessel. The captain protested, but in vain; the soldiers allowed the ship to drift back on the reef, the Canada became a wreck, her sails, cargo, and stores were taken ashore by the Brazilians and sold, and the proceeds were paid into the government treasury. The captain and crew got back to the United States as best they could,

after having made due protest before the American consul at Pernambuco, Mr. Alex. H. Clements. Diplomatic correspondence ensued, and on March 14, 1870, there was signed at Rio de Janeiro a protocol by which the claim was referred to Sir Edward Thornton, the British minister at Washington, as arbiter.

Brazil interposed the customary quibbles, subterfuges, and "arguments"; but the arbiter declared his belief "that the loss of the vessel was owing to the improper interference of the officers of the imperial government, which is therefore responsible for the damage as hereinafter stated," and proceeded to assess the same at $100,740.04. Sir Edward's opinion has a genuinely tonic effect after a dose of the decisions of such judges as Barge, Plumley, Duffield, and Cave Johnson. It is well worth reading; it is the opinion of a just judge.

IV. Convention between the United States and Haiti, May 24, 1884

Under this convention the Hon. William Strong, from 1870 to 1880 a justice of the Supreme Court of the United States, was appointed arbitrator in the matter of two claims against Haiti, made respectively by the American citizens Antonio Pelletier and A. H. Lazare.

In the long-pending case of Pelletier the claim was thus stated in the protocol:

"That Pelletier was master of the bark William, which vessel entered Fort Liberté about the date claimed (31st of March, 1861); that the master and crew were arrested and tried on a charge of piracy and attempt at slave-trading; that Pelletier, the master, was sentenced to be shot, and the mate and other members of the crew to various terms of imprisonment; that the Supreme Court of Haiti reversed the judgment as to Pelletier, and sent the case to the court at Cape Haytien, where he was retried and sentenced to five years' imprisonment; and that the vessel, with her tackle, was sold, and the proceeds divided between the Haitian government and the party who, claiming to have suffered by her acts, proceeded against the vessel in a Haitian tribunal."

The hearings before the arbitrator began on November 10, 1884, in Washington. The arbitrator transmitted his award, dated June 13, 1885, to Secretary of State Bayard on June 20, 1885. The case is a very curious one, and the intellectual powers of the ablest jurist might well be severely taxed in the effort to decide it justly.

Judge Strong in his opinion reviews the voyage of the William from Mobile to Cartagena, and thence by way of intermediate ports to Haiti. He believes, from all the evidence, that Pelletier contemplated seizing a cargo of negroes at Haiti and selling them in Louisiana, — an act which was not piracy according to international law, but which was nevertheless punishable by death under the laws both of the United States and of Haiti. But while granting that there were

ample grounds for suspicion and alarm on the part of the Haitian government, Judge Strong finds that no overt act was committed such as would be necessary if the Haitian courts were to be given jurisdiction. Referring to Pelletier, he says:

"But I think he is justly entitled to compensation for the personal injuries inflicted upon him, for his trial by a court that had no jurisdiction, for his condemnation and imprisonment and his consequent sufferings. I do not overlook the fact that his conduct had given rise to reasonable suspicions that he was a slaver and that he had evil designs against the negroes of Haiti. It is no wonder that the populace was excited and that he was treated with insults and buffetings during his marches to the prisons at Cape Haytien and Port au Prince, as he undoubtedly was; but his treatment by the inferior officers of the government was harsh, his being marched in irons was unnecessary severity.

"His imprisonment was severe, even cruel, and his food was scanty and unsuited to his condition.

"The cells in which he was confined were small, damp, and unhealthy. For a considerable time before his removal to the hospital he was kept in irons in his cell. It matters not that he was treated as it was the habit of the Haitian government to treat its prisoners. His sufferings were none the less on that account, and they were sufferings that the government had no right to inflict. For all this compensation is due."

The arbitrator awarded the claimant $57,250. This award was based on conclusions that no overt act had been committed in Haitian waters, and that under the circumstances Haiti had jurisdiction of neither vessel nor master.

Haiti protested at once against the award, and Secretary Bayard reopened the case. He said that he was constrained to come to an entirely different conclusion as to the jurisdiction of Haiti, and continued thus:

"The view here maintained, of the jurisdiction of the sovereign of territorial waters of offences committed in such waters, when of a character calculated to disturb the peace of the port, is sustained in the case of Mali *v.* Keeper of Jail [1] decided this week by the Supreme Court of the United States. From the opinion in this case of Chief Justice Waite, which I am permitted to cite in advance of publication, occurs the following: 'It is part of the law of civilized nations that when a merchant vessel of one country enters the ports of another for the purpose of trade, it subjects itself to the law of the place to which it goes, unless by treaty or otherwise the two countries have come to some different understanding or agreement; for, as was said by Chief Justice Marshall in The Exchange, 7 Cranch, 144, it would be obviously inconvenient and dangerous to society, and would subject the laws to continual infraction, and the government to degradation, if such . . . merchants did not owe temporary and local allegiance, and were not amenable to the jurisdiction of the country. United States *v.* Diekelman, 92 U. S. 520; 1 Phillimore's Int. Law, 3d ed. 483, sec. cccli; Twiss's Law of Nations in Time of Peace, 229, sec. 159; Creasy's Int. Law, 167, sec. 176; Halleck's Int. Law,

[1] Reported as Wildenhaus's Case, 120 U. S. 1.

1st ed. 171. And the English judges have uniformly recognized the rights of the courts of the country of which the port is part to punish crimes committed by one foreigner on another in a foreign merchant ship. Regina *v.* Cunningham, Bell C. C. 72; s. c. 8 Cox C. C. 104; Regina *v.* Keyn, 13 Cox C. C. 403, 486, 525; s. c. 2 Ex. Div. 63, 161, 213., As the owner had voluntarily taken his vessel for his own private purposes to a place within the dominion of a government other than his own, and from which he seeks protection during his stay, he owes that government such allegiance for the time being as is due for the protection to which he becomes entitled."

These principles, here laid down by Mr. Bayard, and undoubtedly correct, do not seem to have been either impugned or denied in Judge Strong's opinion. The latter had held (if I have correctly understood him) that the crime against nations of piracy had not been committed, and hence that Haiti could not claim jurisdiction on that score; that if Haiti could rightly claim any jurisdiction at all thus to seize and proceed against Pelletier and his vessel, such claim must needs be founded on some crime, either of commission or of attempt, on Haitian territory or within Haitian waters; but that, while there was a great deal of evidence giving rise to reasonable suspicions that Pelletier was a slaver, no commission of, not even any actual attempt at, this nefarious business had been fastened upon him.

To return to the Secretary of State. Mr. Bayard proceeded to recommend that Judge Strong's award be set aside, and that the United States decline to take any steps toward its collection. The government adopted these recommendations.

The *crux* of this case — a difficult one for the "outsider" to reason out — turns apparently upon questions of fact rather than of law. Was the William a slaver? Did Pelletier go to Haiti, designing to seize a cargo of negroes? These are the vital questions. Evidently the testimony on both sides was wholly unreliable. Pelletier had a debauched, turbulent crew, and those of its members who informed against him were his enemies, actuated by motives of revenge. Evidence of that sort, colored by imagination and the desire for vengeance, can be accepted only with extreme reluctance. But Pelletier likewise was apparently untrustworthy. Doubtless his conscience was as crooked as a ram's horn. Seemingly his brain was as full of knots as the trunk of a gnarled oak. Such men see crooked, hear crooked, think crooked. As a rule they lie automatically, involuntarily, and perhaps unconsciously; they would not know the truth if they should meet it in the middle of the road. To sum up, Pelletier was undoubtedly a bad citizen, and there was enough reliable evidence to arouse grave suspicions that his vessel was a slaver; the authorities of Haiti were also bad citizens, and brutal in the extreme; the element of honesty and good faith was utterly absent from the case, from both sides of it; if the government of the United States will protect its honest citizens abroad, it will have enough to do without interfering

on behalf of men who are obviously liars and probably rogues; and Secretary Bayard on the whole was amply justified in making effective recommendations adverse to the award.

V. The Convention with Haiti, May 24, 1884 (*continued*)

Referring to the claim of A. H. Lazare, Article 3 of the Protocol stated as follows:

"That Lazare entered into a written contract with the Haitian government September 23, 1874, for the establishment of a national bank at Port au Prince with branches, the capital being fixed at first at $3,000,000, and afterward reduced to $1,500,000, of which capital the government was to furnish one-third part and Lazare two thirds; that the bank was to be opened in one year from the date of the contract, and an extension of forty-five days on this time was granted on Lazare's request, and that on the day on which the bank was to be opened the Haitian government, alleging that Lazare had not fulfilled his part of the contract, declared, in accordance with the stipulations of Article 24, the contract null and void and forfeited on his, Lazare's, part."

In his opinion Arbitrator Strong says:

"In relation to the capital, the thirtieth and thirty-first articles are important. By the thirtieth the government, acting by Mr. Rameau, its authorized agent, engaged to subscribe to the bank as shareholder for the sum of 1,000,000 piasters (dollars), which amount it bound itself to pay at the office and deliver into the vaults of the main bank 'as soon as the complete organization of the establishment was effected and duly ascertained or lawfully declared' ('*dûment constatée*').

"By the thirty-first article Mr. Lazare bound himself to pay at the office of the main bank, in order to be deposited into the vaults, the sum of 2,000,000 piasters (p. 2,000,000), 'so as to complete the amount of stock of bullion,' which was fixed at 'three millions of piasters' (p. 3,000,000).

"(By an amendment of the thirtieth and thirty-first articles made May 11, 1875, it was agreed that the government and Mr. Lazare should be obliged to deposit in the vaults of the bank only half of the sum subscribed, the other half to be called for at such dates as should be fixed by the *direction générale* of the bank.)"

Upon the date set for the bank's opening, October 15, 1875, the Haitian government on its part paid into the vaults of the bank $235,000 coin, and the balance of the $500,000 in bonds, I O U's of local merchants, etc. Lazare did not pay in anything, and indeed he had nothing with which to pay. The government at once instituted *ex parte* proceedings to declare that it had performed its part of the contract; that Lazare had failed to perform his part, and that therefore the contract was null and void.

The claimant alleged before Arbitrator Strong that by Articles 14 and 15 of the contract the bank had been pledged the customs receipts

of the Haitian government, as a guarantee of loans which the bank had obligated itself to make; that, relying on these conditions, he had arranged in London for his part of the capital and had incurred heavy expenses; but that subsequently, while he was absent in Europe, the government pledged these customs receipts for the payment of what is called the French "double debt," in amount of 80,000,000 francs; that as soon as this became known, the financiers refused to deliver to him their contributions to the project, and the whole scheme fell through.

Articles 14 and 15 of the contract were as follows:

"Art. 14. In return, the bank formally binds itself to furnish the annual budget voted by the legislative chambers with open doors, to be reimbursed out of the proceeds of customs duties, in a fixed proportion, with interest fixed by the bank, and which, in no case, should ever exceed twelve per cent per annum. The above-mentioned payment of the budget shall be made by the bank in gold, silver, or currency, in the proportion desired by the government. All surplus to the credit of the government shall bear reciprocal interest.

"Art. 15. In case the government should find itself in presence of difficulties demanding extraordinary expenses, apart from those for the budget, the 'Banque Nationale d'Haiti' binds itself to furnish the government with the amount it may require, at the same time reserving sufficient capital to carry on its operations, and on condition of reimbursement, with interest, in the conditions above mentioned."

Judge Strong awarded the claimant $117,500, with interest at six per cent from November 1, 1875, to the date of decision, June 13, 1885. On June 20, 1885, the award was delivered to Secretary Bayard.

Haiti at once protested against this award, and Secretary Bayard reopened the case. He made a long report, and concluded:

"(1) That there was no satisfactory evidence that the Haitian government interfered with Lazare's obtaining funds in Europe, but that it was, on the contrary, to be inferred that it was deeply interested in his success and did all it could to further his movements;

"(2) That there was no evidence of any diversion by the Haitian government, subsequent to the contract, of revenues which were to have gone to the bank, and that whatever hypothecation of them previously existed was effected by public acts of which Lazare, if it were possible to suppose that he was ignorant of them, was bound to take notice;

"(3) That the deposit by the Haitian government on October 15, 1875, of $235,000 in coin, and of the rest in specie drafts of merchants who were able to supply the bullion at call, was a sufficient fulfilment of its stipulation to deposit $500,000 in gold and silver;

"(4) That Lazare had at the time no means of fulfilling his part of the contract, and that his failure in this respect was not induced by any action on the part of Haiti of which he had not notice or ought not to have taken notice when he entered into the contract;

"(5) That Lazare by his conduct ratified the Haitian government's rescission of the contract, and that he was therefore precluded from taking the

ground that the government was bound, instead of rescinding the contract, to propose to arbitrate;

"(6) That his claim for 'enormous damages,' made after the fall of the Rameau government and after the consulship at New York was at an end, was an afterthought, and that the utmost that he could properly have claimed was his expenses and salary as the agent of Haiti under the contract;

"(7) That it was the duty of counsel for the United States to have produced before the arbitrator the despatch of Mr. Bassett and the claimant's statement of 1877, and that if through inadvertence, as no doubt was the case, they were withheld, the United States could not do otherwise than decline to enforce the award;

"(8) That even if the claim had been proved, the transaction was of such a speculative character and so destitute of all the elements of success that the government of the United States could have taken no action in regard to it beyond the tendering of good offices, without departing from its settled policy;

"(9) That the announcement by the President in his annual message of 1885 that the arbitration had been closed and a final award given, could not preclude a re-examination of the case; and

"(10) That whenever it was discovered that a claim against a foreign government could not be honorably and honestly pressed, such claim should, no matter what the period of procedure, be dropped."

On Mr. Bayard's recommendation the award was set aside, and Haiti was notified that it would not be asked to pay it.

Mr. Bayard did exactly right. The claim was undoubtedly speculative. Lazare never had any money with which to found a bank; his proposition was that of a promoter, not an investor. Had he brought to the depository the stipulated sum, $1,000,000, in coin, and said to the Haitian authorities: "Here, gentlemen, is my share of the money. I expect you to live up to your part of the contract, particularly with reference to the customs duties. I notify you now that under Articles 14 and 15, if the bank makes loans to the government for the annual budget or other purposes, it is entitled to be reimbursed out of the customs duties, and that if the government has already pledged these customs duties elsewhere the bank will not lend to it. I am able and ready to go ahead with my part of the contract in good faith, and I demand that you do the same with your part." And if, after Lazare had done this, Haiti had refused to abide by its part of the contract, then would the former have been entitled to such reasonable damages as he should have suffered through such refusal on the part of the latter. But in the actual state of affairs the award of heavy damages to Lazare was absurd on its face, for he not only had not complied with his contract, but had no means with which to comply with it. He had merely devised a scheme that did not work. Secretary Bayard was entirely right in designating the award of the arbitrator as unconscionable and in setting it aside.

VI. Arbitration between the United States and Haiti of Injuries to Americans in the Port-au-Prince Riots

There was anarchy in Haiti on ; the date may be left blank, to be filled in at the reader's pleasure, but the present narrative is concerned with the Port-au-Prince riots in the latter half of September, 1883. On September 22 a revolution against President Salomon commenced. A rabble took up the cry in the streets, but upon the appearance of the government troops the participants in the *émeute* fled, or concealed themselves in the houses round about. The government troops then started to loot and burn the city; pandemonium broke loose, and for three or four days anarchy prevailed. There was a miscellaneous shooting of citizens, and the soldiers set fire to the city, burning several hundred buildings. Property was looted and destroyed. No respect was shown to foreign flags, the pillage extending to all foreign interests. Even the records of several departments of the Haitian government were destroyed by its own troops. Every foreign government that had a war-ship in the port at the time — Great Britain, Germany, France, Belgium, and other nations — landed troops to protect its legations and citizens. The United States did nothing.

During this affair two American citizens had been maltreated by government troops, and damages through destruction of property had been sustained not only by them but by four other Americans. The claims for these injuries were referred to a Mixed Commission, consisting of Charles Weyman and Dr. J. B. Terres representing the United States, and Segu Gentil and B. Lallemand on the part of Haiti. These Commissioners on April 22 and 24, 1885, allowed the munificent sum of $5700 on four of the claims. The other two claims — that of Mrs. Williams for $16,000 and that of Mrs. Fournier for $1500, for the destruction of their respective houses by the Haitian troops — were referred back to the governments, on a disagreement of the Commissioners. The facts were not disputed; but the Haitian Commissioners claimed that under the law of Haiti foreigners could not hold real property, and that therefore indemnity should be denied these claimants! The United States, however, continued to press the claims, and finally secured $8000 for Mrs. Williams and $1000 for Mrs. Fournier.

Foreigners not allowed to own real estate! No white man allowed to become a citizen! Murder, pillage, rapine, and anarchy lurking in the background when not rampant in the fore — that is our Sister Republic of Haiti! Can nothing arouse the American people to the deep degradation and dishonor of our relations to this barbarous community?

VII. Convention between the United States and Haiti, May 24, 1888

On March 6, 1884, Charles Adrian Van Bokkelen, an American citizen, was thrown into prison at Port-au Prince, Haiti, for non-ability to pay a judgment against him of $3000, — a judgment which was afterwards set aside. He owed several debts, yet possessed a considerable number of Haitian bonds, which had seemed more than sufficient to pay his obligations; but this unique Dictatorship had defaulted on its bonds, and their price had dropped out of sight, so Van Bokkelen was rendered bankrupt.

After his imprisonment he made an assignment of his assets for the benefit of his creditors; and as, under the law of Haiti, a citizen thereof could not be imprisoned for debt if he followed this course, Van Bokkelen accordingly now asked to be released. His release was refused, on the contention that this law did not extend to Americans.

A treaty between the United States and Haiti, made in 1864, granted generally to the citizens of each country all the rights respectively accorded by the laws of either to native citizens thereof. A paragraph of Article VI ran thus:

"The citizens of the contracting parties shall have free access to the tribunals of justice, in all cases to which they may be a party, on the same terms which are granted by the laws and usage of the country to native citizens, furnishing security in the cases required, for which purpose they may employ in the defence of their interests and rights such advocates, solicitors, attorneys, and other agents as they may think proper, agreeably to the laws and usage of the country."

The State Department at Washington held that this treaty undoubtedly covered the case of Van Bokkelen, and called for his release. After almost endless diplomatic correspondence, with arguments, petitions, and protests galore, Haiti boldly defending its iniquitous stand, the United States playing its customary rôle of Good Old Woman, the prisoner was released, after an incarceration of fourteen months and twenty-two days. His health had been completely ruined by the outrages to which he had been subjected, and a few months later (November 1, 1885) he died, leaving his family in very poor circumstances. The United States government demanded "arbitration" — the very word is becoming hateful to my ears — and at last a protocol was signed on May 24, 1888, two and a half years after the unfortunate victim's death. Mr. Alexander Porter Morse was chosen referee.

Haiti interposed a thousand objections, quibbles, technicalities, and sickening falsehoods to defeat the claim. To the great credit and honor of Referee Morse be it said that not one of Haiti's subterfuges

deceived him for a moment. On December 4, 1888, he rendered his decision awarding to the Van Bokkelen heirs the sum of $60,000. In his judgment were these words:

"Whether the literal, natural meaning of the language, or the spirit of the treaty of November 3, 1864, or the common intention of the contracting parties be regarded, I am of opinion, first, that the imprisonment of Charles Adrian Van Bokkelen, a citizen of the United States in Haiti, was in derogation of the rights to which he was entitled as a citizen of the United States under stipulations contained in the treaty between the United States and Haiti. Second, that the record of the case and the correspondence between the two governments fails to disclose any extenuating circumstances or sufficient justification for the harsh treatment and protracted imprisonment of Van Bokkelen by the constituted authorities of the Republic of Haiti, notwithstanding the earnest and repeated protests of the representatives of the United States; and I award that the republic of Haiti pay to the United States, on behalf of the representatives of Charles Adrian Van Bokkelen, the sum of sixty thousand dollars ($60,000)."

It appears, then, that while the great majority of these "international jurists" deserve the disapproval, if not the execration, of mankind, there have been some just and decent judges in their number. High in this latter list stands Alexander Porter Morse.

But what shall we say of the foreign policy of a great nation which will thus permit one of its citizens, a man of good repute, to remain confined shamelessly and illegally in a dungeon, to be left there month after month, treading "the way to dusty death"? Can Americans face such facts as this, and continue to hold up their heads in self-respect? Can we claim to be a nation with a fine sense of honor, with high standards, and yet tolerate such wrongs — nay, more, defend them, make them possible, by our foreign policy?

I should be prouder to be a citizen of a nation, however small, were it yet imbued with manly ideals, strong in its love for justice, brooking no infraction of the personal rights of its citizens by tyrants, oppressors, and criminals masquerading under the ægis of government, than to be able to claim as my country the most powerful nation of the earth, should it with lazy indifference acquiesce in the despoliation of its own citizens or refuse to vindicate them in their just rights.

VIII. United States and Venezuelan Claims Commission, Convention of December 5, 1885

Among the cases decided by this Commission was the T. U. Walter claim.

Thomas Ustick Walter, a well-known American engineer, under a contract with the Venezuelan government constructed, in the years 1843 to 1846, a breakwater and mole at La Guayra. The price agreed upon was 275,000 *pesos* in coin.

Venezuela, as a matter of course, defaulted on its payments. On June 30, 1858, it still owed Walter 24,956 pesos. In 1865 the United States government, with that masterly deliberation for which it is celebrated, presented the Walter claim. In 1885 the claim was submitted to arbitration.

The Commission's opinion was written by Mr. Little. A portion of it reads thus:

> "There are two *pesos* known to commerce, the *peso fuerte* and the *peso sencillo.* The former was the old Spanish silver dollar equal in value, until modern years, the world over, to 100 cents in gold. The latter is meant when the general term is used in transactions without the qualifying word. It has varied somewhat in value from time to time. According to letters received by the Commission from the director of the mint, and other sources of information, we estimate its present value at 75 cents to the dollar, expressed in gold coin of the United States." (Moore's International Arbitrations, Vol. IV, p. 3568.)

The Commission, adopting this reasoning, awarded to the executrix, Amanda G. Walker, the remaining indebtedness in *pesos sencillos* (seventy-five cents on the dollar) with interest at five per cent from June 30, 1858.

As the debt matured in 1846, the decision of the Commission unjustly deprived the executrix of twelve years' interest. But the Commission's decision that Venezuela might pay in debased money worth but seventy-five cents on the dollar was an act of even more transparent injustice.

The argument over *peso fuerte* and *peso sencillo* is plainly fallacious. The fact is that the contract, as admitted by Commissioner Little himself, expressly provided for the payment of *pesos in coin* (see Moore, p. 3567). The further facts are that the *peso sencillo* — the seventy-five cent peso that Mr. Little describes — has never been coined; that it is purely imaginary and has not now, nor ever did have, any real existence; that neither now nor ever has there been in Venezuela a coin or a piece of paper money or anything pretending to be currency known as the *peso sencillo* or as a multiple thereof; and that this term denotes a fiction of book-keeping, and nothing more. Moreover, the *peso fuerte* was at the time of the contract, and still is, in Venezuela, an actual silver coin, about the size of a United States silver dollar; and *pesos fuertes* are and always have been in general circulation in Venezuela. It is evident, then, that the phrase *pesos in coin,* in Mr. Walter's contract, meant *coined pesos,* that is, pesos each worth its face value — one hundred cents.

The Commission's decision voiced by Commissioner Little, therefore, not only with gross injustice adopted so debased a unit of value as to cut the award to the extent of twenty-five cents on the dollar, but also allowed twelve years' of the already thus diminished interest to go completely by the board.

This Commission (Commissioner Findlay delivering the opinion, Commissioner Little dissenting) dismissed the claim of Flannagan, Bradley, Clark & Co. against Venezuela. The claim was based on a contract with the government. Mr. Findlay said that Venezuela had clearly violated the concession, but dismissed the claim because of the no-reclamation clause in the contract.

It seems never to have occurred to this Commission or to the many other commissions that have dismissed other meritorious claims on the same ground, that in assuming to dismiss for this reason they have been going entirely beyond the bounds of their functions and authority under the respective protocols. Whether this no-reclamation clause in the contract is or is not a bar, depends entirely upon the action of the two governments parties to the controversy. If these governments decide that this clause is a bar to the prosecution of a claim otherwise than in the courts of the respondent government, then such decision would settle the matter, and the governments would refuse to arbitrate it. But if the two governments, by their duly authorized representatives, sign a protocol for arbitration, by such act the no-reclamation clause is rendered ineffective by the only authorities that are competent to deal with the matter — the governments themselves. The various commissions, therefore, in dismissing cases because of the no-reclamation clause (a course followed not only in the Flannagan case, but in numerous other cases, of which such instances may be mentioned as Beales, Nobles & Garrison, Moore, pp. 3548 *et seq.*; Turnbull, Manoa Co. (Ltd.) and Orinoco Limited cases, Ralston's Report, Ven. Arb. 1903, pp. 200 *et seq.*; Orinoco Steamship Co., *ibid.*, pp. 92 *et seq.*; and the Woodruff case, *ibid.*, p. 151, *decision of Barge*), assumed jurisdiction of a subject matter which had not been confided to them under the protocols, but which depended upon the public policy of the governments, respectively, each one of which had, by the signing of the respective protocols, expressly or impliedly declared its policy in this regard as that of waiver of, or non-acquiescence in, the no-reclamation clause. The United States ought to require the resubmission of every one of these cases.

IX. Convention between the United States and Venezuela, January 19, 1892

This convention was concluded for the arbitration of claims relating to the seizure of three vessels belonging to the Venezuela Steam Transportation Company, an American corporation, and to the imprisonment and maltreatment of its employees. Twenty years had been occupied by the literary department of the government at Washington in "correspondence" before this convention was attained.

The acts complained of occurred in the period 1871–1873. Save for short breathing-spells of peace, Venezuela had been for many years

stricken by revolutions, in the course of which Monagas, Falcon, Bruzual, Rojas, and other prominent generals had depopulated and laid waste the country. In 1870 Guzman Blanco, who had returned from Europe the preceding year and had instigated a formidable revolution, entered Caracas in triumph and assumed dictatorial powers.

The Venezuela Steam Transportation Company was under the management of J. W. Hancox, an American. It owned three vessels (sent from New York in 1869), — the Hero, the Nutrias, and the San Fernando, engaged in traffic along the Orinoco and with Trinidad. What happened, during the period referred to above, to Commodore Hancox and his officers and to these steamers, is described in Moore's "International Arbitrations," Vol. II, pp. 1699 *et seq.*, as follows:

"Meanwhile the State of Guayana, under its president or governor, Señor Juan B. Dalla Costa, for the most part preserved an attitude of neutrality and thus escaped the ravages of the war till the summer of 1871. But in the month of August in that year the tranquillity of the State was disturbed. At that time the State of Barcelona, which lies across the Orinoco from the State of Guayana, was under the control of the Monaquists, or Blues. On the afternoon of the 28th of August the Hero, while lying to at Guayana Vieja waiting for a customs officer to come on board, was seized by a military force of that faction under the command of General Barreto, who, after compelling the captain and engineer by threats of death to obey his orders, proceeded with his forces on board of the steamer to a point opposite Ciudad Bolívar, where he arrived on the 30th of August.

"On the preceding day the master of the Nutrias, in the absence of the company's agent and without the authority or consent of the company, had let his steamer to President Dalla Costa 'for purposes of patrol only.' It seems, however, that immediately afterward, by order of Dalla Costa, the master was deposed, the steamer armed with cannon, and a military force put on board of her. This was done in the interest of the Yellows, or at least with an intent to resist the Blues, and on the 30th of August, after the Hero had arrived opposite Ciudad Bolívar, and after General Barreto had sent a commission ashore with a flag of truce, the Nutrias fired on her.

"The Hero then withdrew and, with a flotilla in tow, proceeded up the river to Soledad. On her way she was fired into by the battery at Ciudad Bolívar and struck with cannon shot. A part of her cargo, consisting of sacks of salt, was used in forming barricades for the troops. At Soledad another party of the Blues, under General Quintana, came on board of the steamer and her flotilla, and the whole force proceeded to a point near Ciudad Bolívar, where the most of the troops were landed. Here the Hero was again fired on by the Nutrias, but, although she was seriously damaged by cannon shot, she was not sunk, and later in the day she was brought to Ciudad Bolívar, which had in the mean time been captured by the Blues. Here she remained in the possession of an armed guard till September 5, 1871, when she was released, after having been detained and employed in war by the Blues for nine days.

"After her failure to sink the Hero the Nutrias escaped from Ciudad Bolívar under a fire of musketry and proceeded in charge of her captors to Port of Spain. On her arrival there the master appealed for protection to the commander of the British man-of-war Cherub; and through his intervention

the steamer was, on the 12th of September, restored to the company's agents.

"September 3, 1871, as the San Fernando, on her return from the town of Nutrias, came to her landing at Ciudad Bolívar, she was boarded by a force of the Blues, who kept her under surveillance till September 14, when she was forcibly pressed into service for the transportation of troops and supplies. When she was seized, the president of the company, J. W. Hancox, was on board, and the captors refused to allow either the San Fernando or the Hero to leave Ciudad Bolívar till September 5, when they permitted the Hero to sail for Trinidad on condition that Hancox pledge his word and honor as a Mason that she should return and resume her regular trips, and that the Nutrias should return to Ciudad Bolívar and resume with the San Fernando the up-river trade. Moved, as he said, by the desire to secure the Hero's release and to communicate with his government, as well as by other considerations not necessary to be enumerated, Hancox gave the pledge and departed.

"The Nutrias returned to Ciudad Bolívar for the purpose of resuming her trips, but on September 15 she was again seized, this time by the Blues, who were then in possession of the city, and was retained and used by them, together with the San Fernando, in the transportation of troops and supplies till February 14, 1872, when they were delivered to Edward E. Potter, commander of the United States man-of-war Shawmut, who had been sent out to obtain their restoration.

"Having overthrown the Blues and ordered a general election, General Guzman Blanco was, on February 20, 1873, inaugurated as constitutional President of Venezuela. Thereafter, as was alleged, 'he prohibited the company's steamers from resuming their business,' so that the Nutrias and San Fernando lay idle at their moorings at Ciudad Bolívar for five months, to wit, from the opening of the up-river navigation in May, 1873, to the 27th of September, 1873, being there detained by the refusal of the local authorities, under instructions from General Blanco's government at Caracas, to grant the necessary clearances, to the pecuniary damage and injury of the said company in the sum of thirty thousand dollars ($30,000).

"In August, 1873, the government at Caracas granted to General Perez, of that city, the concession of an exclusive right to navigate the Orinoco and its affluents."

The Department of State at Washington does not seem to have lost much sleep over this case. Indeed these Latin-American outrages, affronts to our government and humiliations to our people though they be, have never seriously disturbed the equanimity of our State Department officials. Deeds which if committed by Germany or England would call for instantaneous war are passed unnoticed when perpetrated by Venezuela.

Of course the Venezuelan government denied all liability. But our diplomats persevered in their patient way, and at last the long-drawn-out diplomatic correspondence resulted in an arbitration convention. The United States Commissioner was Noah L. Jeffries; the Venezuelan representative was José Andrade; and A. Grip, Minister of Sweden and Norway at Washington, was the umpire. There the Commission settled down to its work on January 7, 1895. Claims

were made for damages to the steamers and to the company's business; also for personal injuries and imprisonment of the officers and crews, — among them the claim of Abram G. Post, master of the Hero, for imprisonment and exposure while his vessel was under fire from the Nutrias; the claim of Jacob J. Maurimus, chief engineer of the Hero, reciting similar grounds of complaint; that of David J. Sturgis, master of the Nutrias, for imprisonment and expulsion; that of Cornelius J. Brinkerhoff, agent of the company, for imprisonment; etc.

On March 26, 1895, the Commission awarded the principal claimant $141,500. Its total claim was $364,800. The captains and chief engineers were awarded one hundred dollars each for the personal indignities that they suffered.

X. United States and Chilian Claims Commission, Convention of August 7, 1892

Under this convention a claim against Chili was presented by Eugene L. Didier, administrator, *et al.* (as legal representatives of the firm of D'Arcy & Didier) and Thomas Sheppard, citizens of the United States.

The claim grew out of two contracts in 1816 with General José M. Carrera, the head of the *de facto* government of Chili at that date. The country was then in revolution against Spain. The revolution proved successful, and in 1822 the United States recognized Chili's independence.

The Commission was composed of Mr. Goode, on the part of the United States, and Messrs. Claparede and Gana. It dismissed the claim on the ground that it arose before the recognition of Chilian independence by the United States, and before Chili had a national existence. Commissioner Goode dissented.

The facts that these contracts were with the *de facto* government of Chili, and that this *de facto* government became the *de jure* government by reason of the successful revolution in progress at the period of the contracts, and the doctrine that every government is responsible for the acts of a successful revolution within its territory, were wholly ignored by this decision.

XI. Latin America should learn to show more Respect for the Flag of the United States

Whoever studies the claims that have been presented by the United States government against the Latin-American countries must be impressed with the large number of cases that have arisen from the seizure of merchantmen carrying our flag.

The American people believe that the flag of the United States is

respected in all parts of the world. They regard this flag as an emblem of honor, for the preservation of which any sacrifice must be freely made. That this flag should often meet with unpunished insult, even desecration, throughout those countries which have been so unhappily styled our "Sister Republics," is wholly unknown to the majority of our citizens, yet such is the deplorable fact.

When a citizen of the United States for the first time goes to a Latin-American country, finds himself surrounded by revolution and brigandage, and realizes that the "protection" of a semi-barbarous "government" is but a hollow mockery, he instinctively turns for succor to his own flag. He knows what a mighty government is that of the United States, he knows that the American people are patriotic and wholly fearless, and he feels sure that the military rabble where he has the misfortune to be located will respect at least the American flag.

Ah, how mistaken he may be! Our Sister Republics have again and again cared nothing for our flag; its glorious folds have at times afforded no more protection — save in Mexico, where quite the reverse is true — than any other folds of cloth would have granted. The pirates of old are still with us — in Latin America! As for the forbearance of the United States government, it has gone too far — it is almost unique. Let us hope for better things to come!

XII. The Practical Result of Arbitration to Date

It must be obvious to the reader who has examined with care the cases herein reported, and the decisions rendered in them by the several international arbitral commissions, that the miscarriage of justice in so many cases has been almost disheartening. Upon the burden of outrages and depredations already so heavy for men to bear, the courts established to do justice have imposed additional iniquities. Whatever be the cause, whether venality, ignorance, prejudice, or lack of thinking power, on the part of the judges, the practical effect has been the same — the victims of spoliation have suffered fresh wrongs at the hands of judges sworn to administer equity without regard to local legislation.

The establishment of a really efficient judiciary is one of the most difficult of achievements. For the decision of claims of the kind under consideration, it is not enough to appoint a body of lawyers of good reputation and apparent honesty. From a group of men like Plumley, Bainbridge, Duffield, Barge, Cave Johnson, Little, Bruce, Bertinatti, Hassaurek, Fisher, and others of their type, no selection can be made that will constitute an adequate and competent tribunal.

One thing the opinions of every one of these men lack — original thinking power. Their heads were well filled with precedents, they knew what had been printed in the text-books, but the one supreme

power indispensable to the equipment of a judge — the power to think — was absent. Memorization of a mass of precedents will not produce judicial efficiency. Because a man of doubtful intellectual powers decided a case before him thus and so (and decided it wrong !), shall a new injustice be committed in the case at hand by an unreasoning compliance with the earlier decision as a precedent? Judges must have far more than merely a useful enlargement of the faculty of memory; they must have the thinking power fully developed, the ability to apprehend a case *in toto* and in all its details and then to analyze the heart out of it. For every case has a "heart," a vital issue on which it hinges, and which, if completely grasped by the judge, will lead on to the truth and to justice.

A superior court judge should possess the intellectual ability necessary to solve ninety per cent of all the problems in differential and integral calculus, and kindred subjects. One can master the higher mathematics if he has the power to think. If he lacks that power, he is not fit to be a judge.

XIII. Arbitrations of European Nations with Latin-American Countries

The United States is not the only nation that has had troubles in dealing with the countries to the south of us. From Moore's "International Arbitrations," Vol. V, pp. 4856 *et seq.*, has been arranged the following list of arbitrations between Latin-American countries and European powers. These arbitrations have arisen from injuries to the persons and property of citizens of various countries of Europe, committed by governments and revolutionary cabals throughout Latin America. A convention between Peru and Japan has been included.

	Date of protocol
Argentina and Great Britain	1870
Brazil and Great Britain	1863
Brazil and Italy	February 12, 1896
Chili and France	November 2, 1882
Chili and Italy	December 7, 1882
Chili and Great Britain	January 4, 1883
Chili and Germany	August 23, 1884
Chili and Belgium	August 30, 1884
Chili and Switzerland	January 19, 1886
Chili, Peru, and France	July 23, 1892
Chili and Great Britain	September 26, 1893
Chili, Sweden, and Norway	July 6, 1895
Chili and France	October 13, 1895
Haiti and Great Britain	1890
Haiti and France	July, 1892
Haiti and Germany	1895
Mexico and France	March 9, 1839

Mexico and Great Britain	June 26, 1866
Nicaragua and France	October 15, 1879
Nicaragua and Great Britain	1881
Nicaragua and Great Britain	November 1, 1895
Peru and Great Britain	1864
Peru and Japan	June 13 and 25, 1873
San Domingo and the Netherlands	March 26, 1881
Venezuela and the Netherlands	August 5, 1857
Venezuela and France	1864
Venezuela and Great Britain	September 21, 1868
Venezuela and France	February 24, 1891
Venezuela and Great Britain	February 2, 1897
Venezuela and Great Britain, Germany, Italy, France, Spain, the Netherlands, Belgium, Mexico, and the United States	1903

Those interested in the amounts claimed, in the special circumstances from which the arbitrations variously arose, and in the results thereof, should pursue their researches among the official records of the respective governments.

CHAPTER XXII

THE ORINOCO STEAMSHIP COMPANY CASE

THE Orinoco Steamship Company (R. Morgan Olcott, President, 17 Battery Place, New York City), its entire capital stock owned by American citizens, was incorporated under the laws of New Jersey on February 7, 1902, for the purpose of acquiring all the assets of the Orinoco Shipping and Trading Company, Limited, an English corporation, mostly American-owned, however, which had been carrying on the business of a common carrier in Venezuelan and adjacent waters. It appears that the Orinoco Steamship Company and its predecessors in interest had invested about one million dollars in this enterprise. Among the assets acquired by the Steamship Company from its predecessor in interest were certain holdings of real estate in Venezuela and other South American countries, several steamboats and other steam craft in service on the river Orinoco and in the Venezuelan coastwise trade, certain concessions from the government of Venezuela for navigation purposes, and claims against said government for about half a million of dollars.

The Orinoco Shipping and Trading Company, Limited, had acquired, on December 12, 1898, all the shares of the Compañía General Venezolana de Navegación. Furthermore, it had purchased outright all the ships, assets, book accounts, claims, etc., of the Orinoco Red Star Line. The Compañía General had been operating under a concession celebrated January 17, 1894, between the duly authorized Minister of the Interior of Venezuela, and E. Peter Ganteaume, attorney for Ellis Grell, and approved by the National Congress by legislative decree of June 8, 1894. This concession, or contract, had been transferred to Manuel A. Sanchez, and by him to the said Compañía. It was to remain in force for fifteen years from date of approbation.

The concession provided that Grell should establish navigation on the Orinoco River, and between Ciudad Bolívar and Maracaibo, touching at intermediate ports; that the government would grant a monthly subsidy of 4000 bolivars (about $800); that troops, mails, etc., should be transported under certain designated conditions; and that "the officers and crews of the steamers . . . and all other employees . . . *shall be exempt from military service* except in cases of *international* war." It contained the usual clause providing that con-

troversies should be decided by the local courts and should not "be considered as a motive for raising international reclamations." Article 12 provided as follows:

"While the government fixes definitely the transshipment ports for merchandise from abroad, and while they are making the necessary installations, the steamers of this line shall be allowed to call at the ports of Curaçao and Trinidad, and any one of the steamers leaving Trinidad may also navigate by the channels of the Macareo and Pedernales of the river Orinoco in conformity with the formalities which by special resolution may be imposed by the minister of finance in order to prevent contraband and to safeguard fiscal interests; to all which conditions the contractor agrees beforehand."

At the date of the concession the law as to the navigation of the several mouths of the Orinoco, according to executive decree (Law No. 5605) issued on July 1, 1893, by General Joaquin Crespo, then in possession of the executive power of the United States of Venezuela, was as follows:

"Art. 1. Vessels engaged in foreign trade with Ciudad Bolívar shall be allowed to proceed only by way of the Boca Grande of the river Orinoco; the Macareo and Pedernales channels being reserved for the coastal service, navigation by the other channels of the said river being absolutely prohibited.

"Art. 2. In order that the commerce of Ciudad Bolívar shall suffer no interruption, permission is hereby granted only to those lines of steamers actually engaged in carrying on traffic by the Macareo and Pedernales channels; and in consideration of the maritime conditions of the steamers which compose the lines which do not permit of their navigating by the Boca Grande, this permission shall continue in force until the 31st of December next, a period which the government considers sufficient to enable the proprietors of the said lines to modify their vessels so as to fit them for the navigation in conformity with the dispositions contained in this decree.

"Art. 3. The maritime custom-house of Pedernales is hereby suppressed, and the operations of cabotage shall be superintended by a subcustoms depot under the supervision of the customs of Ciudad Bolívar.

"Art. 4. The subcustoms depot of Manoa is transferred to the Puerto de Sacupana, which shall likewise be dependent upon the Aduana of Ciudad Bolívar.

"Art. 5. The ministers of the interior, of finance, and of war and marine shall be charged with the execution of this decree."

This executive decree was subsequently ratified and confirmed by the National Congress of Venezuela, and later its validity and binding force were judicially recognized and declared by the High Federal Court of Venezuela, on August 14, 1894. (See annual memorial of the High Federal Court to the Congress of Venezuela, 1895, *re* George F. Carpenter and the Macareo Concession.)

The concessionaire construed the concession in the light of this law as giving him and his successors in interest the exclusive privilege of navigating the Macareo and Pedernales channels for purposes of for-

eign and Venezuelan coastwise commerce; and they continued to exercise this monopoly for some years.

A few words as to the careers of the Orinoco Shipping and Trading Company, Limited, and the Orinoco Steamship Company will show how extremely dangerous it is for a business man to risk the slightest investment in Venezuela, or indeed in any Latin-American country except Mexico, upon the good faith of the local government.

An extensive line of steamboats and two deep-sea vessels had been installed by the predecessors of the Orinoco Steamship Company, for the Orinoco River service, and also for service to Curaçao, Trinidad, La Guaira, and other ports. Eventually, however, one revolution after another interfered with their operations, and severely injured the enterprise. At one time revolutionists in the upper Orinoco seized several of the boats, maltreating the crews, while the so-called "government" took the remainder in the vicinity of Ciudad Bolívar. Adding insult to injury, the government pretended to claim that the Steamship Company was aiding the revolutionists — that "stock" lie so often employed at the convenience of the ruling Dictator — and, as proof of this contention, cited the fact that the revolutionists were holding certain of the boats. Two of the boats, the Nutrias and the Vencedor, — one of them a deep-sea vessel, designed for the Maracaibo run, — were seized by the government and destroyed.

The other sea-going ship becoming disabled, necessitating repairs, rendered it impossible for the company to continue its Maracaibo itinerary.

When Castro came into power, the claims of the Orinoco Shipping Company against the government of Venezuela aggregated $554,550.51. These claims were "for services rendered in transporting government officials, troops, and freights, and for use and detention of and damages to the company's property and steamers, including the wrongful seizure and destruction of steamships Nutrias and Vencedor," and they included all items to May 10, 1900.

Vouchers of these claims in detail had been filed with the government of Venezuela and the American legation in Caracas, and ample proofs given as to their validity. The items of services rendered were computed upon the regular schedules of the company as approved by the government, while the value of the steamers was given as based upon actual cost, and the use of boats by the government at the regular price ordinarily charged under charter for such boats.

The accuracy and justness of these claims seem to be indisputable.

I

When Cipriano Castro came into power and had those claims presented to him and viewed the record of diplomatic correspondence in relation to them, he had an interview with Mr. Richard Morgan Ol-

cott, managing director of the Shipping Company. Castro said in substance: "Now, Mr. Olcott, I am very sorry about this matter, but you see I am not to blame. If I had the power to pay you, I would do so, but Venezuela has no money, and it may be years before we can do anything. I am your friend, and I want to encourage foreign capital here. Venezuela is poor, but we are going to have peace and encourage labor, and you should join with us and help make the country prosperous, and your company will reap the benefits in increased business."

Mr. Olcott said he was glad to hear that General Castro was so friendly to foreign capital, and said he was willing to meet him in a liberal spirit in making a settlement.

Mr. Olcott knew from wide observation that if a business man has any controversy with a Latin-American dictatorship he always gets the worst of it, so he asked Castro what he would propose to do. Castro then told him that he was willing to extend the period of the concession of the company for six years longer, making in all twenty-one years, and he thought this would be worth "millions."

As the company had earned about $80,000 a year when undisturbed by revolutionists, and as there now promised to be an era of peace, and as Mr. Olcott well knew the uncertainties and delays of claims presented through our State Department, he was ready to make great concessions to Castro in order to gain his good-will. He called Castro's attention to the fact that the Orinoco Shipping Company, under the concessions and laws then existing, enjoyed a monopoly of the navigation of the Macareo, Pedernales, and other channels of the Orinoco, so far as foreign commerce was concerned, and Castro said: "Oh, yes, I understand that, and if I give you this privilege for six years longer, you can afford to cancel your claims against Venezuela."

II

In view of the situation confronting him, Mr. Olcott decided to comply with Castro's request, provided Venezuela would pay him 200,000 bolivars (about $40,000) and extend the concession for a further period of six years.

This was agreed to by both parties, and the papers were drawn up. But right here Mr. Olcott was too easy. On May 10, 1900, in Caracas, Mr. Olcott and Dr. Felix Quintero, Minister of the Interior, sufficiently authorized by the Supreme Chief of the Republic, signed a contract whereby, in consideration of 100,000 bolivars, cash in hand paid, and 100,000 bolivars which Venezuela acknowledged to owe and agreed to pay later, the Orinoco Shipping Company released Venezuela from all claims which the company had against it, and which as above stated amounted to $554,550.53; also from all claims for services which might be rendered up to July 1, 1900. Concurrently with

this, and on the same date, May 10, 1900, the National Executive of Venezuela granted to the Shipping Company an extension for six years (to June 8, 1915) of the concession ("contract of navigation") of June 8, 1894. It was understood by both parties that this latter contract was in consideration of the reduction of more than half a million dollars in the settlement of claims about the validity of which there was no doubt; and both parties understood that the company was to continue to enjoy the monopoly of the navigation of the channels of the Orinoco as above set forth.

But here was Mr. Olcott's great mistake; he did not adequately fathom the cunning and duplicity of the wily Dictator. Castro had no intention of living up to this agreement, and his superior knowledge of Spanish and greater expertness in intrigues enabled him to set a trap which eventually resulted in the practical ruination of the Orinoco Shipping Company.

One of Castro's first steps to get around the settlement and extension of May 10, 1900, was the following executive decree:

I, Cipriano Castro, General-in-Chief of the Army of Venezuela and Supreme Chief of the Republic, decree:

ARTICLE 1. The decree of the 1st of July, 1893, which prohibited the free navigation of the Macareo, Pedernales, and other navigable waterways of the River Orinoco is abolished.

ARTICLE 2. The Minister of Interior Relations is charged with the execution of the present Decree.

Given, signed, sealed with the seal of the National Executive, and countersigned by the Minister of Interior Relations, in the Federal Palace of the Capitol in Caracas, on the 5th of October, 1900 — year 90 of the Independence and 42 of the Federation.

[L. S.] CIPRIANO CASTRO.

Countersigned:

The Minister of Interior Relations,

[L. S.] R. CABRERA MALO.

This decree destroyed the monopoly of the Orinoco Shipping Company, and with it the only real consideration which the company had for rebating more than half a million dollars of claims against Venezuela.

About this time Castro went to most unheard of extremes in his vindictiveness against the company. He brought suit against it in his so-called courts for millions of dollars, alleged damages on trivial and trumped up charges, and held Mr. Olcott for months virtually a prisoner in Caracas, demanding bonds for millions of dollars as a condition of permitting him to leave the country. Finally, through the mediation of the United States government, he was permitted to return to New York.

III

General Castro thereupon went still further and issued a decree as follows:

United States of Venezuela, Ministry of the Interior,
Administration, Caracas, December 14, 1901.

Resolved, Inasmuch as the Orinoco Shipping and Trading Company (Limited) has not fulfilled the obligations contained in Article 2 of the concession granted to the said company by a resolution of the Executive, dated 10th day of May, 1900, whereby the company undertook to make at least twelve annual voyages between the island of Trinidad and ports of its itinerary up to La Guaira, and the said company having up to this date made only one such voyage, thereby prejudicing commercial interests, as well as those of the government, the resolution of the 10th May, 1900, is hereby revoked and the prorogation and all other benefits therein conceded are hereby declared null and void.

Let this be communicated and published.

For the National Executive: J. A. Velutini.

We thus see that General Castro had succeeded in paying a debt of half a million dollars by the simple expedient of

1st. Paying in cash 100,000 bolivars (about $20,000), which must have been a source of deep regret to him ever afterwards;

2d. By promising to pay another 100,000 bolivars, which he in fact never paid, and which Umpire Barge later decided he did not have to pay; and

3d. By granting a concession which he afterwards cancelled on the ground that the concessionaire had not made twelve trips between Trinidad and La Guaira in a year, when that fact was due to Castro's unlawful seizure of the concessionaire's ships, and when, as a matter of fact, the said concession did not require the twelve trips *per annum* to be made the first year, so that the alleged grounds of cancellation were wholly fictitious.

This may be regarded as a typical method of Latin-American Dictators when it comes to paying debts. They seem to have a marvellous genius for paying debts in this manner.

IV

After the "settlement" above set forth of May 10, 1900 (and since July 1, 1900), the boats of the Shipping Company and its assignee in interest the Steamship Company were seized and pressed into Venezuelan government service frequently, and its business, practically ruined as a transportation company, was thus and otherwise seriously damaged by Venezuela. The boats in carrying troops were run by ignorant and careless men, and their boilers and hulls damaged. The charges made by the company for these "services," thus forcibly

exacted from it, were itemized, vouchered, sworn to, and duly presented for payment, and were as follows:

Passages and freights, July to October, 1900		$1,053.00
	Pesos.[1]	
Hire of Delta 44 days	8,800.00	
Hire of Socorro 6 days	600.00	
Hire of Socorro 5 days	500.00	
Hire of Socorro 11 days	1,100.00	
Hire of Masparro 11 days	1,100.00	
Hire of Guanare, Socorro, Masparro, and Heroe	3,000.00	
Hire of Guanare	1,650.00	
Hire of Socorro 57 days	5,700.00	
Hire of Masparro 3 days	300.00	
Hire of Socorro and Masparro 75 days to March 31, 1902	7,500.00	
Passages to March 31, 1902	3,348.76	
	33,598.76=	25,845.20
Claim for refund of national imposts illegally levied		19,571.34
Losses sustained owing to detention of Bolívar by consul		3,509.22
Expenses caused by stoppage of Bolívar at San Felix and cost of goods delivered for use of government		2,184.20
Loss and earnings, June to November, 1902, as per average statement.		61,336.20
Detention and use of Masparro and Socorro from April 1, 1902		28,461.53
Repairs to Masparro		2,520.50
Repairs to Socorro		2,932.98
Passages since April 1, 1902		224.62
Total		$147,638.79

None of this amount was ever paid by the brigand aggregation calling itself a government.

The United States and Venezuelan Claims Commission was organized under the protocol of February 17, 1903. On June 16, 1903, the Orinoco Steamship Company filed its claim therewith for $1,401,539.05, including its estimate of the loss (*a*) occasioned by the executive decree of October 5, 1900 (subsequently ratified by the legislative power), abolishing the executive decree of July 1, 1893, and opening to public traffic the Macareo, Pedernales, and other navigable waterways of the Orinoco; (*b*) followed up by the executive resolution of December 14, 1901, revoking the six years' extension of May 10, 1900.

V

When this claim of the Orinoco Steamship Company came before the American-Venezuelan Commission of 1903, it was composed of Carlos F. Grisanti (who had succeeded José de Jesus Paúl), of Caracas, Venezuelan Commissioner; William E. Bainbridge, of Council Bluffs, Iowa, American Commissioner; and Charles Augustinus Henri Barge, of Holland, Umpire.

The decision in the case was made by the umpire, in a rambling, disconnected, jumbled up mess of "whereases," disjointed phrases,

[1] A peso equals about 80 cents gold.

and unrelated assertions, which on the face mark the author as a person of such strange idiosyncrasies and violent prejudices as to render him incapable of logical processes of thought and wholly unfit to act in any judicial capacity.

It seems a pity to waste good blank paper by covering it with the preposterous absurdities of Barge, and indeed I cannot pretend to quote all his nonsensical screed, but it is important that the reader understand the bald outrages perpetrated by many of these mixed commissions under the name of arbitration, and I therefore quote the essence [1] of Barge's decision. He said:

"It must be concluded that Article 14 of the contract disables the contracting parties to base a claim on this contract before any other tribunal than that which they have freely and deliberately chosen, and to parties in such a contract must be applied the words of the Hon. Mr. Finlay, United States Commissioner in the Claims Commission of 1889: 'So they have made their bed and so they must lie in it.'

"But there is still more to consider.

"For whereas it appears that the contract originally passed with Grell was legally transferred to Sanchez and later on to the English company, the Orinoco Shipping and Trading Company (Limited), and on the 1st day of April, 1902, was sold by this company to the American company, the claimant;

"But whereas Article 13 of the contract says that it might be transferred to another person or corporation *upon previous notice* to the government, while the evidence shows that this notice has not been previously (indeed ever) given; the condition on which the contract might be transferred not being fulfilled, The Orinoco Shipping and Trading Company, Limited, had no right to transfer it, and this transfer of the contract without previous notice must be regarded as null and utterly worthless;

"Wherefore, even if the contract might give a ground to the above-examined claim to The Orinoco Shipping and Trading Company, Limited (once more, *quod non*), the claimant company as quite alien to the contract could certainly never base a claim on it.

"For all which reasons every claim of The Orinoco Steamship Company against the Republic of the United States of Venezuela for the annulment of a concession for the exclusive navigation of the Macareo and Pedernales channels of the Orinoco has to be disallowed.

"As for the claims for 100,000 bolivars, or $19,219.19, overdue on a transaction celebrated on May 10, 1900, between the Orinoco Shipping and Trading Company, Limited, and the Venezuelan Government;

"Whereas these 100,000 bolivars are those mentioned in letter *b* of Article 2 of said contract, reading as follows:

"'(*b*) One hundred thousand bolivars (100,000) which shall be paid in accordance with such arrangements as the parties hereto may agree upon on the day stipulated in the decree twenty-third of April, ultimo, relative to claims arising from damages caused during the war, or by other cause whatsoever';

"And whereas nothing whatever of any arrangement, in accordance with which it was stipulated to pay, appears in the evidence before the Commission,

[1] The decision itself is reported in Ralston's "Venezuelan Arbitrations of 1903" (Sen. Doc. No. 316, 58th Congress, 2d sess.), pp. 83–97.

it might be asked if, on the day this claim was filed, this indebtedness was proved compellable;

"Whereas further on, in whichever way this question may be decided, the contract has an Article 4, in which the contracting parties pledged themselves to the following: 'All doubts and controversies which may arise with respect to the interpretation and execution of this contract shall be decided by the tribunals of Venezuela and in conformity with the laws of the Republic, without such mode of settlement being considered motive of international claims,' while it is shown in the diplomatic correspondence brought before the Commission on behalf of claimant, that in December, 1902, a formal petition to make it an international claim was directed to the government of the United States of America without the question having been brought before the tribunals of Venezuela, which fact certainly constitutes a flagrant breach of the contract on which the claim was based;

"And whereas, in addition to everything that was said about such clauses here above, it has to be considered what is the real meaning of such a stipulation;

"And whereas, when parties agree that doubts, disputes, and controversies shall only be decided by a certain designated third person, they implicitly agree to recognize that there properly shall be no claim from one party against the other, but for what is due as a result of a decision on any doubts, disputes, or controversies by that one designated third; for which reason, in addition to everything that was said already upon this question heretofore, in questions on claims based on a contract wherein such a stipulation is made, absolute equity does not allow to recognize such a claim between such parties before the conditions are realized, which in that contract they themselves made *conditiones sine qua non* for the existence of a claim;

"And whereas further on — even in case the contract did not contain such a clause, and that the arrangements in accordance to which it was stipulated to pay were communicated to and proved before this Commission — it ought to be considered that if there existed here a recognized and compellable indebtedness, it would be a debt of the government of Venezuela to the Orinoco Shipping and Trading Company;

"For whereas it is true that evidence shows that on the 1st of April, 1902, all the credits of that company were transferred to the claimant company, it is not less true that, as shown by evidence, this transfer was never notified to the government of Venezuela;

"And whereas, according to Venezuelan law, in perfect accordance with the principles of justice and equity recognized and proclaimed in the codes of almost all civilized nations, such a transfer gives no right against the debtor when it was not notified to or accepted by that debtor;

"And whereas here it cannot be objected that according to the protocol no regard has to be taken of provisions of local legislation, because the words 'the commissioners, or, in case of their disagreement, the umpire, shall decide all claims upon a basis of absolute equity, without regard to *objections* of a technical nature, or of the provisions of local legislation,' clearly have to be understood in the way that questions of technical nature or the provisions of local legislation should not be taken into regard when they were *objections* against the rules of absolute equity; for, in case of any other interpretation, the fulfilling of the task of this Commission would be an impossibility, as the question of American citizenship could never be proved without regard to the

local legislation of the United States of America, and this being prohibited by the protocol, all claims would have to be disallowed, as the American citizenship of the claimant would not be proved; and as to technical questions it might then be maintained (as was done in one of the papers brought before this Commission on behalf of a claimant in one of the filed claims) that the question whether there was a *proof* that claimant had a right to a claim was a mere technical question;

"And whereas, if the provisions of local legislation, far from being objections to the rules of absolute equity, are quite in conformity with those rules, it would seem absolutely in contradiction with this equity not to apply its rules because they were recognized and proclaimed by the local legislation of Venezuela;

"And whereas the transfer of credits from The Orinoco Shipping and Trading Company to the Orinoco Steamship Company neither was notified to, or accepted by the Venezuelan government, it cannot give a right to a claim on behalf of the last-named company against the government of Venezuela:

"For all which reasons the claim of the Orinoco Steamship Company, Limited, against the government of Venezuela, based on the transaction of May 10, 1900, has to be disallowed.

"In the next place the company claims $147,038.79, at which sum it estimates the damages and losses sustained during the last revolution, including services rendered to the government of Venezuela.

"Now, whereas this claim is for damages and losses suffered and for services rendered from June, 1900, whilst the existence of the company only dates from January 31, 1902, and the transfer of the credits of the Orinoco Shipping and Trading Company, Limited, to claimant took place on the 1st of April of this same year, it is clear, from what theretofore was said about the transfer of these credits, that all items of this claim, based on obligations originated before said April 1, 1902, and claimed by claimant as indebtedness to the aforenamed company and transferred to claimant on said April 1, have to be disallowed, as the transfer was never notified to or accepted by the Venezuelan government. As to the items dating after the 1st of April, 1902, in the first place the claimant claims for detention and hire of the steamship Masparro from May 1 to September 18, 1902 (one hundred and forty-one days), at 100 pesos daily, equal to 14,100 pesos, and for detention and hire of the steamship Socorro from March 21 to November 5, 1902 (two hundred and twenty-nine days), 22,900 pesos, together 37,000 pesos, equal to $28,401.55;

"And whereas it is proved by evidence that said steamers have been in service of the national government for the time above stated;

"And whereas nothing in the evidence shows any obligation on the part of the owners of the steamers to give this service *gratis*, even if it were in behalf of the commonwealth;

"Whereas therefore a remuneration for that service is due to the owners of these steamers:

"The Venezuelan government owes a remuneration for that service to the owners of the steamers;

"And whereas these steamers, by contract of April 1, 1902, were bought by claimant, and claimant therefore from that day was owner of the steamers:

"This remuneration from that date is due to claimant.

"And whereas in this case it matters not that the transfer of the steamers

was not notified to the Venezuelan government, as it was no transfer of a credit, but as the credit was born after the transfer, and as it was not in consequence of a contract between the government and any particular person or company, but, as evidence shows, because the government wanted the steamers' service in the interest of its cause against revolutionary forces; and whereas for this forced detention damages are due, those damages may be claimed by him who suffered them, in this case the owners of the steamers;

"And whereas the argument of the Venezuelan government, that it had counter-claims, can in no wise affect this claim, as those counter-claims the Venezuelan government alludes to, and which it pursues before the tribunals of the country, appear to be claims against the Orinoco Shipping and Trading Company, and not against claimant;

"And whereas it matters not whether claimant, as the government affirms and as evidence seems clearly to show, if not taking part in the revolution, at all events favored the revolutionary party, because the ships were not taken and confiscated as hostile ships, but were claimed by the government, evidence shows, because it wanted them for the use of political interest, and after that use were returned to the owners: For all these reasons there is due to claimant, from the side of the Venezuelan government, a remuneration for the service of the steamers Masparro and Socorro, respectively, from May 1 to September 18, 1902 (one hundred and forty-one days), and from April 1 to November 5, 1902 (two hundred and nineteen days, together three hundred and sixty days);

"And whereas, according to evidence, since 1894, these steamers might be hired by the government for the price of 400 bolivars, or 100 pesos, daily, this price seems a fair award for the forced detention:

"Wherefore for the detention and use of the steamers Masparro and Socorro, the Venezuelan government owes to claimant 36,000 pesos, or $27,692.31.

"Further on claimant claims $2520.50 for repairs to the Masparro and $2932.98 for repairs to the Socorro, necessitated, as claimant assures, by the ill usage of the vessels whilst in the hands of the Venezuelan government.

"Now whereas, evidence only shows that after being returned to claimant the steamers required repairs at this cost, but in no wise that those repairs were necessitated by ill usage on the side of the government;

"And whereas evidence does not show in what state they were received and in what state they were returned by the government;

"And whereas it is not proved that in consequence of this use by the government they suffered more damages than those that are the consequence of common and lawful use during the time they were used by the government, for which damages in case of hire the government would not be responsible;

"Where the price for which the steamers might be hired is allowed for the use, whilst no extraordinary damages are proved, equity will not allow to declare the Venezuelan government liable for these repairs:

"Wherefore this item of the claim has to be disallowed.

"Evidence in the next place shows that, on May 29 and May 31, 1902, 20 bags of rice, 10 barrels of potatoes, 10 barrels of onions, 16 tins of lard, and 2 tons of coal were delivered to the Venezuelan authorities on their demand on behalf of the government forces, and for these provisions, as expropriation for public benefit, the Venezuelan government will have to pay;

"And whereas the prices that are claimed, viz., $6 for a bag of rice, and $5 for a barrel of potatoes, $7 for a barrel of onions, $3 for a tin of lard, and $10 for a ton of coal, when compared with the market prices at Caracas, do not seem unreasonable, the sum of $308 will have to be paid for them.

"As for the further $106.40 claimed for provisions and ship stores, whereas there is given no proof of these provisions and stores being taken by or delivered to the government, they cannot be allowed.

"For passages since April 1, 1902, claimant claims $224.62, and whereas evidence shows that all these passages were given on request of the government, the claim has to be admitted, and whereas the prices charged are the same that formerly could be charged by the Orinoco Shipping and Trading Company, these prices seemed equitable;

"Wherefore the Venezuelan government will have to pay on this item the sum of $224.62.

"As to the expenses caused by stoppage of the steamer Bolivar at San Felix when Ciudad Bolívar fell in the hands of the revolution —

"Whereas this stoppage was necessitated in behalf of the defence of the government against revolution;

"And whereas no unlawful act was done nor any obligatory act was neglected by the government, this stoppage has to be regarded, as every stoppage of commerce, industry, and communication during war and revolution, as a common calamity that must be commonly suffered and for which government cannot be proclaimed liable:

"Wherefore, this item of the claim has to be disallowed.

"And now as for the claim of $61,336.20 for losses of revenue from June to November, 1902, caused by the blockade of the Orinoco:

"Whereas a blockade is the occupation of a belligerent party on land and on sea of all the surroundings of a fortress, a port, a roadstead, and even all the coasts *of its enemy*, in order to prevent all communication with the exterior, with the right of '*transient*' *occupation* until it puts itself into real possession of that port of the hostile territory, the act of forbidding and preventing the entrance of a port or a river on its *own territory* in order to secure internal peace and to prevent communication with the place occupied by rebels or a revolutionary party cannot properly be named a blockade, and would only be a blockade when the rebels and revolutionists were recognized as a belligerent party;

"And whereas in absolute equity things should be judged by what they are and not by what they are called, such a prohibitive measure on its own territory cannot be compared with the blockade of a hostile place, and therefore the same rules cannot be adopted;

"And whereas the right to open and close, as a sovereign on its own territory, certain harbors, ports, and rivers in order to prevent the trespassing of fiscal laws is not and could not be denied to the Venezuelan government, much less this right can be denied when used in defence not only of some fiscal rights, but in defence of the very existence of the government;

"And whereas the temporary closing of the Orinoco River (the so-called 'blockade') in reality was only a prohibition to navigate that river in order to prevent communication with the revolutionists in Ciudad Bolívar and on the shores of the river, this lawful act by itself could never give a right to claims for damages to the ships that used to navigate the river;

"But whereas claimant does not found the claim on the closure itself of the Orinoco River, but on the fact that, notwithstanding this prohibition, other ships were allowed to navigate its waters and were despatched for their trips by the Venezuelan consul at Trinidad, while this was refused to claimant's ships, which fact in the brief on behalf of the claimant is called 'unlawful discrimination in the affairs of neutrals,' it must be considered that whereas the revolutionists were not recognized belligerents they cannot properly here be spoken of 'neutrals' and 'the rights of neutrals'; but that

"Whereas it here properly was a prohibition to navigate;

"And whereas, where anything is prohibited, to him who held and used the right to prohibit cannot be denied the right to permit in certain circumstances what as a rule is forbidden;

"The Venezuelan government, which prohibited the navigation of the Orinoco, could allow that navigation when it thought proper, and only evidence of unlawful discrimination, resulting in damages to third parties, could make this permission a basis for a claim to third parties;

"Now, whereas the aim of this prohibitive measure was to crush the rebels and revolutionists, or at least to prevent their being enforced, of course the permission that exempted from the prohibition might always be given where the use of the permission, far from endangering the aim of the prohibition, would tend to that same aim, as, for instance, in the case that the permission were given to strengthen the governmental forces or to provide in the necessities of the loyal part of the population;

"And whereas the inculpation of unlawful discrimination ought to be proved;

"And whereas, on one side, it not only is not proved by evidence that the ships cleared by the Venezuelan consul during the period in question did not receive the permission to navigate the Orinoco in view of one of the aforesaid aims;

"But whereas, on the other side, evidence, as was said before, shows that the government had sufficient reasons to believe claimant, if not assisting the revolutionists, at least to be friendly and rather partial to them, it cannot be recognized as a proof of unlawful discrimination that the government, holding in view the aim of the prohibition and defending with all lawful measures its own existence, did not give to claimant the permission it thought fit to give to the above-mentioned ships;

"And whereas, therefore, no unlawful act or culpable negligence on the part of the Venezuelan government is proved that would make the government liable for the damages claimant pretends to have suffered by the interruption of the navigation of the Orinoco River, this item of the claim has to be disallowed.

"The last item of this claim is for $25,000, for counsel fees and expenses incurred in carrying out the above examined and decided claims;

"But whereas the greater part of the items of the claim had to be disallowed;

"And whereas in respect to those that were allowed it is in no way proved by evidence that they were presented to and refused by the government of the Republic of the United States of Venezuela, and whereas therefore the necessity to incur those fees and further expenses in consequence of an unlawful act or culpable negligence of the Venezuelan government is not proved, this item has, of course, to be disallowed.

"For all which reasons the Venezuelan government owes to claimant:

	United States Gold.
For detention and use of the steamers Masparro and Socorro, 36,000 pesos, or	$27,692.31
For goods delivered for use of the government	308.00
For passages	224.62
Total	$28,224.93

"While all the other items have to be disallowed."

The date of this award ($28,224.93) was February 20, 1904.

VI

From the foregoing we see that through the "whereases" and "wherefores" of Mr. Harry Barge Dictator Castro was enabled to pay a just debt of more than half a million dollars with the paltry sum of $28,225. Even for this latter sum the claimant would have to wait several years, until the claims of England, Germany, Italy, and other foreign powers were satisfied, under the award of The Hague Tribunal.

In this case Mr. Olcott was technically weak, so far as his claims are concerned to a monopoly of the right of navigating for foreign commerce the Macareo and Pedernales channels. There is absolutely no moral doubt that it was thoroughly understood between him and Castro that the old law closing these channels to foreign navigation should be continued, and that the Orinoco Steamship Company should enjoy for the remaining period of the concession and its extension, *i. e.*, to June 8, 1915, the navigation of those channels as theretofore. This was in good faith the contract, and the six years' extension to June 8, 1915, was the chief consideration for releasing more than half a million dollars of claims against Venezuela; but it was not put expressly into words and figures in that form, and good faith alone has no binding force or effect in Latin America.

It is therefore easy to be seen how a judge trained to regard merely the technicalities of the law, might rule against Mr. Olcott's contention with reference to the exclusive right of navigation of these two mouths of the Orinoco River.

But Castro cancelled this six years' extension, as above set forth, by the decreta of December 14, 1901, without even a pretence of judicial action. Now, if this six years' extension of the concession was, as the evidence showed, the chief consideration for the cancellation of claims aggregating more than half a million dollars against Venezuela, a commission practising equity would hold that *prima facie* the extension was worth nearly as much as the amount of said claims, and that on its being revoked said claims should be in great part revived.

Barge's allegation that the Venezuelan government had not been notified of the transfer "of credits" from the Orinoco Shipping and

Trading Company, Limited, to the Orinoco Steamship Company, which, in fact, was merely a reorganization of the old concern, and that therefore the Venezuelan government was not liable to the latter company, is a dishonest quibble, designed to relieve Venezuela wholly from the payment of its just debts, because, after the reorganization took place, naturally the Orinoco Shipping and Trading Company, Limited, went out of existence, and hence, if an attempt should be made in its name to prosecute the claims Barge threw out on this ground, some other umpire would doubtless arise to decide that the concern had gone out of existence, and therefore had no claims to prosecute.

Comments on other portions of Barge's decision are unnecessary, for they are self-evidently infamous. If Bainbridge had been a man of any sense of honor or dignity of character, he would instantly have resigned from a commission so constituted as to be capable of rendering such an indecent judgment. This decision is a fair sample of many others equally atrocious.

CHAPTER XXIII

THE GREAT VENEZUELAN RAILROAD CASE — THE WENZEL CASE

THE German-Venezuelan Commission of 1903 consisted of Hermann Paul Goetsch, German Commissioner, Nicomedes Zuloaga, Venezuelan Commissioner, and Henry M. Duffield, of Detroit, Michigan, Umpire. As the two Commissioners rarely agreed, most of the claims were referred to Umpire Duffield.

In remarking upon this umpire's amazing decisions, it suffices to say that the contentions of the Germans were almost invariably regarded with disfavor. Let us glance here at two of his most atrocious opinions.

I. The Great Venezuelan Railroad

This, the most important railway in Venezuela, extends from Caracas through a generally mountainous region to Valencia, a distance of about one hundred and fifty kilometres. The road is exceedingly well built and maintained. Even where conditions have been normal, its engineering problems have been serious; and there are from sixty to seventy tunnels and more than a hundred iron or steel viaducts along the eastern half of the line.

During the building of this road, in the early days of Crespo's domination, there was practically continual revolution, and construction work was thus rendered almost impossible. After the road had gone into operation it was many times seized, now by revolutionists, now by government troops, — its rolling stock destroyed, its roadbed torn up. Large sums due the railway from the Venezuelan government were never paid. One Dictator after another would seize the road and operate it to suit his convenience, never thinking of paying for the destruction of roadbed, tunnels, viaducts, bridges, rolling-stock, stations, etc., that was caused by these acts of violence and vandalism.

In November and December, 1901, a revolution, which later proved to be of mighty force, was breaking out all over Venezuela against that intolerable military despot, Cipriano Castro. The road's manager now received anonymous threats (which he imputed to the revolution-

ists) that if the road should carry troops and munitions of war for Castro, it would be destroyed. In the light of past experience the manager knew that these threats were only too likely to be put into execution; and he also knew that no matter what damages the revolutionists might inflict, the railway company would probably never be reimbursed. Even when the government itself owed the road for transportation of troops, mail, and munitions, and for other services, it had been found practically impossible to collect; and as the government was accustomed to repudiate damages wrought by revolutionists — a course in which it was later sustained by nearly all the arbitral commissions — the manager decided to stipulate for some security before placing the railway wholly at the command of Castro and thus bringing down upon it the vindictiveness of the revolutionists.

On December 16, 1901, he notified Castro's government of the threatening letters he had received, and requested the Ministro de Obras Publicas either to desist from sending forward troops and war materials, or to furnish the company with a sufficient guaranty of reimbursement for damages which might be done to it by revolutionists. Immediately Castro's henchmen began a campaign of *braggadocio furioso* against both manager and road, charging that they were in league with the revolution — that stale and weather-beaten false accusation we have met before. Moreover, Castro seized the road and threatened to imprison the manager; but the German government retaliated with an ultimatum which induced more moderation on his part, especially in view of the formidable revolution then gathering in all parts of the country. On January 9, 1902, the railway company and the "government" of Venezuela reached an agreement in which the company acknowledged "the obligation of transporting troops and material of war for the government," and the government bound itself in case of war to indemnify the company for the "losses which it may suffer because of such transportation, including pensions to Venezuelans, according to Venezuelan law, and to foreigners in a gross sum equal to nine years' salary." The road was thereupon reopened to traffic, and the facilities thus afforded for transportation of troops doubtless saved the day for Castro in the long and bloody revolution that followed.

During this and later periods of revolution serious damage was done to the road not only by revolutionists but also by government troops. Of course the government of Venezuela refused to pay — that is its constitutional and chronic attitude — and the claims were referred to the German-Venezuelan Commission of 1903.

Umpire Duffield, under oath to render his decisions on a basis of "absolute equity, without regard to objections of a technical nature, or the provisions of local legislation," rendered on the above point the following opinion (see Venezuelan Arbitrations of 1903, Ralston's report, p. 635):

"The umpire is clearly of the opinion that the contract between the minister of public works and the railroad, in which the minister attempts to bind the government for all the injuries which the railroad may suffer because of its performance of a lawful act, if not duty, in transporting troops and material of war to enable the government to put down a rebellion, is utterly invalid — first, because it is contrary to public policy and conflicts with the highest law of any nation, the safety of its people; and, second, because it is the duty of a railroad company which exercises public functions, and is a quasi-public corporation, to carry all freight and passengers not in themselves obnoxious which may be offered for transportation. Moreover, the company was bound by its express agreement to carry troops and munitions of war in the article of its concession which stipulated the rates of fares and freights to be paid. It is utterly inconsistent with the constitutional powers of a government and with the most sacred rights of its people to hold that a railroad company may, upon the mere basis of threats of persons, anonymous or not, to commit unlawful acts, decline to perform a lawful act. Revolutions are unlawful — are positively illegal; their object is to break down the *de jure* and *de facto* government and to destroy the existing system of law; their leaders and followers are by the laws of all civilized nations guilty of the highest crime known to the law, treason, and until success, therefore, any one who aids or abets a revolution is a violator of the law, and any citizen who omits or fails to assist the government violates his duty as a citizen. And while a corporation has no political status, one created by a government with special and quasi-public privileges owes the legal duty to that government to exercise its franchise in the latter's behalf and for its assistance.

"For these reasons the railroad company, in the opinion of the umpire, can base no claim upon its agreement."

In what work of reference, in what citation of authorities, in what statutory provision or constitutional precept, did Umpire Duffield discover this most extraordinary postulate as to "public policy"? Who made him Lord High Chancellor and Arbiter Plenipotentiary to the nations, investing him with the supreme function of deciding what manner of contract not only railway companies but governments shall, and shall not, enter into? Does the protocol contain any provision clothing the Commission with the paramount authority to cancel on any such grounds as these a contract made by a government? Does not every lawyer know that each government establishes its own public policy, and that one of its contracts cannot be questioned on that ground?

The manager of the road knew, from past experience and wide observation, that revolutionary bodies might destroy in one night every viaduct and tunnel on the line, inflicting tremendous damage; he knew that the government utterly repudiated claims of this class; and he wisely concluded to take no risk that was avoidable. He felt that the road, before carrying any more soldiers, should be paid for what it had already carried, and be guaranteed against damages which might accrue through subsequent transportation; he therefore stipulated that the government should execute a contract of guaranty be-

fore he should proceed with additional transportation of its troops; and after such guaranty had been executed, and the road had met with the losses which the manager had apprehended — Presto! Enters Mr. Umpire Duffield and pronounces the contract of guaranty null and void as against public policy!

The writer has no more time to spend over this brazen edict. The umpire's decision, following the oath that he took, falls little short of scandalous and infamous.

II. The Wenzel Case

General Duffield rendered many other decisions as indefensible as the one just noted, but space fails for their discussion. I shall at this time call attention to but one more claim belonging to the group referred to him.

In this case it was admitted that the property of one Wenzel (the claimant) had been injured by revolutionists under General Hernandez in November, 1899, and March, 1900, the damages claimed being about $3000; that Hernandez had been captured and imprisoned at Fort San Carlos; that he had been released by Castro, and that at the time of the hearing he was representing Venezuela as its minister to the United States.

It was also admitted as a tenet of international law that the "grantor of an amnesty assumes as his own the liabilities previously incurred by the objects of his pardon towards persons or things over which the grantor has no control." That is to say, revolutionary chiefs who receive amnesty from the government are absolved *ipso facto* from all liability for such damages as were inflicted by them through the acts embraced in the dispensation; but all such liability is assumed by the government granting such amnesty. In support of this principle were cited the Montijo case, decided by the Hon. Robert Bunch, British Minister to Bogotá; the Col. Lloyd Aspinwall case, Moore, 1015–1016; the Apure case, Moore, 2967, and many other authorities; and the rule was accepted by the umpire as being sound law.

Admitting, then, the validity of the rule, the loophole through which Umpire Duffield relieved Castro from its operation involves as contemptible a quibble as can be found in all the literature of fallacies. Here is the proposition to which he descended:

"*Amnesty granted by the Chief Executive of Venezuela, being in excess of his powers, does not make the state liable for damages inflicted by the persons pardoned.*"

The specious reasoning by which the umpire reaches this astounding conclusion reads as follows:

"In connection with the release of General Hernandez, General Castro, on the 9th of December, 1902, issued a proclamation in which, after denounc-

ing the action of the allied powers in seizing the war-ships and ports of Venezuela, and calling on all Venezuelans to lay aside all differences and rally to the defence of their country, [he] said:

"'And seeing that this [the country] cannot be great and powerful except in the pure air of brotherhood of all its sons — and circumstances demand the union of them all — in the name of my sentiments and her necessities above expressed, I open the doors of all the prisons of the Republic to the political prisoners who are still confined therein. I likewise open the doors of the country to Venezuelans who for the same reasons are in foreign lands, and I restore to the enjoyment of the constitutional guaranties property of all revolutionists which was embargoed for reasons of public order.'

"It is contended by the Commissioner for Venezuela, first, that this language cannot be interpreted as an amnesty; and, second, that under the Constitution of Venezuela the President has no power to grant amnesty. In the opinion of the umpire a general pardon of past offences by a government is an amnesty, which is commonly defined to be an act of oblivion. Its effect is that the crimes and offences named in the act are obliterated, and they can never again be charged against the guilty parties. Where no offences are named in the act the amnesty is general. The preamble of this proclamation would seem to necessitate an interpretation of the paragraph above quoted, which absolves from all punishment in the courts or by the authorities of Venezuela all political prisoners in Venezuela and all political offenders in other countries for any act committed by them while in rebellion.

"Under a system of government in which the Executive has the pardoning power it might be difficult to sustain the contention of the Commissioner for Venezuela. But it is not necessary to decide this question. The Constitution of Venezuela is peculiar in this respect, and in the opinion of the umpire it sustains the position of the Commissioner for Venezuela. It confers no power upon the Executive to grant amnesties, but in express terms gives the legislative branch of the government that power. Article 54, section 21, of the Constitution of Venezuela of 1901 provides:

"'The Congress of the United States of Venezuela shall have the following powers: . . . to grant amnesties.'

"General Hernandez, on the 2d of March, 1898, organized an insurrectionary movement which extended to all the States of the Republic. It ended with the capture of General Hernandez at La Vega on the 12th of June. It comprised eighty-four armed encounters, in one of which General Crespo was killed, — the battle of Carmelora, in the year 1898. General Hernandez was captured and imprisoned at San Carlos fortress. The revolution of the restoration under General Castro began on May 23, 1899, on which day, after his first battle at Tonono, he issued a manifesto, taking for the standard of his armed movement the restoration of the Constitution he alleged had been violated by the high powers of the nation. General Hernandez was still in prison in San Carlos fortress, but many of his followers joined in the Castro insurrection. On the day after General Castro made his triumphal entry into Caracas, he set at liberty the political prisoners whom the government of Andrade had imprisoned, and among them General Hernandez, leader of the first nationalist revolution, and appointed the latter his minister of public works. A few days thereafter Hernandez left Caracas by stealth, accompanied by the forces of General Samuel Acosta, his companion in arms in the first nationalist revolution, and proclaimed a revolution against the government of

General Castro. It was in this last revolution that the injuries complained of occurred. He was again defeated, and, May 27, 1900, imprisoned in the fortress of San Carlos for some time. He remained there until the 11th of December, 1902, when he was set at liberty under the proclamation above referred to and came to Caracas, to parley with General Castro. He has since then supported the government and has been sent to represent it as minister to the United States.

"The claim therefore falls within the decisions in the cases of Van Dissel & Co., No. 11, and John Roehl, No. 31, and is disallowed."

Could a man deliver such an opinion as the above in good faith?

At the time this decision was rendered, every one conversant with Venezuelan affairs knew that Castro was supreme Military Dictator; that the alleged Constitution of Venezuela had been dictated by Castro himself, and was liable to be amended, abolished, or changed at a breath, in accordance with his whim; that there was then not even the pretence of a constitutional government in Venezuela; that this military dictatorship contained no legislative department, and that all so-called laws were merely the decretas of the reigning Dictator, as promulgated by him, and printed in his *Gaceta Oficial.* And yet Umpire Duffield, with a sensitive regard for his oath to decide in accordance with absolute equity, after a most searching examination of his delicate conscience, rules against the claimant on the ground that the Dictator's amnesty proclamation was unconstitutional!

How can one keep patient while discussing decisions so knavish as these!

CHAPTER XXIV

CASE OF THE FRENCH COMPANY OF VENEZUELAN RAILROADS

THIS case is one of considerable importance, relating to the complete destruction of a railroad property in Venezuela, the construction of which had cost over $3,000,000 gold. Upon a difference of opinion between the Venezuelan Commissioner and the French Commissioner, the claim was referred to the Hon. Frank Plumley, of Northfield, Vermont, for his arbitrament. For the benefit of railroad men throughout the United States and of American capitalists who contemplate making investments in Latin America, a report of Umpire Plumley's opinion follows. The opinion was rendered in 1905.

I. Opinion of the Umpire

July 25, 1887, the Minister of Public Works of the United States of Venezuela, duly authorized, executed a contract with the Duke of Morny, a French citizen, which contract was duly approved by the Congress of that Republic August 3, 1888. It contained provisions which are summarized by the umpire as follows:

The government of Venezuela conceded to the party above named the right to build a railroad from Merida to the Lake of Maracaibo, canalizing the river Chamas, the Escalante, or any other navigable river whatsoever; the exploitation and the enjoyment of the revenues of the enterprise for a term of ninety-nine years; a strip of 500 metres of land on each side of the railroad track, without payment therefor, to be taken from the lands of the nation; the right to avail himself of the lands belonging to individuals which might become necessary for the construction of the railroad, stations, and the like, in conformity with the laws governing the taking of lands for public use, and subject to compensation therefor; the wood and timber necessary for the construction of the works to be taken from the national forest without compensation therefor; the right to introduce into the country free of import duties the engines, material, instruments, and everything necessary for the construction of the line, subject only to proceeding in reference thereto in conformity with the provisions of Article 177 of the Code of Finances; the right of exemption from assessments at all times by the nation and the State; a right to extension of the time allowed for the beginning and the completion of the works when delay was caused by *force majeure*, the entire extension not to exceed one year; a guaranty of seven per cent on the capital in shares, bonds, or obligations;

the right to construct such branch lines as he should deem necessary; the privilege of transferring the contract thus executed to any other person or company at his pleasure on notice to the Venezuelan government.

The Duke of Morny obligated himself in said contract, to begin the said railroad and the canalization of the river, in case it be necessary, within one year from the date of the contract and to finish the line in three years therefrom; to yield up to the government of Venezuela at the expiration of the said ninety-nine years, without indemnity therefor, the enterprise with all its annexes and properties; to carry the mail free of charge; to transport for one half the established rates the employés of the government, its soldiers, troops, and elements of war; to the resolution by the competent tribunals of the Republic, in conformity with its laws, of all doubts and controversies which might arise from the contract.

August 13, 1888, certain declarations and amplifications to the foregoing were made by General Cuzman Blanco, Envoy Extraordinary and Minister Plenipotentiary for Venezuela, to and with the said Duke of Morny, which are summarized by the umpire as follows: The government of Venezuela thereby and therein conceded to the other party that the railroad from Merida to Lake Maracaibo was to be divided into two sections; the first section was to start from a point upon the river Escalante, which point the concessionaire was to determine, and to be continued for a length of sixty kilometres in the direction of Merida; the second section was to start from the terminal point of this first section and continue to the city of Merida; an extension of the time fixed in said modification of the contract for the building of the first section equal to the delay suffered, if the delay was caused by *force majeure;* the guaranty of seven per cent provided for in the original contract to begin when the first section was opened for exploitation; an extension of the time fixed in this modification to the original contract for the building of the second section was to be made equivalent to the delay suffered, if the delay was caused by *force majeure;* establishing the capital at an estimate of 300,000 Bs. per kilometre for the first section and at 350,000 Bs. per kilometre for the second section, the guaranty of seven per cent to rest upon the amount of this estimate; to pay the said guaranty in three equal parts at equal periods during the year; to add to the material which was to be imported free of duty under the terms of the original contract, the engines, material, and instruments necessary for the running of the railroad; and that during the period of twelve years from the date of the said modification of the original contract the government would not establish a service of navigation to carry on traffic between the terminal point of the railroad, or any points upon the Escalante, and the different ports of the Lake of Maracaibo.

The concessionaire was obligated therein: to begin the work of building the first section of said railroad within six months from August 13, 1888, and to complete the same within two years therefrom; to complete the construction of the second section within four years from the date named; and to introduce the material, which was to come in duty free in conformity with the provisions of the Law of Finances provided for in such matters.

April 16, 1891, further modifications of the contract were made by the Congress of the United States of Venezuela by and with the representative of the French Company of Venezuelan Railroads, which latter had succeeded to the rights of the original concessionaire, which modifications are summarized by the umpire as follows: The Republic ratified in behalf of said company

the contract of August 13, 1888, and confirmed the original contracts except where they were contrary to the conditions named in that modification. The company renounced and declared null and void Article X of the contract of August 13, 1888, which gave exclusive navigation privileges on the river Escalante and the different parts of the Lake of Maracaibo. It was mutually stipulated that the concession was to be limited to the first section, which was to extend from Santa Barbara to Camino Real, a point one kilometre distant from La Vigia; the guaranty of seven per cent was to be reduced by the amount of the net benefits received by the company, these being composed of the net product of the receipts of every nature made by the exploitation of the railroad after deducting the general expenses of the company and of its management; the sums paid on account of said guaranty to be treated as advances only, to be returned as and when the benefits received by the company exceeded seven per cent on the guaranteed capital by applying one half of such excess in liquidation of said advances until all was reimbursed; that after said advances had been fully reimbursed the government was to continue to share in said benefits to the extent of twenty per cent thereof. There was added to the provision in regard to the resolution of all doubts and controversies by the Tribunals of the Republic, the further agreement that in no case were these doubts and controversies to give place to international claims.

It will be observed that by the modification of the original contract made August 13, 1888, the capital of the company, for the purpose of reckoning the guaranty, was estimated at Frs. 18,000,000.

Following this arrangement a French company was formed, September 28, 1888, taking the name of French Company of Venezuelan Railroads, with headquarters at Paris and its duration limited to ninety-nine years. The concessions obtained by the Duke of Morny were taken over by this company. . . . The building of the road was in progress from 1889 to 1892.

It is complained by the company that on April 16, 1891, the government, by the rule of the stronger, compelled in the agreement of that date, the provisions of which have already been stated, the introduction of the clause into the original contract that there was to be deducted from the amount of the guaranty the actual net profits of the company.

September 29, 1891, the first section was nearly completed and about ready for use, when there occurred a very serious inundation, causing a considerable delay and the expenditure of a large sum of money to reconstruct the parts destroyed. It was April 1, 1892, when the company considered the work of construction completed and demanded of the government its acceptance. But the State of Andes was then in revolt, while that of Zulia was loyal to the titular government. A portion of the railroad was in each State. To whom should it apply? Which was its government?

August 5, 1892, the company made publication in the local papers of the fact of the completion of the railroad and that it had begun business.

The company suffered badly from the insurrection, in requisitions from both sides, in the dispersions of its workmen, in the disappearance of its traffic, while the government in the midst of this intestine war paid neither requisitions, damages, nor guaranties. The line was repaired from the resources of the company, but it thereby exhausted its capital, and, November 1, 1892, judicial liquidation resulted. The creditors accepted the proposition made by the company to pay them *pro rata* and permitted it to continue its enterprise.

February 23, 1893, the engineer of the government examined the line and declared it to be well constructed and advised that by April 1, 1893, it would be in a situation to be accepted by the government. March 23, 1893, the decree of inauguration was published, and on May 10, 1893, the record was made of its definite acceptance by the Venezuelan government, dated back to April 1 of that year. As a matter of fact the line had been in operation since 1892, with receipts for that year aggregating Frs. 149, 241.21; for 1893 the receipts being Frs. 570,061.37; and in 1894 they were Frs. 458,525.24.

An earthquake in 1894 did great damage to the roadbed and to the bridges, which required large expenditures to restore. The receipts through its traffic were insufficient to meet these expenditures, and the national government, though repeatedly urged so to do, paid neither guaranties, nor indemnities, nor requisitions. At the general meeting of the shareholders of the company held June 30, 1894, its reports showed a claim against the Venezuelan government amounting to Frs. 2,205,000. In fact, the repairs which were required by the earthquake had been made only by the issue of bonds of the denomination of 500 francs drawing interest at six per cent to be reimbursed by the sums to be received from the respondent government. On June 20, 1895, the report to the general meeting of the shareholders showed a claim against this government of Frs. 5,820,785.47. In 1894 the company issued eight hundred of the bonds, and in 1895 it made a further issue of four hundred. In the month of December of this last-named year requisitions by the national government began again; the financial condition of the company became more strenuous. It sought diplomatic aid through its own government, but obtained no results. December 31, 1895, it claimed of the government of Venezuela as follows:

For guaranty to December 31, 1895	Bs. 4,725,000.00
Damage to the exploitation	326,924.75
Damage for recruiting its workmen	525,509.57
Requisitions	96,320.00
Damage resulting from the non-payment of the guaranty for the issue of bonds	1,308,000.00
Total	Bs. 7,051,751.32

The years 1892 to 1894, both inclusive, were involved more or less in the successful Crespo revolution. It was on February 20, 1894, that General Crespo became Constitutional President of the Republic for a term of four years. But it was not until the year 1895 that his authority was everywhere recognized, and up to that time there were occasional revolutionary outbreaks entailing large expense upon the government and lessening and interrupting its sources and means of revenue.

The answer of the national government to the repeated and urgent requests of the company for the recognition and payment of its credits was always a lack of funds, of which fact there could be no real denial. The respondent government had not, however, agreed to the sums demanded of it by the company.

By 1896, the financial condition of the national government had greatly improved, and in April of that year, together with Mr. Charles Weber, the duly constituted representative of the French Company of Venezuelan Railroads, it took up the claims of that company. Substantially the same figures were presented to the respondent government as have been here produced of

date December 31, 1895. The consideration and discussion of these affairs resulted in a formal convention made April 18, 1896, when was brought in first a rehearsal of the salient matters of the previous contracts and then the statement of the claim of the company against the respondent government. . . .

In June, 1898, there was a new revolutionary movement affecting especially the States of Zulia and Andes. The general in charge of the Federal forces drafted the workmen; the director, Mr. Brun, was shot at Santa Barbara in the midst of a conflict, and died of his wounds; there were requisitions of material, of trains for the transfer of troops, of war material, etc. The passenger and freight service was paralyzed; the claims of the railroad received no attention from the government; there was no payment for the services and sacrifices required of and imposed upon the company, and its very existence was seriously threatened. It appealed to its own government, it rehearsed its wrongs and grievances, but it obtained no relief. Just as the exploitation began again to yield some income and the revenues of the national government began to quicken, the successful revolution of General Castro broke out. Requisitions were again in evidence, and more than ever before. Destruction was manifest on all sides; grave losses were caused to the boats; while the revolutions took from it its traffic the government made requisitions, and neither paid anything.

This successful revolution of General Castro, which began in the spring of 1899, brought serious disaster to the railroad in many ways. A letter of date October 12, 1899, to the French Minister of Foreign Affairs by Mr. Reynaud of the Administrative Board, vividly portrays the situation. Selections therefrom are quoted:

"The political and revolutionary crisis which exists in Venezuela has not diminished in intensity since the last communication which we had the honor of addressing to you August 23, last.

"Our property and all our possessions, our railroad material, and our boats have not ceased for several months to be arbitrarily seized or sequestered by the authorities, now said to be legal, now revolutionary. The future of the exploitation of our railroad and boats is grievously compromised in the source of its receipts.

"The harvests are destroyed, abandoned, or lost; the workmen are pursued and tracked in the forests; the owners and merchants in flight or ruin!

"Finally our resources are exhausted.

"We have been obliged then to suspend our exploitation!"

It was two days anterior to the date of the above letter that Mr. Simon, general manager of the railroad, informed the citizen President of Zulia in writing that "because of *force majeure*" all operations of the steamers, and of the railroad from Santa Barbara to La Vigia, were suspended. In this communication the *force majeure* referred to is thus explained:

"1. All the resources which the company had, whether at Paris or at Maracaibo, have been completely exhausted in paying the expenses of this railroad and its steamer, Santa Barbara, during all of the revolutions, and then the Venezuelan government and the insurgents used these means of transfer until little by little they became masters of them.

"2. Since September 27, 1899, the revolutionists have again taken possession of the line, and, consequently, we can have no receipts except from our steamers, and of these the government is constantly taking possession.

"3. All our efforts with the national government at Caracas, as well as with the government of Zulia, to recover the large sums which they owed the company, have had no success, not even for the little sums of 300 and 144 Bs. which were to be paid October 3, 1899.

"4. In these conditions, if the company continued the exploitation it would be obliged to go into bankruptcy.

"5. *It suspends its exploitations, without renouncing its rights, on that account, upon the concession of the railroad from Santa Barbara to La Vigia, until the special settlement takes place between the French company and the government.*"

A communication to the same effect was sent to the national government through its Minister of Public Works. In it Mr. Simon stated that the revolution had made it impossible for the railroad to receive any benefit during the months of June, July, and August. It was there stated that in September there was a suspension of hostilities and there were some receipts; but that the new revolution broke out September 27, since which time the traffic had ceased. The use of the steamer plying between Santa Barbara and Maracaibo had terminated because of the order of the customs officer forbidding its use and of the confirmation of the same by the President of the State.

The situation is there summarized by Mr. Simon as follows:

"1. It is not possible for the exploitation to gain any receipts, since the revolutionists are masters: and up to this day, October 10, there is not hope that the government can retake this city.

"2. The Venezuelan government cannot pay the company any of its debts nor even give it an account, nor make any promises for the future.

"3. The company has no longer any resources, having exhausted everything by which it may meet expenses of the line, while it has made no receipts because of the frequent revolutions.

"Considering that this state of affairs has caused it prejudices and enormous damages, and that if it continued its expenses it would be led into bankruptcy, the company sees itself, because of *force majeure*, obliged to suspend the exploitation of its line and its steamers until a settlement may be made with the national government of the United States of Venezuela, that the company does not abandon its right upon the concession of the said railroad from Santa Barbara to La Vigia."

October 22, 1899, by communication of Mr. Simon to the company at Paris, it is learned that the archives and records of the company had been locked up in the safes and a detailed inventory had been given the consular agent of France at Maracaibo, that the entire personnel of the boats had been paid and discharged, and the copy of the notice to the public which had been given it through the newspapers was therein remitted. It is added that:

"The lack of income during more than four months, together with the revolutions and lack of payment by the government of its obligations to the company, are the reasons which lead the company to ask for a settlement with the national government before continuing anew the exploitation.

"It appears that since the 27th of September the railway is in the hands of the insurrectionists, and that until this date, October 12, there is no hope that the government may recover this place."

The government of France through its foreign office directed its consular agent at Maracaibo to safeguard the interest and properties of the railroad company during its suspension of activities.

December 2, 1899, there was an armed conflict on the shores of the Bay of Maracaibo between the forces of General Castro and those of General Hernandez. A steamer of the company, the San Carlos y Merida, was lying at anchor in the bay, and the armed forces were so situated toward one another that the steamer lay in their line of fire. As a result, the damage to the hull of the steamer was so serious that it sank during the afternoon of that day. These facts concerning the steamer are taken from the report of the French consular agent at Maracaibo in a communication made by him, of date December 30, 1899.

January 2, 1900, the appraisers, specially appointed for the purpose of estimating the damages suffered by the Santa Barbara while in the service of the national government, made their report, naming these damages at 10,000 Bs.

January 18, 1900, the French Company of Venezuelan Railroads addressed the Minister of Foreign Affairs of France, and referred to its communication of the previous month to the same official, and asserted a claim. . . .

February 3, 1900, the railroad company addressed itself to the President of the Republic of Venezuela, informing him of the grave disasters which had overtaken the company, and declaring that any considerable delay in the settlement of the sums due it from the national government might prove fatal.

January 18, 1901, the French Company of Venezuelan Railroads, having received no payment from the respondent government and no encouragement that payment would be made, came to believe that its efforts were forever compromised; and it then presented to the French Minister of Foreign Affairs a claim for Frs. 18,000,000, the *ensemble* of the losses which the action of the respondent government was held to have brought upon it. To this was added the service of the boats which had been destroyed or injured and a part of the material of the dredging-machine which had been stolen, making a total of 483,900 francs, deduction having been made of 11,100 Bs., that sum being the price for which the Santa Barbara and the launch had been sold. This claim was brought to the attention of the Consul General of Venezuela at Paris, whose response was that the new President up to that time had been able to concern himself only with matters political and martial. . . .

In behalf of the company there is also presented by Counsellor Decraigne, in his very able and valuable brief, the claim that it was ruined at the hands of the respondent government; that this ruin was practically consummated by what he is pleased to denominate the culpable removal of the guaranty. He insists that the exchange made between the company and the government was without any equivalent, and was brought about only by such pressure that it was invalid and should be declared a nullity. He also asserts that it should be declared a nullity by default of execution, since the respondent government has not paid the arrears of the titles which it has given the French company in exchange for its guaranty. The respondent government, as the essential part of that exchange, was to furnish titles bearing five per cent interest, the titles having no other value than their interest-bearing qualities. The interest not being paid, the titles were without value; hence there was in fact no consideration for the surrender of the guaranty by the company; and the respondent government having thus failed to perform that which was essential in the contract for the surrender of the guaranty, the company has a right to demand the rescission of that portion of the Convention of 1896. He includes in the right of rescission a claim for damages in behalf of the company, which is in the

nature of a reimbursement of all the expenses which have been imposed upon it, with interest at seven per cent. He urges that the guaranty be liquidated from May 10, 1893, up to the date of this award, less the sums paid thereon, with a charge of seven per cent interest annually for the default. The claim for Frs. 18,000,000 is presented on behalf of the company in another view. The reasons given are that the respondent government, by requisitioning the material and the personnel of the company, deprived it of its rights and its property. The government had power to take it, but it is equity that the company be reimbursed for it. The damage thus consummated is estimated at the price set upon it by the Congress of Venezuela in 1891, which, it is urged, is the amount of the claim here presented.

Summarized, then, the claim of the French Company, as presented by its counsel, is as follows:

"1. For the loss of its line the sum of Frs. 18,000,000; with interest at seven per cent upon the capital of 15,000,000;

"2. For the loss of its maritime exploitation the sum of 483,000 francs with interest at seven per cent; the interest on both of these items should be reckoned from March 23, 1893. . . ."

The French Company of Venezuelan Railroads contends for an allowance of Frs. 18,483,000 (*a*) on the basis that the Venezuelan government is responsible for the ruin of the company, and that in equity this responsibility carries with it the rescission of the contracts signed between the said company and the respondent government as stated in the first paragraph of the opinion of the Honorable Commissioner for France; (*b*) on the basis that the French Company of Venezuelan Railroads renounces the concession of the enterprise and abandons to the Venezuelan government its line, its buildings of exploitation and habitation, its stores, and its terrestrial and maritime material, in the condition in which they are found, by means of which — payment on the one hand, renunciation and abandonment on the other — the two parties will perform all their reciprocal obligations and engagements, as stated in the record of the proceedings of the Honorable Commission at Caracas in defining the position of the Honorable Commissioner for France in regard to the said claim. These two statements of the claim, although differing in form, are understood by the umpire and will be treated by him as, in essence, one and the same.

In event of failing to impress this view upon the Honorable Commission, the company asks for a large allowance in the way of deferred guaranties and other losses, together with an allowance of the sums approved and accepted by the Honorable Commissioner for Venezuela. In order to reach the consideration of these deferred guaranties it urges upon the Honorable Commission the duty to declare that portion of the convention of April 18, 1896, which refers to the redemption of the guaranty, to be null and void because it was obtained in a manner so conscienceless that it cannot be sustained in the forum of equity. If this view is upheld, the Honorable Commission is asked to pass in detail upon the elements composing this claim.

To take these several propositions in their order, it becomes necessary to consider first the claim of Frs. 18,483,000, which is the sum demanded provided the umpire decides in favor of the rescission of the contract.

It would seem to the umpire that the question first occurring is one of jurisdiction, in other words, of competency. For, however deeply the sympathies of the umpire may be stirred in behalf of those who have bravely strug-

gled and who have seriously lost, there is an imperative duty which is primary. That duty is to determine the limits which circumscribe him and keep him within the set and required bounds.

The limits of this Honorable Commission are found, and only found, in the instrument which created it, the protocol of February 19, 1902. An arbitral tribunal is one of large and exclusive powers within its prescribed limits, but it is as impotent as a morning mist when it is outside these limits. A reference to the convention which created this Commission will disclose its purpose and purview. . . .

The sole scope and sweep of the authority given is to provide indemnities for damages suffered by Frenchmen in Venezuela. It is not defined, but it is assumed that its methods of procedure will not contravene the general and established principles of the law of nations, nor its awards be opposed to justice and equity. This much can be assumed, but to assume that it has power to revoke, rescind, modify, or limit the terms of a contract, even so much as by a hair's breadth, is impossible. It was created for no such purpose; it was endowed with no such powers. So far as a Frenchman has suffered damages in Venezuela for which Venezuela is responsible, the indemnities may be stated and the decision be final. The arbitral tribunal thus constituted may, as a means to the end provided, ascertain and declare the responsibility of Venezuela, it may pass upon its own jurisdiction within the scope of its charter, but it cannot step in the least outside the path prepared for it, which is and only is the path which leads from damages to indemnities. If the French Company of Venezuelan Railroads and the respondent government did but agree that rescission should be had, or that abandonment should be made of the concessions and the properties of the company to Venezuela, then this Honorable Commission might be considered competent to pass upon and establish the indemnities thus required. Otherwise there is incompetency absolute and entire. This commission is not only destitute of primary authority, which is enough, but it is equally destitute of all capacity to compel the parties to carry into effect any such award were it made — which is more.

The contracts in issue were mutual and reciprocal, and neither party thereto can make abandonment thereof without the consent of the other. The United States of Venezuela does not consent; therefore the French Company of Venezuelan Railroads cannot, by right, abandon its contracts or its properties.

If it be held that the respondent government has wrought the utter ruin of the company, and that this was done in a manner and by means which charge upon the nation the full measure of responsibility, then there is a case for damages only, and the sum awarded might be — it is not said would be — the sum of Frs. 18,483,000, the amount claimed. But it is always and only on the basis of indemnities for damages that this Honorable Commission has jurisdiction; and it is utterly powerless, even for good cause, to decree an unaccepted and unacceptable abandonment by either party of a mutual and reciprocal contract, or to award an act of rescission which has not, in effect, previously taken place.

The umpire finds ample warrant for his conclusions regarding his powers in the authorities to which he makes reference. . . .

For this Honorable Commission to order something to be done which would cause damage to the party obeying the order and then to award damages therefor would be opposed to the terms of the convention. It would be an

independent act posterior to the convention; and were this to be done by the umpire it would require a payment by Venezuela to the claimant company for damages in fact suffered in the United States of America at the hands of the umpire. . . .

The umpire cannot entirely ignore the restrictive features of the contract between the claimant company and the respondent government which in terms and in fact strictly required, and still requires, that all doubts and controversies arising from that contract should be resolved by the competent tribunals of the respondent government. Certainly to consider and determine the question of its rescission is the most serious doubt, the most important controversy, which could grow out of, or arise from, the contract in question. A claim for damage may be regarded as ulterior to the contract, especially where the damage has accrued from the operation of the parties under the contract, but the question of its rescission is an entirely different proposition. The unrestricted agreement to submit to an arbitral tribunal the question of damages suffered by Frenchmen in Venezuela may properly be considered, if necessary, as equivalent to a suspension of the provision in the contract, were the damages claimed to be such as arose or grew out of the contract; but the agreement to submit a question of damages arising through operations performed under a contract in no sense suggests a purpose to arm that tribunal with plenary power to consider and settle the question involved in the rescission of a contract, and therefore does not suggest an intent on the part of the High Contracting Powers to ask on the one hand or to grant on the other the suspension of the restrictive features referred to, which are contained in said contract. What is here said concerning the matter of rescission applies with equal force to the matter of abandonment. It is, therefore, the deliberate and settled judgment of the umpire that he cannot determine this claim on the basis of a declared and directed rescission or of abandonment, and can only decide the amount of the award, this to depend upon the ordinary basis of damages which have been suffered in Venezuela by the French Company of Venezuelan Railroads at the hands of those for whom the respondent government is responsible.

By the claimant company the redemption of the guaranty as settled by the compact of April 16, 1896, is declared void in equity, (*a*) for want of adequate consideration and as being made against the desire of the company and under the irresistible compulsion of circumstances which were availed of by the respondent government to drive a bargain so hard and so unconscionable that it should be set aside by this tribunal; (*b*) as a default of the government in neglecting to meet its obligations of interest as they fell due upon the bonds which were given to redeem such guaranty, being a total failure to comply with and carry out the terms of that agreement which renders the agreement itself nugatory and void; and for these reasons the rescission thereof should be declared by this Honorable Commission.

The agreement effected to redeem this guaranty of the French Company of Venezuelan Railroads was only a part of a general plan introduced by the United States of Venezuela in 1896, to be made applicable to all similar enterprises wherever located in that country and by whomsoever exploited. To this end it had arranged with the noted and conservative German House, the Disconto Gesellschaft, to float a loan of Bs. 50,000,000, secured upon the customs houses of the nation and bearing five per cent interest annually, the proceeds of said funds to be devoted to the purpose named.

It was accepted generally by the different guaranteed enterprises, the claimant company being one of the several.

Examination of the reports made by the company to the shareholders at its annual meetings for the years 1894, 1895, and 1896, shows a successive and continuing ability on the part of the claimant company to raise money by loans. June 27, 1896, was noteworthy in this regard, since at this annual meeting successful provision was made for floating a loan of Frs. 1,300,000. In 1895, the year preceding the redemption of the guaranty, there was raised by loan Frs. 200,000; and in the year 1897, a year and more succeeding the settlement, there was negotiated a loan of Frs. 1,500,000. Hence it was not an overwhelming financial necessity which confronted the company, nor an utter inability to obtain money otherwise, which compelled the acceptance of the offered redemption.

The redemption of the guaranty on the terms provided did not mean, on the part of the claimant company, the relinquishment of Frs. 1,260,000 annually for the sum of Frs. 2,500,000 in hand. It was only the relinquishment of such sum, if any, as might remain when the net annual revenue was deducted from this annual guaranty.

The net revenue had been growing for the years prior to April 16, 1896. In 1894 it was Frs. 72,332.15; in 1895, Frs. 101,676.97. Both parties had contemplated and apparently believed that it would finally exceed the guaranty and had provided for that contingency, as will be seen by reference to the contracts which arranged to meet and eventually to cancel the guaranty which had theretofore been paid, directing that one half of the net annual revenue in excess of 126,000 francs be used in payment, and also agreeing that after the said advances had been cancelled fully, the respondent government should continue to enjoy twenty per cent of such excess in perpetuity. By this redemption the right of Venezuela to participate in any way in the net profits of the company was cancelled. That this right was considered as of some value is evident, or it never would have been placed in the contract. In fact, by its terms the annual guaranty was only an advance, an indebtedness of a peculiar character, payable only in certain contingencies and in a particular way; but still it was an indebtedness. By the agreement constituting the redemption these conditions were all changed, to the effect that the arrears then provided for and the Frs. 2,500,000 then paid were not debt-producing but debt-reducing. They were gifts, purely and simply, so far as any duty of repayment was concerned. In another sense they were not gifts. They were the nation's estimate of the value of the railroad and the steamboats to its commerce and to its agriculture, also to the means of communication between different parts of the country. The transaction itself was open, the negotiations lengthy, the time for reflection ample. The co-operation of the directors of the company and of the representatives of the creditors was solicited and received, and all was done with due deliberation, under circumstances which permitted entire freedom of will and of action. The approval just mentioned took recorded form on June 27, 1896, after a lapse of more than two months and after a full and explicit report of the action taken with the reasons therefor fully set forth. It was referred to approvingly at the annual meeting of 1897, and on June 30, 1898, two years and two months after the agreement of redemption was made, the bonds which had been issued in accordance with that agreement were appropriated by the deliberate action of the company to the payment of a special indebtedness.

They were accepted by two of the vigilant and sagacious financial houses of France in place of the obligations of the company. There are apparent none of the features which accompany and signalize bargains which the courts undertake to set aside. The freedom of contracts is one of the bulwarks of business, and courts are loath to interfere where a contract is executed, and where are lacking the elements of fraud or mistake, and where it rests upon the mutual assent of parties intelligent, competent, and free to contract. . . .

The final appropriation and use of the redemption fund after such length of time, after such opportunity for observation, investigation, and reflection, without a murmur of dissent in the mean while, or a request for rescission or an offer to restore the *statu quo*, is too palpably a solemn acceptance to admit of doubt; while the absorption of the funds precludes return. There is also no offer to restore. If there were such offer, this Honorable Commission has no power to compel its acceptance. . . .

The umpire is unable to accept the contention of the claimant company that the respondent government was the sole cause of its ruin. This is nowhere asserted, or even suggested, by its agents and managers during the progress of the events which culminated in its suspension nor until the lapse of many months thereafter. It is entirely opposed to the expressions of Mr. Reynaud of the Administrative Board of the company in his careful and analytical statement of the claims of the company on February 3, 1900, since which time it is not claimed that there is to be found any direct injury received from the respondent government unless it occurs in its delay to pay its debts. The claim then put forth was (*a*) payment of 300,000 francs as the full amount due for expenses of transportation and requisitions on account and by order of the authorities of the nation and the States; (*b*) payment of the sum of 250,000 francs estimated as the minimum amount of the indemnity due for damages which had been occasioned upon its property; (*c*) the sum of 105,000 francs a month, on account, from July 1, 1899, to indemnify the company for the loss which it had suffered since that date from the almost absolute suppression of its traffic and for the immobilization of its railroad and boats. This sum is obtained by taking the amount originally stipulated as an annual guaranty, *viz.*, 1,260,000 francs, and dividing it by 12, the number of months in a year, the quotient being 105,000 francs. This communication from its authorized agent must be taken as the voice of the company speaking its honest and deliberate convictions and asserting its claims in their most broad and comprehensive sense. This statement was made when all the facts were fresh in the minds of both parties and when there were no reasons for concealment, reservation, or dissimulation. The umpire will accept it as the maximum of the claimant company's demands for those matters which had occurred at that time. He will allow so much of the 300,000 francs as he ascertains to be well founded. He will grant so much of the 250,000 francs as is determined to exist in a claim properly attributable to the respondent government. He will allow nothing of the claim for 105,000 francs a month, as he finds no lawful responsibility in the respondent government. It cannot be charged with responsibility for the conditions which existed in 1899, prostrating business, paralyzing trade and commerce, and annihilating the products of agriculture; nor for the exhaustion and paralysis which followed; nor for its inability to pay its just debts; nor for the inability of the company to obtain money otherwise and elsewhere. All these are misfortunes incident

to government, to business, and to human life. They do not beget claims for damages.

The claimant company was compelled by *force majeure* to desist from its exploitation in October, 1899; the respondent government from the same cause had been prevented from paying its indebtedness to the claimant company. The umpire finds no purpose or intent on the part of the respondent government to harm or injure the claimant company in any way or in any degree. Its acts and its neglects were caused and incited by entirely different reasons and motives. Its first duty was to itself. Its own preservation was paramount. Its revenues were properly devoted to that end. The appeal of the company for funds came to an empty treasury or to one only adequate to the demands of the war budget. When the respondent government used, even exclusively, the railroad and the steamboats, it was not outside its contractual right, nor beyond its privilege and the company's duty, had there been no contract. When traffic ceased through the confusion and havoc of war or because there were none to ride and no products to be transported, it was a dire calamity to the country and to all its people; but it was a part of the assumed risks of the company when it entered upon its exploitation.

When revolution laid waste both country and village, or seized the railroad and its material, or placed its hands upon the boats and wrought serious injury to all, it is regrettable, deplorable, but it is not chargeable upon the respondent government, unless the revolution was successful and unless the acts were such as to charge responsibility under the well-recognized rules of Public Law. These possible disordered conditions of a country are all discounted in advance by one who enters it for recreation or business. It is no reflection upon the respondent government to say that the claimant company must have entered upon its exploitation in full view of the possibility, indeed with the fair probability, that its enterprise would be obstructed occasionally by insurgent bands and revolutionary forces and by the incidents and conditions naturally resulting therefrom.

The Honorable Commissioner for Venezuela allows, as has already been shown in this opinion, Bs. 241,357.70. This includes interest on the annual balances appearing in the claimant company's statement to the national and sectional governments, also interest for the use of the steamer Santa Barbara.

The umpire sees no reference by the Honorable Commissioner in his additional opinion to the appraised damage done the steamer Santa Barbara which said Honorable Commissioner allowed in his original opinion. The umpire, by a cursory examination of the vouchers which support the claims allowed by the said Commissioner, does not find that it is included therein. Hence the umpire concludes that there can be no mistake in adding that sum with interest from October 1, 1899, which makes an amount of 11,750 francs. The sinking of the steamer San Carlos y Merida, as stated by the consular agent of France, was, without doubt, an accident of war. No circumstance is suggested which takes it out of the usual rule of non-responsibility on the part of the respondent government; and hence it must be disallowed.

The injuries done the railroad, the buildings, and the material, by use in war, must have been considerable, and since the revolution was successful, the respondent government is properly chargeable for its use and for the injuries and damages which resulted. There is no question as to the liability of the respondent government for the natural and consequential damages which resulted to the railroad properties while they were in the use and control of the

titular government. Hence there is unquestioned and complete responsibility on the part of the respondent government for all the necessary, natural, and consequential injuries which resulted to the railroad and its properties when used by either the revolutionary or the governmental forces. The umpire is destitute of data upon which he can safely base his judgment as regards the just amount of that damage, but that it is considerable is unquestionable.

He will approach the subject, however, from another standpoint. It is not right that the claimant company be paid only the regular one-half rate for services performed at such times and under such circumstances. There is no clear proof just how much this service was, and any conclusion can in fact be only conjectural and at best only approximate. The umpire accepts as the best basis obtainable the last item of charge, *viz.* Bs. 114,679. He assumes that this represented the usual charge to the government at one-half rate. He considers full rate as none too much, and he adds to the sum allowed by the Honorable Commissioner for Venezuela Frs. 114,679 and interest, which he reckons at Frs. 20,069, making in all Frs. 134,748. Where the respondent government can be charged with no other offence than a neglect to pay its debts through inability so to do, no greater responsibility rests upon it than the payment of interest for the delay thus caused. Such is the situation in this case, as it appears to the umpire.

The facts brought upon the record, the facts placed in this opinion, do not disclose any relation of the respondent government to the claimant company which makes the former chargeable financially for the ruin of the latter; and the award cannot, in justice and equity, be placed upon any such basis. The several sums allowed for the different causes mentioned constitute the maximum amount which can be named in the sentence. The aggregate of these sums is Frs. 387,875.70 and the award will be prepared for that sum.

II. Comments upon Umpire Plumley's Decision

The writer happens to have full personal knowledge about this case, and no sophistical reasoning deceives him for a moment as to either the facts of the matter or the demands of justice. This railway had been seized alternately by the government troops and by the revolutionary troops under Castro, who finally became the government. Under leading decisions a government is held responsible for the acts of revolutionists when the revolution proves successful. Not only in effect but in fact did the constant seizures of this road and of its rolling stock take the property out of the control of its legitimate management. Oftentimes one party or the other would seize a train between stations, throw off all the freight alongside the track, fill the train with troops and then proceed. I knew an engineer on this road whose train was thus seized by government troops. One of the Jefes ordered him to go on; the other commanded him to go back. One Jefe drew his sword, wherewith to kill the engineer should he go ahead; the other, revolver in hand, announced that *he* would put the engineer out of misery should he reverse his lever. The sagacious operative seized a favorable moment and took to the woods like a scared antelope. Shots rang after him, happily wide of the mark; and

the two Jefes were left in their glory to reach an amicable agreement and run the train if they could!

The government of Venezuela made no pretence of paying for any transportation of troops along the line; government soldiers burned down stations and bridges at their own sweet will or in order to wreak private vengeance; and it became an utter and absolute impossibility for the railway company either to operate or to control its property, peacefully or otherwise. In one of the revolutionary assaults upon the property of the road its manager was killed.

The stockholders and bondholders of the French Company of Venezuelan Railroads had invested their money in perfect good faith in this enterprise. They had relied upon a contract with the Venezuelan government, under which Venezuela had agreed to guarantee a specific dividend upon the investment. Not only did this guarantee go unfulfilled, but Venezuela's every act was an act of bad faith, or a link in some chain of oppression. Not only did the government live up to no guaranty, afford no protection, but it compelled the railroad to extend to it important and costly service without remuneration, exacting such service by *force majeure*. This was enough to bring down insolvency upon the company, and fix Venezuela with the responsibility therefor; but destruction and vandalism did not end here. Venezuelan troops, of the government and of the successful revolution alike, destroyed the company's property, wrecked its trains, took possession of its entire equipment, and rendered it absolutely incompetent to transact its business as its contracts with the government and the law protecting such enterprises provided.

Coming now to the reasoning of Umpire Plumley, we note these words: "The contracts in issue were mutual and reciprocal and neither party thereto can make abandonment thereof without the consent of the other. The United States of Venezuela does not consent. Therefore the French Company of Venezuelan Railroads cannot, by right, abandon its contracts or its properties."

To state that "neither party thereto can make abandonment thereof without the consent of the other" is to lay down an entirely correct principle of law, provided that "the other" has carried out in good faith its portion of the covenant. But to say that the French Company of Venezuelan Railroads shall be held to the performance of all and singular its covenants and stipulations while the other party to the contract, the government of Venezuela, proceeds to violate each and every one of its solemn agreements, is to enunciate a self-evident absurdity — still, an utterance of that nature causes no embarrassment to the average umpire of an international mixed commission.

The umpire continues: "If it be held that the respondent government has wrought the utter ruin of the company, and that this was done in a manner and by means which charge upon the nation the full measure of responsibility, then there is a case for damages only, and

the sum awarded might be — it is not said would be — the sum of Frs. 18,483,000, the amount claimed. But it is always and only on the basis of indemnities for damages that this Honorable Commission has jurisdiction; and it is utterly powerless, even for good cause, to decree an unaccepted and unacceptable abandonment by either party of a mutual and reciprocal contract, or to award an act of rescission which has not, in effect, previously taken place."

These phrases show that the umpire thoroughly understands the heart of this case, and is rendering his decision with his eyes open. If such decision be wrong, the grave error cannot be accounted for on the ground of misapprehension or misconception. The vital question certainly is, whether or no rescission did previously take place. But even a cursory examination of the facts as stated in the above opinion makes it obvious that the government of Venezuela failed to perform in good faith any of its covenants whatever, and that furthermore, by the sheer force of arms (the soldiery not only of the once dominant régime, but of the successful revolution that followed), said government not only prevented this railway company from peaceable operation of its road, but crushed the company financially, laid waste its property, killed its manager, killed, imprisoned, or drove away its employees, seized its steamboats and trains, and appropriated them to its own use without compensation; and that, by divers other criminal and wicked methods, such as are practised only by savages, bandits, and anarchists, said government completed the destruction of this company, annulled its franchises, obliterated its property, so that where once a first-class railroad lay, there lie to-day merely its remnants, a rusted and decayed ruin. In view of these facts, Umpire Plumley's finding that the United States of Venezuela does not consent to the abandonment of the contract and that therefore the French Company of Venezuelan Railroads cannot by right abandon its contracts or its properties, is not merely pettifoggery — it is diabolism.

A specious and pusillanimous attempt to evade this absolutely vital and unescapable issue — rescission, voluntary or involuntary, of the contract, and abandonment of the property — may be discerned in that portion of the umpire's opinion now cited: "The umpire cannot entirely ignore the restrictive features of the contract between the claimant company and the respondent government which in terms and in fact strictly required, and still requires, that all doubts and controversies arising from that contract should be resolved by the competent tribunals of the respondent government. Certainly to consider and determine the question of its rescission is the most serious doubt, the most important controversy, which could grow out of, or arise from, the contract in question. A claim for damage may be regarded as ulterior to the contract, especially where the damage has accrued from the operation of the parties under the contract, but the question of its rescission is an entirely different proposition. The un-

restricted agreement to submit to an arbitral tribunal the question of damages suffered by Frenchmen in Venezuela may properly be considered, if necessary, as equivalent to a suspension of the provision in the contract, were the damages claimed to be such as arose or grew out of the contract; but the agreement to submit a question of damages arising through operations performed under a contract, in no sense suggests a purpose to arm that tribunal with plenary power to consider and settle the question involved in the rescission of a contract, and therefore does not suggest an intent on the part of the High Contracting Powers to ask on the one hand or to grant on the other the suspension of the restrictive features referred to, which are contained in said contract. What is here said concerning the matter of rescission applies with equal force to the matter of abandonment. It is, therefore, the deliberate and settled judgment of the umpire that he cannot determine this claim on the basis of a declared and directed rescission or of abandonment, and can only decide the amount of the award, this to depend upon the ordinary basis of damages which have been suffered in Venezuela by the French Company of Venezuelan Railroads at the hands of those for whom the respondent government is responsible."

I had supposed that in Umpire Barge's decision in the Orinoco Steamship case the limit of judicial obliquity had been attained, but this abominable subterfuge by Umpire Plumley out-Barges Barge.

The French-Venezuelan umpire considers that the protocol under which he serves operates to overcome the no-reclamation clause in the contract for certain purposes, but that it cannot operate to overcome it for certain other purposes. Some cog-wheel must be out of gear in the thinking apparatus of him who can reach such a conclusion. If the no-reclamation clause was suspended at all by the protocol, it was suspended "for good and all."

The question of rescission, voluntary or involuntary, and abandonment, was as apt for decision by this commission as any other point at issue; and the French government ought to compel the re-submission of this case on this point, preferably to some respected tribunal such as The Hague, whose members are men of much higher calibre than the average members of an international mixed commission. This vital question of rescission and abandonment is, as has already been intimated, the very heart of the case, yet the umpire, though he appears to have perceived its intrinsic importance, waives it aside, seeking shelter under the assertion that the question is not within his jurisdiction; and withal throws out the cavalier suggestion that this despoiled company is at liberty to apply to the alleged courts of Venezuela for relief.

As to the grounds upon which Umpire Plumley bases his absurd and inconsequential awards of damages, amounting only to about $75,000 gold, it would be wasting space to discuss them. Their inanities need no annotation.

Here are some remarkable views of this umpire, however, upon which it may be worth while to comment. Referring to the respondent government, he remarks: "It cannot be charged with responsibility for the conditions which existed in 1899, prostrating business, paralyzing trade and commerce, and annihilating the products of agriculture; nor for the exhaustion and paralysis which followed; nor for its inability to pay its just debts; nor for the inability of the company to obtain money otherwise and elsewhere. All these are misfortunes incident to government, to business, and to human life. They do not beget claims for damages."

What sort of an umpire is he who decides that a government is not responsible for its inability to pay its just debts, or for the acts of spoliation and outrage committed by it? This is most extraordinary doctrine, and I doubt if any reputable jurist could be found to sign his name to it, although it must be admitted that there are some wonderful decisions handed down in the name of the law. Does not Mr. Plumley know, does not every man of common sense know, that if the company were prevented by the illegal acts of the Venezuelan government from obtaining money, Venezuela ought in equity to be held liable for the damages growing out of such illegal acts? All the evidence in this case shows that the French Company of Venezuelan Railroads would have had ample capital with which to conduct its business, had not its business been molested, its property confiscated and destroyed, by the governments (old and new) of Venezuela. Will equity force a company to supply unlimited funds with which to operate an enterprise for the sole and exclusive benefit of a bandit aggregation like the Venezuelan government, which has never paid for any of the services rendered to it, but has added despoliation to extortion?

Umpire Plumley continues thus: "The claimant company was compelled by *force majeure* to desist from its exploitation in 1899; the respondent government from the same cause had been prevented from paying its indebtedness to the claimant company. The umpire finds no purpose or intent on the part of the respondent government to harm or injure the claimant company in any way or in any degree. Its acts and its neglects were caused and incited by entirely different reasons and motives. Its first duty was to itself. Its own preservation was paramount. Its revenues were properly devoted to that end. The appeal of the company for funds came to an empty treasury or to one only adequate to the demands of the war budget. When the respondent government used, even exclusively, the railroad and the steamboats, it was not outside its contractual right, nor beyond its privilege and the company's duty, had there been no contract. When traffic ceased through the confusion and havoc of war or because there were none to ride and no products to be transported, it was a dire calamity to the country and to all its people; but it was a part of the assumed risks of the company when it entered upon its exploitation."

What insufferable balderdash this is! If the company was compelled by *force majeure* to desist from its exploitation in 1899, as stated by Plumley, every one knows and the evidence shows that it was wholly blameless in this respect, and that this *force majeure* was nothing more or less than the criminal acts of the government of Venezuela, which not only violated its own contracts in every part and particular, but also prevented the company from exercising those rights of user and enjoyment of its own property which it possessed at common law independently of its contract with the government. Mr. Plumley would have us infer that the respondent government was prevented from paying its just debts to the claimant by *force majeure*, such as put the company out of business in October, 1899. But it was not so. Had this inability on the part of the Venezuelan government been caused by the criminal act of the railway company, then the cases would have been parallel, but in fact what prevented the government of Venezuela from paying its debts was not *force majeure* at all; it was the anarchistic condition of Venezuela, created by its own criminal conduct. It is absurd to contend that these two situations belong on the same plane. As for the assumption that "when the respondent government used, even exclusively, the railroad and the steamboats, it was not outside its contractual right, nor beyond its privilege and the company's duty, had there been no contract," it is based neither on reason, law, equity, nor common sense. It may be assumed that the respondent government under the circumstances might have rightfully used this property, had it made proper payments for such use, and saved the company harmless from all damages occasioned thereby. But to concede that Venezuela had any rights, contractual or otherwise, to seize this property and devote it to its own use without making a just payment for it, is not equity.

It is not worth while to waste more time or space in discussing this most unrighteous judgment. It gives to innocent and defenceless stockholders and bondholders about $75,000, to be paid some time in the distant future, when Castro gets good and ready to pay it, for property in which they invested in good faith, performing each and every stipulation in their agreements, more than $3,000,000. Venezuela repudiates each and every one of its obligations, and it escapes all responsibility, save for this miserable sum which will probably no more than pay the attorneys' fees of the defunct railway company.

In this case there are ample grounds upon which the French government may well demand a re-submission to a worthy tribunal. May The Hague Court of Arbitration never disgrace itself after the manner of so many of the mixed commissions!

It is time — it has long been high time — that the Great American People realize the enormity of the crimes and outrages (robbery and murder in their train) committed against civilized men in the barbarous dictatorships of Latin America.

CHAPTER XXV

INTERNATIONAL ARBITRATION, ITS POSSIBILITIES AND LIMITATIONS

IN recent years international arbitration has assumed an important position in public discussion. It seems probable that the great civilized powers will from now on submit to tribunals international in character many questions such as have heretofore been adjusted diplomatically or threshed out by war.

It seems appropriate in this connection to consider the possibilities and limitations of international arbitration, and particularly to inquire if we may anticipate that any advancement of civilization in Latin America, any betterment in conditions there, will follow the adoption of this method for the settlement of controversies between nations.

There is a wide-spread belief that arbitration is the sovereign panacea for nearly all our international differences, and humanitarians of noble intellects and pure hearts have dreamed of the abolishment of war and the arrival of the millennium.

The writer cannot think of the regeneration of humanity as a consummation so easily attained.

There have been wars and rumors of wars from the beginning of time, and it is to be feared that they will run their course until the end. Civilization, such as it is, has come up painfully through unnumbered wars, through bloodshed, crime, injustice, and outrage. This is a world of strife, of struggle, of "dog eat dog." Life is impossible without the causing of pain and death. The vegetarian wishes to avoid the destruction of life, yet even as he walks he tramples the insects underfoot, and every ploughshare that upturns the earth in the cultivation of the fruits, grains, or garden products which he must consume for sustenance puts an end to thousands of living things. The human race cannot exist without the continuous destruction of the lives of animals, birds, fish, and insects; and these creatures in their turn prey upon others.

The peace advocate confronts as serious a state of facts as does the vegetarian. Let a man be weak or timid, and his fellow-men, even the most pious of them, ride over him roughshod or look upon him with contempt. So it is with nations. A powerful and resolute exec-

utive insures peace to his country, for he holds his army and navy up to the highest point of efficiency, but the policy of a long-suffering, over-pacific ruler invites irretrievable disaster to the State. His excessive gentleness breeds disdain in others; he becomes an easy mark for aggression. William of Germany would put up a very interesting fight upon very slight provocation; *ergo*, let us treat William with becoming politeness.

The history and present status of China afford an object lesson of deep importance in this regard to statesmen and political thinkers. The foreign policy of the empire for thousands of years has been pacific. Its people have been taught, by the doctrines of Confucius and otherwise, that war is a horror to be avoided at all hazards. The empire therefore has never made any adequate military preparations, and the citizens have been wholly untrained in the bearing of arms. The results of this long-continued policy, which humanitarians would regard as benevolent, have been twofold:

1st. The moral as well as the physical fibres of the nation have become flaccid, devoid of strength or tenacity, weak, irresolute, and yielding. The will, the essence of the soul, in the Chinese nation, and citizenship, has become atropied under this long reign of peace, and there is no daring, no imagination in the people, and no will power to put into execution anything demanding high resolve.

2d. Insult to the nation at large and dismemberment of its empire have followed logically. Its neighbor, Japan, small in area and population relatively, but powerful in virtue of its military instinct, is able to dominate and control China with the same ease which a driver exercises on a mild-eyed ox. This marked ability of the Japanese in matters military extends to every function and vocation of life. We therefore reach the strange conclusion that prolonged peace not alone causes deterioration of those intellectual and physical powers of the people which are essential to success in arms, but that it actually defeats its own purpose by rendering a people less capable of defending themselves, and therefore more liable to attack from the outside.

Occasionally the demon of war takes possession of and dominates a nation. The question of justice or injustice enters into this phenomenon much less than one might suppose. A nation will endure with perfect equanimity a provocation which, occurring at some other time, would plunge it into instant war. As individuals have varying moods, so have nations. Let a deeper thinker than I ferret out the philosophy of this strange but indubitable fact.

When the antecedent period of fierce obsession comes on, statesmen must use rare tact. It is dangerous to trifle with a nation in such a mood. If at such a period some substantial insult or wrong be inflicted upon it, a thousand channels of arbitration would not suffice to vent the tide of popular indignation. Then do the people into their own hands take affairs, and governments become but chaff to be blown

about by the winds. Arbitration tribunals may decide routine matters, but when the engulfing cataclysm of a nation's passion falls, it means war.

I. War is not always an Unmitigated Curse

All wars are not unmitigated evils. An unjust war is a curse. A righteous war may be a blessing to the world. War forms the supreme test of the civil institutions of a nation. Before the brute force of its dread onslaught, sham, humbug, and incompetency cringe limp and powerless. War calls forth marvellous energy, ingenuity, foresight, keenness of mind, daring, resourcefulness, and strength. It gives an impetus to inventive skill and production. It constrains industrial development, under pain of defeat or extinction.

There are many ills which follow in the wake of war, — murder, rapine, cruelty, hatred, and, at the end, at least a generation of corruption and immorality.

This diabolical clash of contending forces has sometimes destroyed civilization, at other times checked it, and has at yet other times actually made for its advance. The revolution against England was the greatest possible blessing to the United States, to England, and to the world. Japan's defeat of Russia may result in the civilization and upbuilding of the huge Empire of the White Tsar. The wars of Latin America have, as a rule, left affairs worse than before. They have throttled improvement; they have stifled civilization in the embryo.

It is curious to reflect what might have been the development and present status of the world if international arbitration had been substituted for a recourse to the sword during the period covered by the Christian era. Would the nations have been better off? Would they have been as far advanced as they now are? The philosopher may well hesitate to answer these questions in the affirmative. The American Revolution taught England the cardinal principles of colonial government, and to-day she is the mightiest power that the world has ever known. Had there been no Revolution, would England have learned this drastic lesson so that later she could successfully rule mighty empires? Would the United States itself have attained a fraction of its present pre-eminence had it remained a colony? That Revolution brought higher ideals for English-speaking men in whatever country they may live, and, indeed, to men in all nations. It cannot be believed that the findings of an international arbitration tribunal would have had a similar effect.

The facts are that the revolution against England was not only illegal, but the complaints of the colonists would scarcely receive a second's consideration to-day. More wrongs against innocent men are perpetrated under our own government, in the one City of New

York, every week of the year, in violation of the principles upon which our Revolution was founded, than were actually perpetrated by England throughout all the colonies in the course of a year. The Revolution itself was founded on illegal interference with English property rights. When our citizens threw overboard English tea in Boston harbor, they committed an act clearly in violation of the law. As a matter of fact the stamp tax was never onerous, and the sovereign power of England to levy taxes throughout her domains could not be legally or constitutionally questioned. Moreover England had spent millions of dollars and lost much blood in defending the colonies, not alone against wild Indians, but from foreign aggression. Neither can the war-cry of the colonists be regarded too seriously by one of an analytic mind. The proclamation that "taxation without representation is tyranny" is one which sounds well in a political declamation, but, as a matter of fact, our own government has continued since that date to practise the same tyrannical procedure on one half of our citizens, namely, females, without giving them, in any sense of the term, representation.

Under this view of the case it may reasonably be assumed that had the questions at issue between the colonies and England been submitted to a competent international tribunal, it would almost certainly have decided against the colonies on every claim presented. That revolution has done more for human liberty, not only among Americans but among Englishmen themselves and throughout the world, than all the essays and dissertations on arbitration which have ever been written from the beginning of time. The American Revolution, precipitated without adequate legal cause, carried on with abounding atrocities on both sides, and causing almost infinite suffering, was an absolutely essential element in the evolution of the civilization of the human family.

The unification of Germany resulting from the Thirty Years' War, the reincorporation of the Schleswig Holstein duchies in 1864, the struggle between Prussia and Austria in 1866, and the war with France in 1870, could never have been accomplished by international arbitration.

Many other wars might be cited from which to draw similar conclusions. It all brings one back to a reflection on the strange facts recorded in history, wherein the thinker is continually reminded of the great good which has ultimately resulted from wrong and outrage, and of the great harm which has frequently been caused by what appeared to be clearly good. Had Pontius Pilate not put into execution a sentence of death legally rendered, but abhorrent to all sense of justice, it is doubtful if Jesus Christ would at this date have one follower to where there are now ten thousand Christians. If this assumption be anything near the truth, then one who reflects on the immeasurable blessings which Christianity has vouchsafed humanity must admit

that the doctrine of cause and effect as laid down in text books by the logicians affords no adequate explanation of the marvellous good which at times results from the deepest wrong.

II. Not Everything can be arbitrated

It is precisely for the purpose of settling differences among men that courts of justice have been established, and that binding authority has been conferred upon them. But courts have not alone the power to decide between two contestants; they have also the power to command a contestant to do certain things, and to enjoin him from doing certain other things. Should a culprit litigant violate these mandates to do or not to do, he may ask for arbitration, but he will receive punishment.

It were vain to talk of arbitration where cardinal principles, absolutely settled, are involved. No self-respecting man would entertain a proposition to arbitrate when the honor of his wife or the virtue of his daughter was at stake. Nor would he arbitrate his inalienable right to employ whom he pleased, and to work for whom he pleased, without reference to their affiliations with labor unions or any other organizations.

Many foolish words have been written about arbitration between nations. If, when the South wished to leave the Union, some lover of peace had advocated arbitration, and Lincoln had assented, is it not clear that history would have reckoned with him as a poltroon instead of eulogizing him as the great statesman and heroic patriot whom all the world loves?

To discuss arbitration of a matter involving a nation's integrity, honor, or policy, would be an inane proceeding. Each government must settle its own policy; its destiny and future development cannot be intrusted to outsiders.

War is to be avoided when it is possible to do so, and it may be set down as an axiom that war between *civilized* powers is unnecessary, ruinous, indefensible. A boundary dispute can in some cases be settled by arbitration, and so oftentimes can a controversy over the amount of money due from one nation to the citizens of another.

But how about damages arising from wrongs and outrages perpetrated by one nation upon the citizens of another, especially when this lawless disregard of international obligations continues? Am I to arbitrate his past offences with a burglar while he keeps on despoiling me of my property and perhaps threatening my life?

Arbitration implies good faith. In dealing with an honest man or with an honest government we can have patience and move slowly and be gentle. But such a policy would be ruinous when dealing with a criminal, or with a bandit government. In those straits there is but one thing to do, and that is to plant the fear of God and a respect for

justice in their hearts, and to sustain there these attributes. Temporizing, theorizing, arbitrating, hobnobbing processes are all useless. Moral suasion is a great thing, but for "standing off" highwaymen a good six-shooter is extremely helpful.

It may be regarded as certain that war will not cease in the world until such time as justice is definitely and finally established among men. Where there is injustice, unless human nature is to become a craven, contemptible thing, there will be stern and relentless resistance. Tyranny is a natural characteristic of mankind, and this spirit is displayed to a great degree in all governments, and to an exasperating and perhaps to an unendurable extent in many. It is this obsession of human nature which must forever defy the dreams of the socialist and of the universal peace humanitarian. Very few men are born who are not actuated to some degree by the desire to unduly control or restrain other men, while the number who have inherited an innate sense of absolute justice is exceedingly small. Few men in the world are broad enough to be safely entrusted with great power. The result is that men of sordid aims, or passionate character, or possibly defective reasoning powers, or perhaps dormant unobserved criminal tendencies, get into power, on the supreme bench or in the executive chair, and oppression of other men in one form or another is inevitable. The consequence is, resistance and conflict ensues. It is proper and just that there should be resistance, whether wrong be perpetrated by the authority of government, or in the name of law, or whether it be the result of other causes. These conflicts are like the similar cataclysms of nature; they may vary in fierceness from the spring whirlwind to the Kansas cyclone or tropical hurricane. In nature a calm predicates equilibrium. In social and political affairs the element which is indispensable to maintain a status of peace is justice, in the sense of equity, perfect and complete, — a condition which does not and perhaps cannot exist upon the earth.

III. Class of Cases which can be submitted to International Arbitration

There is much vagueness and uncertainty in the expression of most publicists with reference to arbitration, and also concerning the cases in which force may be used by one nation against another. A long line of precedents or decisions, many of them conflicting, rendered by the foreign departments of the several civilized powers upon cases as they were presented to them, are now quoted by writers on international law, and made the subject of diplomatic discussion in the meetings of societies devoted to the discussion of kindred subjects. The American Society of International Law, composed of a few reputable jurists, quite a number of college professors, and a considerable body of amateur debaters, has taken up this question of the use of

force and of arbitration, and discussed it with much enthusiasm but to little purpose. The peace conference at The Hague has likewise entered into a lengthy diplomatic discussion of the subject, and one not familiar with the history of mankind, and of the evolution of the functions of government, might suppose that a few general principles would soon be laid down susceptible of being blindly followed by our State Department, and which would entirely dispense with any power of original thinking and decision on the part of the foreign department of our government. At the first national meeting of the Association of International Law, held at Washington, D. C., on April 19 and 20, 1907, the Hon. Chairman John W. Foster, formerly Secretary of State, and sundry other speakers, including Mr. Samuel J. Barrows, of New York, Harry W. Temple, of Pennsylvania, Mr. William Barnes, of Massachusetts, Professor P. Ion, of Boston, and others, sought to advocate the proposition that the United States should entirely abdicate all rights of intervention on behalf of its citizens for wrongs suffered growing out of contracts; the Latin-American governments being particularly in the minds of the speakers as the respondents. The same views were exploited at great length by Professor Amos S. Hershey, of the University of Indiana, and Professor John Holiday Latané, of the Washington and Lee University, of Virginia. The arguments of these gentlemen may be inferred from the statement of the latter:

"We are forced to conclude that the action of Germany, England, and Italy against Venezuela in 1902 constituted an innovation in the practice of nations. That the allied powers were conscious of this fact seems apparent from their manifest endeavor to disguise the real character of the claims they were trying to collect. It is perfectly apparent to those who have followed closely the controversy that the foreign debt was the real question at issue and that intervention was undertaken in the interest of bondholders."

These gentlemen thoroughly endorsed the propositions laid down by Mr. Bayard in his despatch of June 24, 1885, in which he said:

"1. All that our government undertakes, when the claim is merely contractual, is to interpose its good offices — in other words, to ask the attention of the foreign sovereign to the claim — and this is only done when the claim is one susceptible of strong and clear proof.

"2. If the sovereign appealed to denies the validity of the claim or refuses its payment, the matter drops, since it is not consistent with the dignity of the United States to press, after such a refusal or denial, a contractual claim for the repudiation of which there is by the law of nations no redress."

Those who entertained these views desired to pass a resolution as follows:

"Resolved, That the American Society of International Law assembled at Washington City, April 19, 1907, considers that it is a degradation of the functions and purposes of the navies of the world to pervert them to the duties

of debt collectors for any country or its citizens, and the lowering of the dignity of admirals of the navy to force them to perform the functions of bailiffs, constables, and sheriffs in the collection of debts, and that we hereby approve of a so-called 'Calvo' or 'Drago' Doctrine as explained by Mr. Amos S. Hershey in the American Journal of International Law," etc., etc.

Mr. Cramond Kennedy, however, showed that the blockade of Venezuela was due to seizures and pillage suffered by the citizens of England and Germany. He cited many instances, among them the following:

"Two Germans were taken prisoners on October 20, 1902, near Carupano, by a revolutionary detachment with the intention of extorting money from them, and to that end 'they were insulted, assaulted, robbed, bound to a post, threatened with death, and thrown into a house infected by smallpox, in order that the payment of the sum demanded might be accomplished.' Part of the claim in one of these cases was for a rupture suffered when the claimant was fastened to the post. (Ralston's Venezuelan Arbitrations of 1903, p. 547.)

"Another German who would not give up his mule, on which he was riding, at the demand of a Venezuelan army officer, was attacked by another officer with his sabre and seriously wounded. (*Ibid.*, p. 578.)

"These acts of violence were by no means confined to subjects of the blockading powers.

"A Hollander, representing important houses in the United States and Europe, was publicly stripped at La Guayra and exposed to the derision of the bystanders by police officers who went unpunished. (*Ibid.*, p. 914.)

"A Frenchman of high standing, who merely requested that a requisition made upon him by a Venezuelan officer should be put in writing, was summoned to headquarters. Being questioned by the general in the midst of his staff and summoned to obey, M. Maninat did not refuse, but renewed his request for a written order, whereupon one of the Venezuelan officers struck him with a sabre and 'laid open his face from the forehead to the ear.'" (*Ibid.*, p. 51.)

It appears, in the cases cited by Mr. Kennedy, that among the principal grievances of England were claims arising out of the seizure and loot of British vessels, and outrages on their crews, and the maltreatment and false imprisonment of British subjects by Venezuela. Mr. Kennedy then argues:

"Assuming that there is an analogy between the relations of states in the family of nations and the relations of individuals in the state, it is very significant that as between individuals in every civilized country the simplest legal obligation has the whole force of government behind it. If I borrow money and do not repay it when due, my creditor can sue me wherever he can find me; he can seize and sell my property in execution of his judgment. If I have made conveyances in fraud of my creditors, they can have these fraudulent transactions exposed and set aside, and compel me to pay to the uttermost extent of my ability. If as mortgagor I am sold out of house and home in foreclosure and refuse to quit the premises, a writ of ejectment will issue

against me, and if I commit a breach of the peace by resisting I may be put in jail.

"There can be no permanent peace without justice, and, with the world as it is, the right to enforce pecuniary obligations between nations — as between individuals — must be reserved in the interest of civilization. This sanction should not be invoked between nations (or men) inconsiderately, or ever, perhaps, except as a last resort; and when the amount or the equity of the obligation is in doubt, and impartial arbitration is proposed by the debtor government, it should be accepted by the creditor."

These views were ably supplemented by the discussion of Judge William L. Penfield, of Washington, D. C. This distinguished jurist said:

"Much harm has been done by public denunciations of intervention for the collection of claims growing out of the spoliation of the property of the foreigner by the supreme authority of the state. All jurists and statesmen unite in the opinion that the supreme concern of every government, whether in its domestic or international relations, is the administration of justice. Behind the law is the latent power of the state to enforce justice; and the general acceptance of the opinion that this force must never be invoked by a government in order to secure justice to its citizens abroad could, if carried to its logical conclusion, lead only to utter injustice and social chaos at home. But the party who purchases the obligations of a foreign government stands in a different light from the one who has invested his capital and used it in improving the navigation or developing the resources of the country; and where finally the government has, with evident bad faith, repudiated the contract and deprived him of the legitimate fruits of his enterprise. In form the wrong may consist in a simple breach of contract by the government, while by preventing him from enjoying the fruits of his industry it amounts in effect to the confiscation of his entire investment. Mr. Drago's note was significantly silent on this subject, and its silence is suggestive of the views actually entertained by this enlightened statesman.

"A contract made by a private party with a foreign government for the improvement of its harbors or the development of its mineral, agricultural, or other natural resources, which has been followed by the large investment of capital in the enterprise, rests on a very different footing from the obligations of a government purchased in the open market with full notice and assumption of all risks. Where a government enters into a contract with a foreigner, on the faith of which he invests his capital, and then proceeds arbitrarily and flagrantly to break or repudiate the contract and appropriate or destroy the fruits of the industry created by the capital invested under the contract, it constitutes not merely the breach of a contract, but also a denial of the protection of the local laws. It is in effect a decree of outlawry, attended by the forfeiture of property.

"In cases of this kind the question under discussion raises no doubtful question of justice. The injustice is admitted; and the principle on which governments have in the past been accustomed to act was thus stated in a report of the Senate Committee on Foreign Relations in 1818:

"'It is due to the dignity of the United States to adopt, as a fundamental rule of its policies, the principle that one of its citizens, to whatever region

of the earth his lawful business may carry him, and who demeans himself as becomes his character, is entitled to the protection of his government; and that whatever international injury may be done him should be retaliated by the employment, if necessary, of the whole force of the nation.'"

After a discussion of the "Drago" and "Calvo" doctrines, showing their utter conflict with a wise public policy for the American nation, Judge Penfield added:

"The propaganda of peace is brought in measurable discredit by some who proclaim the immorality of the use of force in these cases and who yet manifest a silent but determined opposition to the acceptance of genuine impartial arbitration. The fundamental principles of morality which govern the relations of individuals govern the relations of nations. The only condition of peace within the state — the only reason and object of its existence — is justice; and there can be no lasting peace between nations on any other basis than that of judicial or arbitral justice. So long as individuals or nations disown justice, the use of force is necessary and inevitable in order to compel the acceptance of justice and peace."

If all jurists had the broad grasp and intellectual calibre of Judge Penfield, more good would result from the meetings of international peace conventions.

In my mind the wrongs inflicted by Venezuela on the citizens of England and Germany, as above described, and the others which I have narrated more in detail in Chapter XVIII, entitled "Events Leading to the Venezuelan Blockade in 1903," are not of a proper character for international arbitration. On the other hand, these wrongs call for immediate and unqualified reparation, which, if not granted, merits stern chastisement. A civilized nation would unasked in no uncertain terms apologize and express its sorrow if such deeds were perpetrated within its borders; it would use its utmost endeavors to punish the evil-doers, and would generously satisfy the damages suffered by the offended nation. Such wrongs, instead of being referred to a pack of lawyers for a long drawn out, hair-splitting discussion, should be dealt with at first hand by the army and navy of the offended power, and in no other manner or by any other method will the perpetration of such acts be curtailed or terminated in the uncivilized portions of the world.

As for the relegation of other questions to an international tribunal, the writer believes that no hard and fixed rule can be set down, and that most of the "general principles" enunciated by peace conferences or by international law societies are worse than useless. It may be said that a boundary dispute can be arbitrated, and in some cases where the division line is vague, the territory only partially populated, and the interests of neither party in the controversy acute, the case may properly go to an international tribunal. But suppose that Canada should claim a large portion of Maine, on the ground

of some ancient charter and forgotten deed of conveyance, would and ought the United States to arbitrate the question? It seems to me that a man might answer this question in the negative without being regarded a very dangerous heretic. If the present tendency of the proponents of arbitration is not checked, the whole subject will become distasteful.

IV. Only before a Responsible Tribunal is Arbitration Satisfactory

The organization of a tribunal which shall well and truly administer justice between nations is one of the most difficult problems before the human race. The selection of a few lawyers and their creation into a commission with power to declare the law and find the facts, by no means solves the difficulty. We have examined some of the most flagrant decisions by the international mixed commissions of 1903, before whom were arbitrated the claims of citizens of various nationalities against Venezuela. These decisions, many of them, were as infamous or as unjust as the acts of despoliation that the commissions had been called upon to consider. As between being plundered by a bandit South American government, or done out of his rights by the outrageous decision of an international mixed commission, the victim probably feels but slight preference. These mixed commissions reveal glaring examples of the ignorance, incompetency, prejudice, or wickedness which often exists among men of standing and supposed respectability.

They also demonstrate that Latin America cannot be civilized by international arbitration. No man could conduct his business through the courts, even in the United States. If a man in Latin America must rely upon international arbitration for protection, he may as well throw up his hands first as last. There can be no progress in Latin America until stable, honest governments shall have been established, and no reliance whatever can be placed upon anything else as producing this result.

If resort to arbitration must be had, however, this relief should be sought before the ablest and best international tribunal to be found; and at the present time the leading tribunal is that of The Hague.

Within the past century many endeavors have been made by individual nations, by international conferences, and by bodies of distinguished publicists, to establish an international tribunal for the arbitration of controversies between nations which heretofore have been usually settled by the States directly interested, either by treaty or by recourse to the sword. It was not until 1898, however, that the project took definite shape, through the initiative of Nicholas II, Czar of Russia, who convoked the family of nations to meet at The Hague, in order "to put an end to incessant armaments, and to seek the

means of warding off the calamities which are threatening the whole world."

In response to this invitation a considerable number of nations were represented at the International Peace Conference, and ratified The Hague Convention. It seems the irony of fate that this convention should have been disregarded in less than five years by several of the leading signatory powers, and that even the peace-loving Czar, who summoned the conference, should have become involved, before many years had passed, in a long and bloody war, suffering at the hands of Japan fearful losses, of the blood of his people, of prestige, and of treasure, without the question of arbitration ever being mentioned by either party.

The Hague Convention, dated July 29, 1899, provides for establishing a Court of Arbitration under the following articles:

Title IV. On International Arbitration

Chapter I. On the System of Arbitration

Article XV. International arbitration has for its object the settlement of differences between States by judges of their own choice, and on the basis of respect for law.

Article XVI. In questions of a legal nature, and especially in the interpretation or application of International Conventions, arbitration is recognized by the Signatory Powers as the most effective, and at the same time the most equitable, means of settling disputes which diplomacy has failed to settle.

Article XVII. The Arbitration Convention is concluded for questions already existing or for questions which may arise eventually.

It may embrace any dispute or only disputes of a certain category.

Article XVIII. The Arbitration Convention implies the engagement to submit loyally to the Award.

Article XIX. Independently of general or private Treaties expressly stipulating recourse to arbitration as obligatory on the Signatory Powers, these Powers reserve to themselves the right of concluding, either before the ratification of the present Act or later, new Agreements, general or private, with a view to extending obligatory arbitration to all cases which they may consider it possible to submit to it.

Chapter II. On the Permanent Court of Arbitration

Article XX. With the object of facilitating an immediate recourse to arbitration for international differences which it has not been possible to settle by diplomacy, the Signatory Powers undertake to organize a permanent Court of Arbitration, accessible at all times and operating, unless otherwise stipulated by the parties, in accordance with the Rules of Procedure inserted in the present Convention.

Article XXI. The permanent Court shall be competent for all arbitration cases, unless the parties agree to institute a special Tribunal.

Article XXII. An International Bureau, established at The Hague, serves as record office for the Court.

This Bureau is the channel for communication relative to the meetings of the Court.

It has the custody of the archives and conducts all the administrative business.

The Signatory Powers undertake to communicate to the International Bureau at The Hague a duly certified copy of any conditions of arbitration arrived at between them, and of any award concerning them delivered by special Tribunals.

They undertake also to communicate to the Bureau the Laws, Regulations, and documents eventually showing the execution of the awards given by the Court.

Article XXIII. Within the three months following its ratification of the present Act, each Signatory Power shall select four persons at the most, of known competency in questions of international law, of the highest moral reputation, and disposed to accept the duties of Arbitrators.

The persons thus selected shall be inscribed, as members of the Court, in a list which shall be notified by the Bureau to all the Signatory Powers.

Any alteration in the list of Arbitrators is brought by the Bureau to the knowledge of the Signatory Powers.

Two or more Powers may agree on the selection in common of one or more Members.

The same person can be selected by different Powers.

The members of the Court are appointed for a term of six years. Their appointments can be renewed.

In case of the death or retirement of a member of the Court, his place shall be filled in accordance with the method of his appointment.

Article XXIV. When the Signatory Powers desire to have recourse to the Permanent Court for the settlement of a difference that has arisen between them, the Arbitrators called upon to form the competent Tribunal to decide this difference, must be chosen from the general list of members of the Court.

Failing the direct agreement of the parties on the composition of the Arbitration Tribunal, the following course shall be pursued:

Each party appoints two Arbitrators, and these together choose an Umpire.

If the votes are equal, the choice of the Umpire is intrusted to a third Power, selected by the parties by common accord.

If an agreement is not arrived at on this subject, each party selects a different Power, and the choice of the Umpire is made in concert by the Powers thus selected.

The Tribunal being thus composed, the parties notify to the Bureau their determination to have recourse to the Court, and the names of the Arbitrators.

The Tribunal of Arbitration assembles on the date fixed by the parties.

The Members of the Court, in the discharge of their duties and out of their own country, enjoy diplomatic privileges and immunities.

A considerable number of rules on arbitral procedure were adopted, many of which would seem to be arbitrary and but little constituted to the purposes of justice.

V. Proposed Permanent Court of Arbitration

The second International Peace Convention at The Hague in 1907 again took up the question of a permanent court of international arbitration. At this conference a convention was adopted for the purpose of establishing an International Prize Court. Whether this proposal will be adopted by the great governments is a matter of conjecture at the present time. The convention provides that jurisdiction in matters of prize is exercised, in the first instance, by the Prize Court of the belligerent captor, and that these judgments may be brought before the International Prize Court "on the ground that the judgment was wrong, either in fact or in law." The court is to be composed of fifteen judges, to be appointed by the contracting powers, the tenure of office being six years, and nine judges constituting a quorum.

A strong effort, however, was made to establish a general permanent arbitration tribunal. This will doubtless continue to engage the attention of statesmen. In a very well considered article in the "American Journal of International Law," April, 1907, pp. 342 *et seq.*, R. Floyd Clarke, Esq., very ably sets forth the arguments in favor of a permanent tribunal. Referring to The Hague Tribunal, this writer says:

"It will at once be noted that we have here not a permanent court in the true sense, but a list of referees from whom we may select judges as occasion offers. A clerk's office and a council to run it is all that is permanent or continuous in the organization. The judges are fluctuating — to be selected from a list of fifty — possibly one hundred and four. These are taken from their usual vocations for a few months, in sporadic instances, to decide a certain dispute in their capacities as judges and then lapse back again into the private life and environment from which they came.

"The court lacks two essentials of a proper permanent court of justice:

"1st. It lacks a limited number of judges to whom all its business should be referred, appointed for life during good behavior, and

"2d. It lacks permanent salaries paid to those judges, without regard to the business or lack of business before the court, and continuing during such appointment for life.

"The first essential produces a logical continuity in the decisions of the court out of which would develop, under the operation of the principle of *stare decisis*, a system of international law as reasonably consistent and logical as is possible in human affairs; just as the case law growth in England has given us the "common law of England" The Hague would give us a common law of nations.

"The second essential produces a wise, impartial, and unbiassed temper of mind in the judges — as far as such conditions can be obtained. Under such conditions the future judge is not imperilled by the nature or effect of his decisions.

"The fundamental importance of a fixed tenure of office and of fixed salaries of judges in the organization of courts of municipal law in each coun-

try, whereby those courts have been made permanent in this true sense, is universally recognized. How much more weight, therefore, should be given to these considerations in determining the proper organization of a court of international arbitration."

The arguments adduced by Mr. Clarke are those generally employed by lawyers and writers in the United States, and hence are entitled to more than cursory consideration. The words "permanent tribunal" are susceptible of two or more meanings:

a. They may import a permanent institution with a fluctuating personnel.

b. They may be construed to mean a tribunal whose judges hold office during life or good behavior.

The founders of our government sought permanency in both senses of the term for the Federal Judiciary, and if there is any virtue in this one element of permanency, then the Supreme Court of the United States and the subordinate courts of the Federal Judiciary should be regarded *par excellence* as great tribunals. An analytical examination of our Federal Judiciary, however, will disclose the fact that in the constitution of a court there are other factors far outweighing the question of permanence. Suppose that the proposed Permanent International Tribunal were to be composed of such judges as Harry Barge, Frank Plumley, Henry M. Duffield, Fisher, Calvé Johnson, and others whose decisions are discussed in this work, is it not evident that such a tribunal would be an international disgrace, and that the alternative of war would be preferable rather than submission to its decrees? How do we know that such judges as these would not be selected for the new tribunal, with a life tenure of office? I have in other chapters held up to public scorn the decisions of many international mixed commissions, and yet I know, and every thinker and scholar in America knows, that for every unconscionable judgment rendered by these commissions there could be a score of equally absurd and atrocious decisions cited from the records of the Supreme Court of the United States and of the subordinate federal courts. It is related that an American jury freed a prisoner who had been arrested for violation of the game laws prohibiting the possession of any portion of an animal during the closed season; the prisoner had been found with the fresh hide of a deer which he had just removed from the animal, but the jury held that the hide is not a part of the animal, and that therefore the man had not violated the law. A United States judge parallels this decision by freeing a prisoner who had been arrested for unlawfully bringing Chinese into the country. He had come across the river at Detroit in a rowboat. The law provides that these aliens cannot be introduced into our country either by land or by vessels. The court held that a rowboat is not a vessel, and turned the man loose. Another United States court held that the law which prohibits the making, by unauthorized persons, or the

vending, of copies of music which has been duly copyrighted, is not applicable to the records of phonographs, or to the metal sheets used in music boxes, hand organs, etc., on the ground that these are not copies. Another United States judge decided that a contract was null and void wherein a corporation, in consideration of the grant to it of a valuable franchise by the city, agreed to sell its property to the city at an appraised valuation at any time within a stipulated period of years, the reason assigned by the distinguished jurist being that it is against public policy and *ultra vires* for a corporation to agree to commit suicide, when the judge well knew, and the evidence clearly showed, that the *raison d'être* for the very existence of the corporation was the franchise in question. A thousand other equally absurd judgments can be cited by one familiar with the record of our federal judiciary.

There are several prominent causes which underlie this state of facts. The Supreme Court of the United States has from four hundred to five hundred cases brought before it at each term of court. Nearly every case involves some problem of surpassing difficulty. The cases, as a rule, are exceedingly long, and very complicated, in fact as well as in law. If I were asked to decide one of these cases, I should want to devote at least four weeks' careful and continuous study to it. I should want to lay it aside for three months and then take it up for re-examination. If I were able to thoroughly master and conscientiously decide to my own satisfaction twelve cases out of the five hundred which are submitted to the Supreme Court of the United States, I would congratulate myself upon having accomplished a great work. To master and decide a great lawsuit involves as much intellectual effort and as high a degree of thinking power as it would to master as an original proposition Kant's "Critique of Pure Reason," Mill's "Logic," Spencer's "First Principles," or Schopenhauer's "Fourfold Root." If it should be seriously proposed that one man could read, master, inwardly digest, and pronounce a true and just judgment with reference to five hundred such separate volumes as those mentioned within the period of one term of court, the American people could see the absurdity of the proposition without further discussion. Not only intellectual indigestion, but softening of the brain, or some other physical or mental ailment, would certainly follow any serious attempt to perform such a work. Yet for this colossal superhuman task the American people employ, not middle-aged men of great physical and mental endurance and capacity for work, but a body of old men, nearly all of whom have long since passed the age of the "lean and slipper'd pantaloon," and are verging on the period described by Shakespeare, "sans teeth, sans eyes, sans taste, sans everything." This inevitably results from life tenure of office.

But even where men are in the prime of life, a really capable judge is so seldom met that the task of creating an efficient tribunal becomes

one of surpassing difficulty. How many of our federal judges — even judges of the Supreme Court of the United States — can solve off-hand the problem of Apollonius in elementary geometry? How many can trisect an angle by the processes of co-ordinate geometry? How many of them can demonstrate the precession of the equinoxes? Old Hipparchus did that two thousand years ago, practically without instruments. Can a man be said to have real thinking power unless he can solve these elementary problems? The mental processes of most of our judges remind one of the performances of a blunderbuss. These judges are fat and sleek; they look grave and are usually very pompous; their heads are filled with precedents, many of which were originated by still bigger fools; but have they real thinking power, can they grasp a case and analyze the heart out of it, do their minds operate along logical lines?

It is obvious from the foregoing observations that the establishment of a really efficient permanent international court is far from accomplishment. In seeking to avoid the horrors of unjust wars, we must also take care to prevent the ushering in of a period of national dry rot. Establish justice, and the millennium will already be here; enthrone humbug under the name of justice, and international war and internal chaos and anarchy must continue forever. We want peace, but, as President Roosevelt has aptly said, "the peace of Justice."

BOOK III

THE MONROE DOCTRINE

PART I—ORIGIN AND DEVELOPMENT

CHAPTER I

THE MONROE DOCTRINE — ITS ORIGIN

WE have now examined in a general way the social and political conditions of Latin America and have studied the internal forces that are at work there. Its destiny does not rest solely in its own hands; it depends upon all the forces in process, upon external as well as internal influences. Among those external influences which are shaping Latin-American affairs the Colossus of the North, the Great Republic, doubtless preponderates. Whatever importance should be attached to European relations with Latin America, dominant as they are in many departments of commerce (particularly so in Europe's commerce with Chili, Argentina, and Brazil), still the mightiest power to be reckoned with in considering the trend and future development of the Latin-American republics is the United States.

Hence a matter of the highest importance is the policy of the latter power toward the Latin-American republics; indeed, whether they are to succeed or fail, whether they are to push forward toward civilization or fall back into barbarism, whether or not they continue to exist as a group of independent entities, lies in great measure within the determination of the United States. The American policy should be studied broadly and philosophically, not alone because of its intrinsic moment as a factor in the system of a great government, but also because of its far-reaching character as the controlling element in the development and destiny of a hemisphere.

This policy bears through all its variant and not always reconcilable aspects the generic title of the "Monroe Doctrine." Let us now investigate this doctrine in its several phases, historical, legal, and ethical; examine the authorities upon which it is based, and ascertain what sound reason, if any, there may be for its present existence or for its future application.

I

From the very birth of the Republic the American people has been firmly opposed to any further extension of the monarchies of Europe on the Western Hemisphere, and this antagonism is as strong to-day as it was a hundred years ago. It was founded upon most just and

rational grounds. Our people knew well the interminable intrigues and turmoil of Europe, — its incessant wars, wherein unscrupulous monarchs manipulated their subjects as mere pawns upon the chess-board of nations; its corrupt and corrupting systems of politics; its heavy yoke of standing armies; its mediæval practices of oppression; and the many other curses that follow in the train of absolutism. Knowing these things so thoroughly, having so lately thrown off their blighting control, the Americans, with unerring instinct, with sleepless determination, resolved to endure none of them in their own country, and to suffer as few of them as possible throughout the Western Hemisphere. This well-nigh universal sentiment again and again found both official and informal expression during the period from the Revolution to Monroe's accession to the presidency. The intrigues of France and Spain with reference to our commercial rights on the lower Mississippi which culminated in the Louisiana purchase; the complications in Florida and Cuba; indeed, almost every event connected with European control on this hemisphere, — had deepened and accentuated this feeling long before Monroe's message was thought of.

II

Concurrently with the vexatious problems springing from European interests in North America, so frequently thrust upon us for solution, affairs in South America were passing through an acute stage. Spanish rule, everywhere tyrannical, everywhere odious, was encountering in all parts of Spanish America the most malignant opposition. In Central America, New Granada, and throughout South America generally, rebellions, revolutions, uprisings, riots, bloodshed, murder, and rapine were as common, as cruel, and as merciless in 1806 as they were a hundred years later; and these desperate struggles went on almost without intermission for a quarter of a century. In the northern part of South America an able but erratic leader, Simon Bolívar, in conjunction with Francisco Miranda, Antonio José de Sucre, and many other brave and talented but impracticable enthusiasts, kept up a warfare against Spanish power which has no parallel in the annals of history, not only for the atrocities committed by both sides, but also for the treachery and cunning of the partisans on both sides toward their fellow-officers. Two generals swearing undying loyalty to each other to-day would, at the moment of their oath-taking, be studying the most certain and expeditious methods of cutting each other's throats to-morrow.

While these throes were convulsing Venezuela, Colombia, Ecuador, Peru, and Bolivia, other parts of Latin America — Central America, Santo Domingo, Mexico, and Buenos Ayres — were likewise in revolution.

Naturally our sympathies were with the cause of freedom. Our own struggle had resulted in our independence only a little more than a generation since, while our second war with England had but recently been fought, and its bitterness had not yet passed away. The Latin-American countries were in our own hemisphere, their political conditions were relatively much the same as ours, their struggles for independence were occurring under much the same circumstances as those of our own War of the Revolution and during a period in which we too were beset with grave difficulties, so that it is not surprising that there was a powerful sentiment of sympathy in the United States on behalf of Latin America. It was thought that the Star of Liberty was in the ascendant, that Bolívar was a second Washington, and that the Western Hemisphere was to become the home of freedom and popular democratic institutions, in contradistinction to the Eastern Hemisphere with its autocratic rulers and monarchical governments.

In Congress Henry Clay, magnetic orator and leader of his party, applied all his powers of declamation toward the "emancipation of South America"; while President Monroe as early as 1817 sent thither a commission to ascertain whether any of the revolutionary governments deserved recognition. Monroe was a man of caution and prudence, but a sincere friend of the South Americans. The commission, though composed of men well known for their radical republicanism, was sharply divided as to the proper course to pursue with reference to these new-born nationalities, but the President himself moved steadily, if slowly, toward the recognition of their independence. In January, 1819, the President proposed to his cabinet the propriety of recognizing the independence of Buenos Ayres, but practically every member voted against this step. It was even then feared by many of our people, notwithstanding the earnestness and talent of the partisans of South American liberty, that these revolutions would overshoot the mark, would sweep aside the noble cause of freedom, and would engender such anarchical conditions as in some of the countries have since developed.

III

In May, 1819, Pierre de Poletica, the Russian Minister in Washington, exhibited to John Quincy Adams, then Secretary of State under Monroe, instructions from St. Petersburg to the minister to use his influence with the United States against recognition of the South American countries; and he intimated that Europe was a unit in this matter, and that the United States would be obliged, however unwillingly, to "follow the impulse of Europe combined."

Our recognition of the independence of the South American Republics was not announced until May, 1822. Had there been no

further threats of European aggression, our connection with this chapter of history might have ended here. The views of Secretary Adams were probably typical of those of the American people at that time. For some years he had been watching with painful interest the congresses of European monarchs, as they decided without ceremony the destiny of one foreign State after another; but while he was intensely opposed to any further extension of European jurisdiction on this hemisphere and sympathized sincerely with the South Americans, he was also opposed to interference on our part. To quote his words to Mr. Clay, "The principle of neutrality to all foreign wars is, in my opinion, fundamental to the continuance of our liberties and our Union."

IV

At the termination of the Napoleonic wars, after Waterloo, the quivering kaleidoscope of Europe brought the nations into new combination. England, Russia, Prussia, and Austria, the allies who had decided the fate of the Great Captain, now took the affairs of Europe into their hands. On November 20, 1815, these powers concluded a new treaty of alliance for the purpose of "safeguarding Europe from dangers by which she may still be menaced."

Two months previously (September 26, 1815) Russia, Austria, and Prussia had united in the "Holy Alliance" (later acceded to by Naples, Sardinia, France, and Spain). In the formation of this league the initiative was taken by the Russian Czar, Alexander I, who had become such a religious enthusiast over the defeat of Napoleon that Castlereagh, the English Secretary for Foreign Affairs, reported to the ministry that Alexander was mentally unbalanced. Those sovereigns who were the original parties to the Holy Alliance declared "their unwavering determination to adopt for the only rule of their conduct . . . the precepts of their holy religion"; and, as being the members of but one great Christian nation, they regarded themselves as "delegated by Providence to govern three branches of the same family, to wit, Austria, Prussia, and Russia."

The Holy Alliance was a product of the religious fervor growing out of the victory over the "Man of Destiny." The quadruple alliance above noted was formed more especially under the stress of the but just ended Napoleonic wars.

The Holy Alliance existed for some years. Whatever the original concept of this league, as it took shape in the mind of Alexander, the pietistic idealist, it seems to have been, or to have become, the predominant object of the Holy Alliance to destroy democracy and everything that savored of liberalism, and to aid and support, abet and defend, to the utmost absolutism in Europe and throughout the world. Indeed, within but a few years from the league's inception

the attempt was made to extend its operation to the Western Hemisphere.

The horrors and bloodshed of the French Revolution had shocked and terrified all men. After anarchy in its baldest, most revolting form, there supervened a reaction towards absolutism almost as extreme as had been the original swing of the pendulum. Where liberalist rabbles had formerly murdered and burned, royalist mobs were now doing likewise. Bourbonism lived again in France in the coronation of Louis XVIII. In 1814 Ferdinand VII re-entered Spain, and his acts of burning the liberal constitution, shooting or expelling the liberalists, and re-establishing the Inquisition were received with the wildest demonstrations of approval. Those excesses which during the French Revolution had sprung from anarchy masquerading as democracy and had spread far and wide, were now contributing to cause another series of crimes and horrors, no less revolting because perpetrated under the guise of "divine right."

The Congress of Aix-la-Chapelle met in the autumn of 1818. France was received into European concert. A result of the Congress was another union of great powers in behalf of the maintenance of peace. Here was one of the manifestations or developments of the Holy Alliance; and the obvious motive of this union was the determination to suppress all popular movements.

From across the Atlantic the prescient Monroe and the vigilant Adams were watching with intense interest the course of European affairs, that the United States might be ready to act on the moment, should the time for action come, in defence of its rights and in the interest of true liberty and of genuine democracy, as against either anarchy on the one hand or absolutism on the other.

The allies found many matters needing attention at their hands. It was determined at all hazards to destroy all liberal movements or revolutions against the hereditary monarchs. After the liberalists had compelled King Ferdinand of Naples to grant a constitution in 1820 (the King's son heading a revolution against the aged monarch), the allies sent an army into Italy that suppressed the rebellion and restored the King as absolute ruler to his throne. Similar suppressions took place in Piedmont and Greece. At the Congress of Laibach in 1821 the allies announced that they had "taken the people of Europe into their holy keeping, and that in future all useful and necessary changes in the legislation and administration of States must emanate alone from the free will, the reflected and enlightened impulse, of those whom God has rendered responsible for power."

Spain was now, and had been for many years, in the throes of her mighty conflict with her American colonies. Ferdinand VII, restored in 1814, and acclaimed with fanatical enthusiasm by the Spanish populace as absolute ruler, was in 1820 facing revolutions and disorders at home and a world-wide controversy abroad. Hardly a score

of years had passed since the great Louisiana territory had fallen from the nerveless grasp of Spain; hard pressed, she had just ceded Florida to the United States; Spanish America was in revolt; Cuba, loyal while one colony after another strove to leave the mother country, might be the next to rise in revolution, or she might have to go as the reward of some aiding power; the treasury was empty, and not another soldier could be drafted for any purpose. Spain was in desperate straits; and it was but a question of time before the colonies would shake off her hated yoke unless united Europe should interpose. But was not the Holy Alliance organized to grapple with just such crises as this one?

After a preliminary meeting of the allies, at Vienna, the Congress of Verona opened in October, 1822. Ferdinand VII begged for aid in the subjugation of his colonies; and Russia, Prussia, and Austria were strongly inclined to assist him. In the preceding April a French army, acting under orders from the allies, had overcome the revolutionists in Spain; why should not the allies now undertake to stamp out the revolutionary movements in Spanish America?

At Verona the allies, on November 22, 1822, signed a secret treaty, supplementing the agreements then in force, the first two articles of which are as follows:

"The undersigned, especially authorized to make some additions to the treaty of the Holy Alliance, after having exchanged their respective credentials, have agreed as follows:

"Article I. The high contracting powers, being convinced that the system of representative government is equally as incompatible with the monarchical principles as the maxim of the sovereignty of the people with the Divine right, engage mutually, in the most solemn manner, to use all their efforts to put an end to the system of representative governments in whatever country it may exist in Europe, and to prevent its being introduced in those countries where it is not yet known.

"Art. II. As it cannot be doubted that the liberty of the press is the most powerful means used by the pretended supporters of the rights of nations, to the detriment of those princes, the high contracting parties promise reciprocally to adopt all proper measures to suppress it, not only in their own States, but also in the rest of Europe."

The Duke of Wellington was present as the representative of England in this Congress, but he took no part in this treaty. Lord Castlereagh had been England's Foreign Secretary at his death not many weeks before. Great Britain's policy was in favor of non-intervention in the domestic affairs of Spain. But those South American colonies of Spain which had practically won their independence raised another question, and Castlereagh had expected to propose recognition of some of these young republics. Moreover, Mr. Canning, who took Lord Castlereagh's place as Secretary of State for Foreign Affairs, saw that this new secret treaty had led to a crisis which might jeopard-

ize the interests of England. It was a step toward absolutism which no English government could follow and live. In this dilemma Mr. Canning turned to the American minister to England, Mr. Rush. The former had previously expressed England's concern at the possibility of interference by France or any other power in Spanish-American affairs. He thought that Spain no longer had grounds for hope that she might recover her colonies, but he would throw no obstacle in the way of such amicable arrangement as they might make with the mother country. "England," he said, "desired no part of the territory for herself, but it could not see any part of it transferred to any other power with indifference."

Rush agreed with Canning, but, through lack of instructions from Washington, was unable to unite with the latter in the joint declaration he proposed. Rush said, however, that "we should regard as unjust, and fruitful of highly disastrous consequences, any attempt on the part of any European power to take possession of them [the Spanish-American republics] by conquest, by cession, or on any other ground or pretext." And he stated to Canning that if England would recognize the independence of those countries he, Rush, would rely upon his general powers as minister plenipotentiary, and would join England in the declaration in opposition to European interference in Spanish America. But Canning did not consider that the time had yet arrived for England to take the decisive step of recognition, and so the matter in England was, for the time being, dropped.

V

In September, 1823, the Canning-Rush correspondence reached Washington, where it created a tremendous sensation. President Monroe was confronted by a great crisis, and he consulted the ablest men in the country, among them ex-Presidents Jefferson and Madison, then living in retirement.

The replies of these two great statesmen are worthy of the occasion which called them forth. Jefferson wrote from his residence as follows:

Monticello, October 24, 1823.

Dear Sir, — The question presented by the letters you have sent me is the most momentous which has ever been offered to my contemplation since that of Independence. That made us a nation; this sets our compass and points the course which we are to steer through the ocean of time opening on us. And never could we embark on it under circumstances more auspicious. Our first and fundamental maxim should be, never to entangle ourselves in the broils of Europe. Our second, never to suffer Europe to intermeddle with cisatlantic affairs. America, North and South, has a set of interests distinct from those of Europe and peculiarly her own. She should therefore have a system of her own, separate and apart from that of Europe. While the last is laboring to become the domicile of despotism, our endeavor

should surely be to make our hemisphere that of freedom. One nation, most of all, could disturb us in this pursuit; she now offers to lead, aid, and accompany us in it. By acceding to her proposition we detach her from the band of despots, bring her mighty weight into the scale of free government, and emancipate a continent, at one stroke, which might otherwise linger long in doubt and difficulty. Great Britain is the nation which can do us the most harm of any one or all on earth, and with her on our side we need not fear the whole world. With her, then, we should most sedulously cherish a cordial friendship; and nothing would tend more to knit our affections than to be fighting once more, side by side, in the same cause. Not that I would purchase even her amity at the price of taking part in her wars. But the war in which the present proposition might engage us, should that be its consequence, is not her war, but ours. Its object is to introduce and establish the American system, of keeping out of our land all foreign powers, of never permitting those of Europe to intermeddle with the affairs of our nations. It is to maintain our own principle, not to depart from it. And if, to facilitate this, we can effect a division in the body of the European powers, and draw over to our side its most powerful member, surely we should do it. But I am clearly of Mr. Canning's opinion, that it will prevent instead of provoke war. With Great Britain withdrawn from their scale and shifted into that of our two continents, all Europe combined would not undertake such a war. For how would they propose to get at either enemy without superior fleets? Nor is the occasion to be slighted which this proposition offers, of declaring our protest against the atrocious violations of the rights of nations, by the interference of any one in the internal affairs of another, so flagitiously begun by Bonaparte, and now continued by the equally lawless Alliance, calling itself Holy. . . .

I could honestly, therefore, join in the declaration proposed, that we aim not at the acquisition of any of those possessions, that we will not stand in the way of any amicable arrangement between them and the mother country; but that we will oppose, with all our means, the forcible interposition of any other power, as auxiliary, stipendiary, or under any other form of pretext, and most especially their transfer to any power by conquest, cession, or acquisition in any other way. I should think it, therefore, advisable that the Executive should encourage the British government to a continuance in the dispositions expressed in these letters, by an assurance of his concurrence with them as far as his authority goes; and that, as it may lead to war, the declaration of which requires an act of Congress, the case shall be laid before them for consideration at their first meeting, and under the reasonable aspect in which it is seen by himself.

Madison's reply to Monroe ran thus:

October 30, 1823.

Dear Sir, — I have just received from Mr. Jefferson your letter to him, with the correspondence between Mr. Canning and Mr. Rush, sent for his and my perusal and our opinions on the subject of it.

From the disclosures of Mr. Canning it appears, as was otherwise to be inferred, that the success of France against Spain would be followed by an attempt of the Holy Allies to reduce the revolutionized colonies of the latter to their former dependence.

The professions we have made to these neighbors, our sympathies with their liberties and independence, the deep interest we have in the most friendly relations with them, and the consequences threatened by a command of their resources by the Great Powers, confederated against the rights and reforms of which we have given so conspicuous an example, all unite in calling for our efforts to defeat the meditated crusade. It is particularly fortunate that the policy of Great Britain, though guided by calculations different from ours, has presented a co-operation for an object the same with ours. With that co-operation we have nothing to fear from the rest of Europe, and with it the best assurance of success to our laudable views. There ought not, therefore, to be any backwardness, I think, in meeting her in the way she has proposed; keeping in view, of course, the spirit and forms of the Constitution in every step taken in the road to war, which must be the last step if those short of war should be without avail.

It cannot be doubted that Mr. Canning's proposal, though made with the air of *consultation* as well as concert, was founded on a predetermination to take the course marked out, whatever might be the reception given here to his invitation. But this consideration ought not to divert us from what is just and proper in itself. Our co-operation is due to ourselves and to the world; and whilst it must ensure success in the event of an appeal to force, it doubles the chance of success without that appeal. . . .

VI

President Monroe held with his cabinet frequent consultations upon the subjects of the Canning-Rush correspondence. On November 13, 1823, Secretary Adams wrote of the President in his diary:

"I find him yet altogether unsettled in his own mind as to the answer to be given to Mr. Canning's proposals, and alarmed, far beyond anything that I could have conceived possible, with the fear that the Holy Alliance are about to restore immediately all of South America to Spain. Calhoun [then Secretary of War] stimulates the panic, and the news that Cadiz has surrendered to the French has so affected the President that he appeared entirely to despair of the cause of South America."

A few days later Adams wrote:

"I soon found the source of the President's despondency with regard to South American affairs. Calhoun is perfectly moon-struck by the surrender of Cadiz, and says the Holy Allies, with ten thousand men, will restore all Mexico and all South America to the Spanish dominion."

Great excitement prevailed throughout the United States; the newspapers, with their accustomed hysterical sensationalism, fanned the popular flame; many people clamored for an alliance with England; while the President was profoundly dejected, and the cabinet seriously divided in opinion as to the proper course to pursue.

About this time the Minister from St. Petersburg, Baron de Tuyl, read to Mr. Adams from despatches received from Count Nesselrode, Russian Minister of Foreign Affairs. In the course of these commu-

nications great exultation was evinced at the success of the French army in overcoming the popular, or liberal, revolution in Spain.

Not a restful incident, perhaps; but we were then in the midst of a direct negotiation with Russia that brought home to us, much more emphatically than the above episode did, her potentiality. The hitherto vague and indefinite claims of Russia to a vast territory at the northwest of us had come of late to be asserted with a boldness and definiteness which gave concern not only to Washington but to London; and when in 1821 Alexander I issued a ukase claiming all the northwest territory down to latitude 51°, and forbidding the approach of any foreign vessel within one hundred miles of its shores, instant and vigorous protests were heard. The Russian edict seemed almost like a gantlet thrown down at our feet.

In July, 1823, Secretary Adams told Baron de Tuyl "specially that we should contest the right of Russia to *any* territorial establishment on this continent, and that we should assume distinctly the principle that the American continents are no longer subjects for *any* new European colonial establishments." It has been claimed that these words are "the first hint of the . . . Monroe Doctrine."

Mr. Adams then instructed Mr. Henry Middleton, our Minister at St. Petersburg, to say "frankly and explicitly to the Russian government that the future peace of the world, and the interests of Russia herself, cannot be promoted by Russian settlements upon any part of the American Continent."

The same day Mr. Adams, writing to Mr. Rush, informed him of the status of the dispute with Russia, and added:

"A necessary consequence of this state of things (independence of the Spanish-American colonies) will be that the American continents henceforth will no longer be subjects of colonization. Occupied by civilized independent nations, they will be accessible to Europeans and to each other on that footing alone, and the Pacific Ocean in every part of it will remain open to the navigation of all nations in like manner with the Atlantic.

"Incidental to the condition of national independence and sovereignty, the rights of interior navigation of their rivers will belong to each of the American nations within its own territories.

"The application of colonial principles of exclusion, therefore, cannot be admitted by the United States as lawful upon any part of the northwest coast of America, or as belonging to any European nation."

VII

December 2, 1823, the date for President Monroe's next annual message to Congress, was now drawing near. In the preliminary draft (laid before the cabinet about November 20) the President severely criticised France for having invaded Spain, broadly acknowledged the independence of the Greeks, and displayed undisguised hostility toward the Holy Alliance. Secretary Adams opposed the

expression in the message of these views, submitting that such statements were not necessary and might precipitate a war, and that the United States ought not to interfere in European affairs; and he took the ground that the message should embody an American cause, and adhere inflexibly to that, and should make "earnest remonstrance against the interference of the European powers by force with South America," but should disclaim "all interference on our part with Europe."

With the opening of Congress but a week away, Monroe and his cabinet were not yet a unit as to the wording or even the policy of the message. But after prolonged argument the memorable communication was finally agreed upon, and it was delivered to Congress at the appointed time. The consideration of the Russian question came first. Sympathy was expressed with the constitutional movement in Spain and Greece; but all intention of interfering in European affairs was expressly disclaimed, and no censure whatever was passed upon either France or the Holy Alliance.

The enunciation of the "Monroe Doctrine" was in these words:

"At the proposal of the Russian Imperial Government, made through the minister of the Emperor residing here, a full power and instructions have been transmitted to the minister of the United States at St. Petersburg to arrange by amicable negotiation the respective rights and interests of the two nations on the northwest coast of this continent. A similar proposal had been made by his Imperial Majesty to the Government of Great Britain, which has likewise been acceded to. The Government of the United States has been desirous by this friendly proceeding of manifesting the great value which they have invariably attached to the friendship of the Emperor and their solicitude to cultivate the best understanding with his Government. In the discussions to which this interest has given rise and in the arrangements by which they may terminate *the occasion has been judged proper for asserting, as a principle in which the rights and interests of the United States are involved, that the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers.*"[1]

After discussing certain other topics, the President turns to the subject of the threatened interference in South America by the allied powers of Europe:

"It was stated at the commencement of the last session that a great effort was then making in Spain and Portugal to improve the condition of the people of those countries, and that it appeared to be conducted with extraordinary moderation. It need scarcely be remarked that the result has been so far very different from what was then anticipated. Of events in that quarter of the globe, with which we have so much intercourse and from which we derive our origin, we have always been anxious and interested spectators. The citizens of the United States cherish sentiments the most friendly in

[1] Italics not in the message.

favor of the liberty and happiness of their fellowmen on that side of the Atlantic. In the wars of the European powers in matters relating to themselves we have never taken any part, nor does it comport with our policy so to do. It is only when our rights are invaded or seriously menaced that we resent injuries or make preparation for our defence. With the movements in this hemisphere we are of necessity more immediately connected, and by causes which must be obvious to all enlightened and impartial observers. The political system of the allied powers is essentially different in this respect from that of America. This difference proceeds from that which exists in their respective governments; and to the defence of our own, which has been achieved by the loss of so much blood and treasure, and matured by the wisdom of their [*sic*] most enlightened citizens, and under which we have enjoyed unexampled felicity, this whole nation is devoted. *We owe it, therefore, to candor and to the amicable relations existing between the United States and those powers, to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety.* With the existing colonies or dependencies of any European power we have not interfered and shall not interfere. But with the governments who have declared their independence and maintained it, and whose independence we have, on great consideration and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, by any European power *in any other light than as the manifestation of an unfriendly disposition toward the United States.*[1] In the war between those new governments and Spain we declared our neutrality at the time of their recognition, and to this we have adhered, and shall continue to adhere, provided no change shall occur which, in the judgment of the competent authorities of this government, shall make a corresponding change on the part of the United States indispensable to their security.

"The late events in Spain and Portugal show that Europe is still unsettled. Of this important fact no stronger proof can be adduced than that the Allied Powers should have thought it proper, on any principle satisfactory to themselves, to have interposed by force in the internal concerns of Spain. To what extent such interposition may be carried, on the same principle, is a question in which all independent powers whose governments differ from theirs are interested, even those most remote, and surely none more so than the United States. Our policy in regard to Europe, which was adopted at an early stage of the wars which have so long agitated that quarter of the globe, nevertheless remains the same, which is, not to interfere in the internal concerns of any of its Powers; to consider the government *de facto* as the legitimate government for us; to cultivate friendly relations with it, and to preserve those relations by a frank, firm, and manly policy, meeting, in all instances, the just claims of every power, submitting to injuries from none. But in regard to these continents circumstances are eminently and conspicuously different. It is impossible that the Allied Powers should extend their political system to any portion of either continent without endangering our peace and happiness; nor can any one believe that our southern brethren, if left to themselves, would adopt it of their own accord. It is equally impossible, therefore, that we should behold such interposition in any form

[1] Italics not in the message.

with indifference. If we look to the comparative strength and resources of Spain and those new governments, and their distance from each other, it must be obvious that she can never subdue them. It is still the true policy of the United States to leave the parties to themselves, in the hope that other powers will pursue the same course."

VIII

This message, in its far-reaching consequences, may be regarded as one of the most important documents ever written by a President of the United States. Monroe's biographer, Daniel C. Gilman, considers it "probable that Monroe had but little conception of the lasting effect which his words would produce." The people of the United States received the message with unbounded enthusiasm, and the people of England were hearty in its praise, considering it as a whole. Between these two countries this was especially an "era of good feeling."

Doubtless there was English dissent on certain points. Mr. Canning objected strenuously to parts of the message. England regarded the declaration against colonization as being "very extraordinary," and one that she was "prepared to combat in the most unequivocal manner." Nevertheless, the Holy Alliance knew that on the main issue England and the United States were in accord; and that the subjugation of the Spanish-American colonies, with such a phalanx as this in opposition to it, would be impossible. Had England thrown her weight into the other balance-pan, had she been in agreement with the continent of Europe rather than with the United States, it is probable that thenceforward the history of the Western Hemisphere would have run a different course; for it is not believed that in 1823 the United States alone could have upheld the Monroe Doctrine as against all Europe.

As it was, the project of European intervention in the New World, to go forward under the ægis of the Holy Alliance, collapsed. No war was necessary, no show of force; the moral effect of an understanding between the two great English-speaking nations was sufficient to maintain the equilibrium of a hemisphere — aye, of a world.

A great and real menace to our peace and safety had been bravely and wisely met, challenged, and overcome; and the American people pressed proudly onward, conscious of new place and power in the councils of the nations.

CHAPTER II

APPLICATIONS AND DEVELOPMENTS OF THE MONROE DOCTRINE — FIRST PERIOD

THE doctrine proclaimed by Monroe exactly voiced the sentiments of the American people. It was in every way an admirable piece of statesmanship. There had been a real and grave peril; the administration had met it with a brave and explicit declaration of policy. Before this decisive stand buttressed by the might of England, all danger from the Holy Alliance "melted into air." The crisis had arisen, but it had been mastered. The President's inspiring words were caught up in the popular enthusiasm, and echoed and re-echoed to the furthest limits of the United States.

At the time of the message Henry Clay was Speaker of the House. He had seemed to feel a special responsibility for the destiny of South America, and had long been opposing Monroe, who had been charged with lukewarmness in the matter. Immediately after the message had been read, Clay caused to be introduced the following resolution:

> "Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the people of these States would not see, without serious inquietude, any forcible intervention by the allied powers of Europe in behalf of Spain, to reduce to their former subjection those parts of the continent of America which have proclaimed and established for themselves, respectively, independent governments, and which have been solemnly recognized by the United States."

The resolution failed to pass. Congress evidently attached but little importance to the alleged threats of the allies. It considered that even if there had once been actual danger of European intervention, such danger had now disappeared. In fact many members "considered the alleged threats of the allies as empty vaporings, unworthy of notice." Mr. Poinsett, of South Carolina, introduced a resolution similar to Clay's, only to meet a similar fate. Had the allies seriously attempted to make common cause with Spain on this hemisphere, Congress would unquestionably have supported the President to the full extent, but it had no academic longing to

anticipate, by an abstract exposition of "principles" or "theories," a concrete imbroglio which had been indefinitely postponed, or averted altogether.

I

In 1825 Monroe was succeeded in the presidency by John Quincy Adams. One of the first things to engross the attention of the Adams administration was the proposed congress of Latin-American nations soon to be held at Panama, under the guidance and patronage of Bolívar, — the object of this conference being to bind the countries together for their mutual interest and protection against Europe. Mexico and Colombia extended an invitation to the United States. President Adams wished to appoint diplomatic representatives to the conference, but desired rigidly to limit their authority by instructions not to commit the United States to any definite policy or alliance of any character whatever. Even this mild programme was vigorously contested by Congress, and a most bitter controversy arose.

The Panama Congress proved a sorry failure, not extending beyond its preliminary meeting; but the discussions to which it gave rise threw much light on the views of the leading legislators of the day in Washington as to the effect of the Monroe Doctrine. James K. Polk, then a member of Congress from Tennessee, said in debate:

> "When the message of the late President of the United States was communicated to Congress in 1823, it was viewed, as it should have been, as the mere expression of opinion of the Executive, submitted to the consideration and deliberation of Congress and designed probably to produce an effect upon the councils of the Holy Alliance in relation to their supposed intention to interfere in the war between Spain and her former colonies. That effect it probably had an agency in producing; and if so, it has performed its office. The President had no power to bind the nation by such a pledge."

Such was the status of the Monroe Doctrine at the close of 1826.

II

From the end of the administration of Adams, in 1829, to the beginning of that of James Knox Polk, in 1845, the Monroe Doctrine was rarely mentioned in the United States. Many events of world-wide importance, affecting our relations on this hemisphere, happened; each one was dealt with on its individual merits, as the exigencies of the case demanded.

True, the Latin Americans, engaged in their customary pastime of revolution and of outrage against foreigners, frequently called upon the United States, under pretext of the Monroe Doctrine, to aid them in their schemes or protect them from the consequences of their evil-

doing; and as we paid no heed to their demands, they denounced us for our alleged insincerity; but all this made little impression on the successive administrations. During this period our Presidents seem rather to have had enough intellect and originality to determine their own policies than to have felt it necessary to adopt a cut and dried schedule formulated by one of their predecessors. They did not admit that even James Monroe was clothed with the attribute of "infallibility" or "divine right." The crisis that called forth his message had long since passed; they stood ready to meet new crises with new messages, and they left the worship of ancestors and of traditions to the Chinese.

Thus, when the authorities of the Argentine Republic, in 1829, ousted the English from the Falkland Islands (claiming that these islands were Argentine territory under the Spanish succession), and arrested some American seal-hunters there, the United States war-sloop Lexington forced the release of the prisoners, expelled the governor and other officials appointed from Buenos Ayres, and restored the islands to England. President Jackson approved this action, and declined to notice the loud and violent protest by the Argentine goverment against this alleged violation of the Monroe Doctrine.

In 1835 England and France established a naval blockade along the entire coast of the Argentine Republic, in order to protect Uruguayan independence from Argentine aggression. From Panama to Cape Horn the South Americans were shouting the violation of the Monroe Doctrine, roundly abusing our government for not interfering in the affair of the blockade; but no fault was being found by our own people.

In 1835 and for some time thereafter England was noticeably extending her territorial claims in Nicaragua and Honduras; whereat Central America would utter vociferous protests, and would appeal to President Jackson, with the argument that "it had always been the policy of the United States to resist European settlements in America." But Jackson was a man capable of thinking for himself. He knew the English, having met and defeated them at New Orleans; he did not choose to invoke the glamour of Monroe's declaration; perhaps he considered that neither the world in general nor the United States in particular would be seriously injured, even if England should colonize all Central America; at all events, he did not interfere.

In 1848 England besieged San Juan and compelled the native government to respect her territorial claims. England's course caused much discussion in the United States, where the affair was generally referred to as the Mosquito Coast controversy.

Briefly stated, England, prior to 1783, had made certain claims to jurisdiction over portions of the coast of Nicaragua and Honduras, by virtue of concessions for cutting wood, etc., which had been granted by Spain to British subjects. All such claims on the part of England

were renounced by her treaty with Spain in 1783 and by explanatory amendments thereto in 1786, reaffirmed and ratified in 1814.

In 1821 the Central American colonies threw off the Spanish yoke, and formed a federal union which was dissolved in 1838. In 1841 England seized Ruatan Island (off the Honduras coast) in spite of the most vigorous protests of the latter country, which claimed jurisdiction over it. England then proceeded to seize large tracts along the coast of Honduras and Nicaragua, where there were British settlements, and in 1848 took possession of San Juan del Norte, or Greytown, considered the most strategic point in Central America. She based her claims on alleged treaties with the Mosquito Indians, who had never acknowledged the sovereignty of the Latin-American countries, but who by treaty had authorized England to assume a protectorate. Much vindictive rhetoric has been expended with reference to these pretensions of England. That these Indians possessed sufficient sovereignty to warrant such a treaty has never been seriously believed in the United States. However, the Central American countries, speaking generally, were in a state of chronic anarchy, not much in advance of the primeval condition of the savage tribes. Stephen A. Douglas and others invoked the sacred Monroe Doctrine in an effort to persuade the United States to interfere; but the Monroe Doctrine had not yet become an *ignus fatuus*, and the United States preferred to take no radical action. It is probable, however, that the episode was one of the chief factors leading up to the treaty with England of 1850.

III

During the administration of President Taylor was concluded, between the United States and Great Britain, the Clayton-Bulwer treaty of April 19, 1850, a compact distinctly contrary to the spirit of Monroe's message. Indeed, this convention (superseded in 1901 by the Hay-Pauncefote treaty) may be regarded as the most unfortunate and preposterous treaty ever made by our government, involving us in most serious complications, of which it took half a century of wearisome diplomatic negotiations to relieve us. The reader interested in the history of this great diplomatic blunder must examine the text of the convention and the literature pertaining to it; we can here refer to it but briefly, remarking its repugnancy not only to the Monroe Doctrine, but also to Washington's message advising against entangling alliances, and to every sound principle of statesmanship.

The first article of the Clayton-Bulwer convention was as follows:

"The governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship-canal [from the Atlantic through Nicaragua to the Pacific]; agreeing that neither will ever erect or maintain any

fortifications commanding the same or in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any allegiance which either has or may have to or with any State or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any State or government through whose territory the said canal may pass, for the purpose of organizing or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered in the same terms to the citizens or subjects of the other."

Further provisions of the treaty were that vessels of the contracting parties traversing the canal should, in case of war between the two nations, be exempted from blockade, detention, or capture by either of the signers of the treaty; that the two governments jointly undertake to protect the property of any parties constructing such canal under authority of the local governments of the territory; that they will forever afterward jointly protect said canal and guarantee its neutrality and the security of the capital invested therein; that —

"the contracting parties in this convention engage to invite every State with which both or either have friendly intercourse to enter into stipulations with them similar to those which they have entered into with each other, to the end that all other States may share in the honor and advantage of having contributed to a work of such general interest and importance as the Canal herein contemplated";

and that, as they not only desire,

"in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection by treaty stipulations, to any other practicable communications, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama."

It is clear that the United States ought not to bind itself by treaty obligations to act in conjunction with any foreign power on questions of our policy in the Western Hemisphere. Not that we should never co-operate on this hemisphere with other civilized countries, should an exigency from time to time demand co-operation; but our government must be and remain unfettered, free to work out, step by step, its own policy on this hemisphere according as its conscience and interest may dictate, entirely without reference to any other considerations. If, as Washington recommended, entangling alliances should be avoided in European affairs, how much more important it is that the

United States should remain free "to play a lone hand" on this side of the Atlantic.

It is as an entangling alliance, as well as for the intrinsic absurdity of many of its stipulations, that the Clayton-Bulwer treaty should be condemned, rather than for its repugnancy to the Monroe Doctrine. Indeed, from one standpoint, not only are the doctrine and the treaty not antagonistic, they are actually similar, in that they each — the one through the force of habit and tradition, the other through the force of contract — act objectionably to tie our hands, to commit us beforehand to their respective cut and dried programmes, however unwise the future may point out either or both courses to be. The United States should shake off the superstitions of its youth, and it will then show, as occasion arises, that its statesmen can solve all problems, administer all conditions, as they present themselves, in accordance with the dictates of common sense and sound morality.

IV

From the promulgation of the Monroe Doctrine even down to the conclusion of the Spanish-American war, Cuba had been a persistent source of uneasiness on the part of the United States. It was the scene of constant turmoil and revolution, and a refuge for dangerous characters who preyed upon English and American commerce. Our government firmly determined that, should Spain fail to hold Cuba, it should fall neither to England nor to France, nor yet to any other foreign power.

John Quincy Adams and many other enlightened citizens were markedly in favor of the annexation of Cuba to the United States. This sentiment ruled strongest from 1845 to 1848, when Great Britain was said to be contemplating the seizure of the "Pearl of the Antilles" as security for Spanish indebtedness. On January 17, 1848, President Polk authorized R. M. Saunders, the United States Minister in Madrid, to offer Spain $100,000,000 for Cuba. Spain indignantly spurned the offer.

In 1849–1851 quite a number of Americans engaged in filibustering expeditions (organized by Narciso Lopez, a Venezuelan) in aid of a Cuban revolution, notwithstanding the vigorous proclamation of warning by President Taylor. After three expeditions Lopez and a number of his followers were captured, and executed by the Spanish authorities in Havana. These executions caused great excitement in the United States, especially in the South, where many public indignation meetings were held.

Alleging that she feared an attack by the United States, Spain appealed for protection to France and England, and these powers despatched a strong naval force to the West Indies with the avowed purpose of repelling any American invasion.

This naval demonstration was extremely distasteful to the United States, and was regarded by President Fillmore "with grave disapproval, as involving on the part of European sovereigns combined action of protectorship over American waters." England and France then proposed that the United States should join in an agreement to disavow all present or future intention to obtain possession of the island of Cuba, but Fillmore declined (1852) on the ground that the status of Cuba was primarily an American question in which France and England could by no means have the same interest as ourselves, and that the United States proposed "to keep itself free from national obligations except such as affect directly the interests of the United States themselves."

On January 4, 1854, Mr. Cass, of Michigan, introduced into the United States Senate a joint resolution that "the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers." The resolution in these words was adopting those of Monroe of December 2, 1823. Continuing, the resolution, *inter alia,* promised to respect existing rights, and disclaimed any intention to annex Cuba, but declared that any attempt of another power to acquire that island, peaceably or forcibly, would be regarded as an unfriendly act, to be resisted by all the means in our power.

This resolution was never passed. In the discussion Mr. Howard, of Texas, remarked that the Monroe Doctrine did not mean "that every settlement upon any sandbank on this continent is an offence which is to result in war."

V

James K. Polk became President in 1845, pledged to advocate proceedings (considerably advanced in Tyler's administration) which should result in the annexation of Texas, and to see to it that the United States, in its pending difference with Great Britain, should acquire the entire Oregon territory, up to "fifty-four-forty, or fight."

Mr. Polk, when a member of Congress, had stated that the Monroe Doctrine was "viewed, as it should have been, as the mere expression of opinion of the Executive," and that "the President had no power to bind the nation by such a pledge"; he now proceeded to urge forward to completion the annexation of Texas, to attempt, but only in part achieve, the ousting of Great Britain from her claims in the Oregon territory, and "to reiterate and reaffirm the principle avowed by Mr. Monroe, and to state my cordial concurrence in its wisdom and sound policy"!

The annexation of Texas might well have stood upon its merits, — upon the proposition that the civilized people of Texas, who had

established and maintained a republican government, desired annexation, and the United States conceived it to be to their interests to grant the reasonable request of the younger republic. Any injection of the Monroe Doctrine into this proceeding would seem to be an act of supererogation.

Likewise our controversy with Great Britain over the Oregon territory was based purely upon questions of fact as to which nation said territory actually belonged; and to this end a judicial comparison of historical data, authentic maps, and the evidence pertinent to the issue would seem to have been a reasonable *modus operandi*, with a submission to an arbitration tribunal, if need be.

But such were not Polk's methods. Pronunciamentos, bombast, and Monroe Doctrine were his "meat and drink."

President Polk said in the course of his message of December 2, 1845:

"Even France, . . . most unexpectedly, and to our unfeigned regret, took part in an effort to prevent annexation and to impose on Texas, as a condition of the recognition of her independence by Mexico, that she would never join herself to the United States . . . and lately the doctrine has been broached in some of them [some of the European powers] of a 'balance of power' on this continent to check our advancement. The United States . . . cannot in silence permit any European interference on the North American continent, and should any such interference be attempted, will be ready to resist it at any and all hazards.

"It is well known to the American people and to all nations that this government has never interfered with the relations subsisting between other governments. We have never made ourselves parties to their wars or their alliances; we have not sought their territories by conquest; we have not mingled with parties in their domestic struggles; and believing our own form of government to be the best, we have never attempted to propagate it by intrigues, by diplomacy, or by force. We may claim on this continent a like exemption from European interference. The nations of America are equally sovereign and independent with those of Europe. They possess the same rights, independent of all foreign interposition, to make war, to conclude peace, and to regulate their internal affairs. The people of the United States cannot, therefore, view with indifference attempts of European powers to interfere with the independent action of the nations on this continent."

The foregoing portion of Mr. Polk's message was designed to forward the completion of the annexation of Texas, probably through the effect of its phrases upon the people of the North. As stated by Mr. Henderson, in his "American Diplomatic Questions," "the scarecrow of European aggression in Texas was so obviously a pretence that it was never seriously considered by the government." The admission of Texas to the United States took effect December 29, 1845.

A more important portion of President Polk's message was as follows:

"Near a quarter of a century ago the principle was distinctly announced to the world, in the annual message of one of my predecessors, that 'the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers.'

"This principle will apply with greatly increased force should any European power attempt to establish any new colony in North America. In the existing circumstances of the world the present is deemed a proper occasion to reiterate and reaffirm the principle avowed by Mr. Monroe and to state my cordial concurrence in its wisdom and sound policy. The reassertion of this principle, especially in reference to North America, is at this day but the promulgation of a policy which no European power should cherish the disposition to resist. Existing rights of every European nation should be respected, but it is due alike to our safety and our interests that the efficient protection of our laws should be extended over our whole territorial limits, and that it should be distinctly announced to the world as our settled policy that no future European colony or dominion shall with our consent be planted or established on any part of the North American Continent."

Taken in connection with Mr. Polk's inaugural address, in which he declared that our title to the whole Oregon territory, up to 54° 40′, was "clear and unquestionable," it would seem that the above announcement of policy was designed to bluff England out of her claims to the Oregon territory. But these large pretensions of the Polk administration were not successfully maintained. England refused to become a party to any compromise which did not give her the freedom of the Columbia River; and the matter was finally settled by the adoption, as the dividing line, of latitude 49° instead of 54° 40′.

The Polk message did no good and probably no harm. Yet here was a boundary disagreement between the United States and one other power involving a possibility of serious trouble; and it seems to have been a mistake to draw Europe into the matter by declarations of such a nature as to increase the chances that, in case serious trouble *had* developed, we should have found Europe not on our side, but on the other.

Pending the consideration of the treaty of compromise with Great Britain, Mr. Allen, of Ohio, introduced the following resolution in the United States Senate:

"Resolved, That Congress, thus concurring with the President, and sensible that this subject has been forced upon the attention of the United States by recent events so significant as to make it impossible for this government longer to remain silent, without being ready to submit to and even to invite the enforcement of this dangerous doctrine, do hereby solemnly declare to the civilized world the unalterable resolution of the United States to adhere to and enforce the principle that any effort of the powers of Europe to intermeddle in the social organization or political arrangements of the independent nations of America, or further to extend the European system of government upon this continent by the establishment of new colonies, would be incom-

patible with the independent existence of the nations, and dangerous to the liberties of the people of America, and therefore would incur, as by the right of self-preservation it would justify, the prompt resistance of the United States."

Mr. Allen's resolution, like all preceding ones of a similar character, was tabled without even receiving serious debate.

VI

One more episode during Polk's administration deserves passing notice.

There had been a period of dreadful carnage in Yucatan, in which the Indians and half-breeds, an overwhelming majority of the inhabitants, had massacred many whites and sought the extermination of the white race on this peninsula, or its expulsion therefrom. The United States was appealed to for protection, and was offered the "sovereignty of the peninsula." Similar appeals and offers were made to Spain and to Great Britain. On April 29, 1848, President Polk sent to Congress a special message, in the course of which he said:

"Whilst it is not my purpose to recommend the adoption of any measure with a view to the acquisition of the 'dominion and sovereignty' over Yucatan, yet, according to our established policy, we could not consent to a transfer of this 'dominion and sovereignty' either to Spain, Great Britain, or any other European power. . . . Our own security requires that the established policy thus announced should guide our conduct, and this applies with great force to the peninsula of Yucatan. . . . I submit to the wisdom of Congress to adopt such measures as in their judgment may be expedient to prevent Yucatan from becoming a colony of any European power, which in no event could be permitted by the United States."

Mr. Polk seems to have been afflicted with a kind of moral color-blindness which has often attacked Monroe Doctrine enthusiasts, even down to the present day. He does not seem to have given much thought to the fate of the civilized white people of Yucatan. His chief concern seems to have been, not to rush the army and navy of the United States to the rescue of the whites of Yucatan, and to restore law and order on this peninsula, but rather to prevent any other civilized nation from acquiring sovereignty there. *A bas* discussion of "general principles" and theories, while men and women are being banished and butchered!

In the debate on Polk's message, Senator John C. Calhoun, a member of Monroe's cabinet when the doctrine was announced, took sharp issue with the President, and stated flatly that in his opinion the true character of the Monroe Doctrine was appreciated neither by the Executive nor by the people generally.

Mr. Calhoun was at that time the greatest living authority on this

subject, and he discussed it fully and with great ability. His conclusions were that the Monroe Doctrine had been enunciated to meet a single and definite conjuncture, namely, the threatened interference of the Holy Alliance in American affairs; and that it had served its purpose; and that to attempt to extend the doctrine, as proposed, "would involve the absurdity of asserting that the attempt of any European state to extend its system of government to this continent, the smallest as well as the greatest, would endanger the peace and safety of our country."

Mr. Calhoun further said, speaking of the doctrine:

> "They were but declarations, nothing more, — declarations announcing in a friendly manner to the powers of the world that we should regard certain acts of interposition of the allied powers as dangerous to our peace and safety; interpositions of European powers to oppress the republics which had just arisen upon this continent, having become free and independent, as manifesting an unfriendly disposition; and that this continent, having become free and independent, was no longer the subject of colonization — not one word in any of them in reference to resistance."

Even so recently as the Civil War there had yet been no important development of the doctrine under discussion. The legislative department had declined to indorse it even by implication, or to dignify it by any serious discussion. Only two or three attempts had been made by the Executive to revive and drag forth the tradition, and these were only attempts to use it as padding, for lack of sound argument with which to sustain the positions the Executive was desirous of enforcing. Polk's reference to it in connection with the Oregon boundary dispute had served to discredit rather than strengthen the doctrine. Indeed, it may be asserted that for the first forty years after Monroe's message, the Monroe Doctrine exerted practically no influence, either on our national life or on the world, beyond the influence specifically contemplated at the time of its announcement.

CHAPTER III

APPLICATIONS AND DEVELOPMENTS OF THE MONROE DOCTRINE — SECOND PERIOD

IT has been seen that in the first forty years after its promulgation the Monroe Doctrine was barren of any practical results, save what had followed directly from the announcement. All or most of the references to it were from the academic standpoint, or for lack of other ammunition. The Panama Congress had been a fiasco; Polk's appeal to the sacred tradition, on behalf of the Oregon territory, had merely served to make himself ridiculous. The unwise Clayton-Bulwer treaty had been negotiated under Taylor.

While the United States was struggling in the throes of the Civil War, events of international importance were happening in Mexico. Racked with anarchy, Mexico in the last forty years had endured seventy-two "Presidents" and as many revolutions. The whole country had been ravaged and bands of guerrillas everywhere murdered or laid tribute upon the helpless people. From 1850 to 1861 President Miramon and Benito Juarez were engaged in a bitterly truculent struggle. Juarez came out victorious and grasped the reins of government. Now followed the most appalling bloodshed, and atrocities of every description were perpetrated upon the vanquished.

Foreigners had been among the chief sufferers financially, and France, England, and Spain decided to intervene. The British legation had been robbed by Miramon's officers, and English consulates had been sacked. France claimed that large sums were due to her citizens as holders of Mexican bonds. Spain too had against Mexico grievances yet unassuaged. In October, 1861, the three powers signed in London an agreement containing the following declaration:

"The high contracting parties engage not to seek for themselves, in the employment of the coercive measures contemplated by the present convention, any acquisition of territory nor any special advantage, and not to exercise in the internal affairs of Mexico any influence of a nature to prejudice the right of the Mexican nation to choose and to constitute freely the nature of its government."

The fleets of the allies, with a French army, appeared before Vera Cruz on January 7, 1862, and immediately demanded of Juarez the payment of their claims. Juarez answered that the government treasury was empty, and ordered them to withdraw. At Soledad the

opposing forces held a conference, in which the allies, speaking generally, declared their peaceful intentions and their friendly feelings for Mexico; still the French seemed anxious to proceed to hostilities. When the English and Spanish perceived that this was the French position, they retired from the imbroglio, leaving the French to work out their plans alone.

Further negotiations between the French commander and Juarez resulted unsatisfactorily to the former, who promptly declared war, and started with his army for the City of Mexico. At Pueblo the French were defeated by the intrepid Juarez, and were compelled to fall back on Orizaba and await reinforcements, which arrived from France under command of Marshal Forey.

Forey met and defeated the Mexicans in many desperate conflicts; and on June 10, 1863, he entered the City of Mexico and set up a provisional government. "His Imperial and Royal Highness, the Prince Ferdinand Maximilian, of Austria," was then chosen as Mexico's ruler; and Napoleon was notified that a monarchical and hereditary government, with a Catholic prince at its head, had been adopted.

Maximilian was a pleasant, well-meaning gentleman, of limited experience, completely under the influence of Napoleon III. Before sailing for Mexico to put on the proffered crown, he desired to know if it were the wish of the people of Mexico that he should do so; and assurances were given him that the vote in his favor was so large as to be not far from unanimous. He was crowned Emperor of Mexico at Miramon, in June, 1864. Doubtless sincerely desiring the welfare of the Mexican people, he was received with marvellous demonstrations of enthusiasm, and it seemed that a good and stable government was about to be established. But the volcano of anarchy was not extinct; it was merely dormant. When it should become active, it could be held down by nothing short of an intellectual and military giant, and Maximilian was no such prodigy as that. Juarez, the great and powerful Indian, soldier by birth, fearless patriot, cruel tyrant, ferocious, resourceful, was soon again to rise up in another revolution fiercer and more dreadful than before.

The United States had viewed with grave solicitude the establishment of a monarchy in Mexico, and by French arms. When Maximilian was crowned, the House approached the verge of war with France in passing the following resolution:

> "The Congress of the United States are unwilling by silence to have the nations of the world under the impression that they are indifferent spectators of a deplorable event now transpiring in the republic of Mexico, and they think it fit to declare that it does not accord with the policies of the United States to acknowledge any monarchical government, erected on the ruins of any republican government in America under the auspices of any European power." (April 4, 1864.)

Mexico was at that time an anarchy and not a republic, but the spirit of the resolution was correct. However, the time of its announcement was inopportune, and Lincoln, with happy tact, informed France that the resolution was a measure originating in the House, without consultation with the Executive, and was therefore not to be construed as an act of the government.

Lincoln was facing greater and more difficult problems than any man had ever before been called upon to grapple, and could not risk war with France while the fields of his country were running with the blood of his people in civil strife. With that unerring instinct which helped to make him the most marvellous diplomat and statesman the world has ever produced, he "saved all our objections," and yet avoided controversy with France in the initial stages of the French ascendency in Mexico.

But at last the Civil War was ended; and in April, 1866, Secretary Seward emphatically notified Napoleon to withdraw the French troops from Mexico, and that further intervention from France would not be tolerated. Napoleon promptly assented to this notification; and when Austria attempted to send troops to relieve Maximilian, Seward announced that, unless this intention were abandoned, the American minister would be recalled at once from Vienna. In the mean time a large force of United States troops under General Sheridan was sent to Texas; and it was generally understood that if the diplomatic negotiations should fail, this force would descend quickly upon Mexico, and co-operate with Juarez to conquer or expel the French and Austrians.

In January, 1867, the French troops commenced evacuating Mexico, and within a month practically all of them had gone. There were left with Maximilian but a few native Mexican troops and a small auxiliary body of Austrians to meet the onslaught of Juarez, who, encouraged by the course and attitude of the United States, had succeeded in raising a powerful force.

On May 15, 1867, Juarez, at the head of the liberal forces, entered Querétaro, where for several weeks Maximilian had been sustaining a siege. Juarez intrigued with Colonel Miguel Lopez, who was one of the Emperor's favorites and an officer of his staff; and unto Juarez, for $48,000, were Maximilian and his generals, by Lopez, betrayed.

So far the course of the United States had been unexceptionable; but there was a disgraceful sequel. Learning that Maximilian was besieged in Querétaro, the Emperor of Austria, his brother, requested the United States to interfere on his behalf; and our minister to Mexico was directed by Secretary Seward to advise Juarez of the desire of the United States that in case of capture "the Prince and his supporters may receive the humane treatment awarded by civilized nations to prisoners of war."

The representatives of other civilized nations made similar representations, but, notwithstanding all sorts of guaranties and petitions, Maximilian and his aids, Miramon and Mejia, after a so-called trial by court martial, were executed, by order of Juarez, on June 19, 1867.

Of course, this execution was cold-blooded murder, nothing more nor less, and the part played by our government in the affair was despicable and pusillanimous in the extreme. It might be feared that an Indian of the savage proclivities of Juarez would seek to wreak vengeance upon his captives, for of such barbarous texture as this is the known code of savage warfare. But the United States had interposed in, and assumed jurisdiction over, this conflict, causing Maximilian to be deprived of the support upon which he had relied; it was therefore in good faith and equity the solemn obligation of the United States to see that Maximilian and his generals should receive after their surrender the treatment accorded prisoners under the rules of civilized warfare. Juarez could never have captured Maximilian had not the United States intervened; therefore it devolved upon the United States to have a care that this capture were not followed by murder.

The assumption of authority without a complemental shouldering of responsibility is a most immoral procedure; it is most unfair dealing. At the hands of the Indian, the barbarous Juarez, even murder hardly causes surprise; but at the hands of the United States we expect, and have a right to expect, justice, mercy, and a conscientious regard for civilized practices. If the United States becomes the ally of a barbarian, the United States must not degrade itself to the lower level; rather must the barbarian be lifted to the higher.

Secretary Seward should have peremptorily commanded Juarez not to put to death Maximilian or any of his followers, either before or after a "court martial" or any other so-called "trial." If that command were disobeyed, then Juarez and his aiders should have been dealt with as common outlaws; the United States army should have been directed to capture them at all hazards, and bring them before the bar of justice, there, if found guilty, to suffer the penalty of the law for having violated the precepts of civilization by putting to death prisoners of war.

It is not necessary to discuss the extensive correspondence between our government and France and Austria with reference to this matter. Suffice it to say that not once in all the voluminous discussion was the Monroe Doctrine mentioned.

It is plain that the peace and safety of the United States would have been seriously endangered had France succeeded in establishing and maintaining a monarchy in Mexico. With Canada to our north and Mexico to our south, both countries controlled by European nations and used as pawns on the international chess-board, ready to

combine against us on any and every question of American policy as the interests of their European dominators might dictate, the situation would have been fraught with unpleasant possibilities. No antiquated superstition had to be invoked to indicate our true interests here, no shibboleth to arouse flagging partisanship, often miscalled patriotism, and hence not one word during all this trying period was said about the Monroe Doctrine. Right in their general contention, the United States did not need to be bolstered up by it. Alas that the course of the United States in this chapter of history should have given one serious and lasting cause of regret, — the tarnish on our national honor resulting from the execution of Maximilian and his generals!

I

Since its formation in 1844, Santo Domingo (the Dominican Republic) had maintained the uneven tenor of its way; and in 1861 certain of the revolutionists, led by General Pedro Santana, endeavored to bring about a retransfer of the sovereignty of the Republic to Spain, in the hope that thus a more stable government might be attained. Secretary Seward expressed the sentiments of the United States as to this affair by saying that we should view with grave concern and dissatisfaction movements in Cuba toward Spanish authority in Santo Domingo. However, Spain sent troops thither. A long, bloody, and fruitless strife ensued, and the Spanish finally withdrew.

Disturbances in Santo Domingo continued. President Grant, in his second annual message, December 5, 1870, recommended its annexation, presenting as his opinion that, if it were not annexed to the United States, "a free port will be negotiated for by European nations in the Bay of Samana." He said:

> "The acquisition of Santo Domingo is an adherence to the Monroe Doctrine; it is a measure of self-protection; it is asserting our just claim to a controlling influence over the great commercial traffic soon to flow from west to east by way of the Isthmus of Darien."

No vote was ever taken on the above recommendation. Congress was at that time engaging in a bitter wrangle and indulging in much personal abuse of the President, and questions of state were sidetracked on account of personal and partisan rancor.

Santo Domingo and Haiti remain to-day in much the same condition in which they were at the time of the Grant message. The barbarous condition of this rich and beautiful island, whose sunset skies are no redder from the fading light of day than are her fields from the blood of her sons slain in useless, cruel, inhuman strife, is a terrible commentary upon the imbecility and impotency of our foreign policy. How long will the murderous barbarism of Santo Domingo endure — forever?

Even if we have no statesmen, only politicians; no leaders, only time-servers; no foreign policy, only the frayed remnants of a discredited national superstition, — ought not at least the American people to have instinct and common sense and decency enough to redeem from barbarism, once for all, this island so near our shores?

Why cite the Monroe Doctrine as warrant for annexing Santo Domingo to the United States? Our obligations to humanity are surely higher authority than an academic theory which exists without reason or sanction of any kind, save alone the fiat of a great government. Santo Domingo and Haiti should be placed under the protection of a civilized power, in order that on this unhappy island civilization may at last take root and thrive, yes, and abide, — there is *the* reason for annexation.

II

Another appeal to the Monroe Doctrine was made after the British Parliament, in 1867, passed the British North America Act, which bound into one confederation the provinces of Quebec, Ontario, New Brunswick, and Nova Scotia. (Within the next few years the provinces of British Columbia, Manitoba, and Prince Edward Island were admitted into the Confederation.) The Dominion Parliament was established at Ottawa, and a democratic and liberal government was guaranteed throughout the Confederation (capable of extension, under appropriate conditions, to all British North America), with the right of suffrage and substantially all the constitutional privileges which citizens of the United States possess, excepting the right of electing the executive.

Naturally the Monroe Doctrine croakers saw in this proceeding a "grave infringement of our rights." It was asserted that this legislation was against the "manifest destiny" of these provinces, which, if left to their own devices, would eventually become, it was said, a part of the United States. A resolution was introduced in Congress expressing great uneasiness at "such a vast conglomeration of American states, established on the monarchial principle, such a proceeding [the Confederation] being in contravention of the traditionary and constantly declared principles of the United States, and endangered their most important interests;" and Mr. Seward felt called upon to state that "British Columbia, by whomsoever possessed, must be governed in conformity with the interests of her people and of society upon the American continent."

Such rubbish as this was bandied about in the newspapers. Statesmen of a certain type were, of course, against England; and anemic philosophers, bowed beneath the dust of a thousand quarto volumes, expounded "general principles," "traditions," and similar foolishness, in an attempt to prolong the nine days' sensation.

It does not seem to have occurred to Mr. Seward, or to any one else, to proclaim the doctrine that Venezuela, Santo Domingo, Haiti, Colombia, and every other State of Latin America "by whomsoever possessed, must be governed in conformity with the interests of her people and of society upon the American continent."

If the United States were to take this position with reference to these southern communities, and enforce it, such a course would demonstrate broad statesmanship and sound policy. But to take this position with reference to Canada is to utter balderdash of an especially transparent type. British North America was, and is, a highly civilized government of a representative democratic type, monarchial in name rather than in fact, and any perturbation of our representatives over its establishment was entirely needless. Our "uneasiness" in regard to the latent possibilities of the British North American Confederation disclosed us in the unenviable attitude of opposing the legitimate development of a great civilized community at the North, while fostering barbaric deviltry at the South, — and why? Are our hearts wrong? Do we love savages and hate civilized men? Are we cravens; do we fear to have prosperous and happy neighbors on this continent? No! But in our blind and fatuous worship of a fetish we have ceased to reason, hugging to our hearts an outworn tradition of the past, recking little neither the appeal of the future nor the crying needs of the present. The world has moved since 1823, when the European monarchies were mostly absolutisms and the Latin-American countries gave promise of becoming genuine republics. Now most of the European nations have representative parliaments and constitutional guaranties, while the Latin-American countries have become military despotisms; yet we are still blindly clinging to the doctrine that applied before the reversal of conditions had taken place. "Tempora mutantur, et [non] nos mutamur in illis."

III

In 1866 Chili and Peru, as allies, were at war with Spain. The war had grown out of outrages committed upon Spanish citizens in Chili and Peru. For these outrages the allies had refused all redress, confidently expecting, in virtue of the Monroe Doctrine (or their interpretation of it), the support of the United States. In March of 1866 Valparaiso was bombarded by the Spanish fleet.

Secretary Seward wrote to Mr. Kirkpatrick, our envoy to Chili, on June 2, 1866, that the United States would "maintain and insist with all the decision and energy which are compatible with our existing neutrality that the republican system which is accepted by any one of those [Latin-American] States shall not be wantonly assailed, and that it shall not be subverted as an end of a lawful war by European powers."

One of the strange features of this correspondence and of the rank and file of pronouncements issuing from Washington is the persistence with which these Latin-American military despotisms are referred to as "republican" or "republics." If Chili and Peru were republics, that fact alone would of course constitute a *prima facie* bond of sympathy between us and them. But the word "republic" is a misnomer when applied to a murderous military dictatorship. Moreover, an attempt to arouse sympathy for a dangerous and irresponsible despotism when in difficulty with a European power, by conveying the idea, at least by implication, that it is a democracy being oppressed by an absolutism, is misplaced, if not disingenuous.

When the United States says that "the republican system which is accepted by any one of those States shall not be wantonly assailed," meaning, by "States," South American dictatorships, it apparently contemplates by its prohibition only attack from without. But these "republican" systems (if they ever existed) have been not only "assailed," but utterly destroyed; and the work of destruction has proceeded *from within,* not from without. It would be absurd to claim that the "republican" systems of South America are or ever have been endangered by the European powers. Furthermore, in every case where European powers have intervened, the Latin-American despotisms have been the aggressors; and the interventions have been for the protection of the nationals of the interveners against tyranny — or anarchy.

CHAPTER IV

APPLICATIONS AND DEVELOPMENTS OF THE MONROE DOCTRINE — THIRD PERIOD

IN recent years one of those interminable boundary disputes so common in South America afforded the pretext for a well-known ebullition of the Monroe Doctrine. A controversy between Venezuela and Great Britain, as to the dividing line between the former country and British Guiana, had been dragging along the tortuous path of diplomacy for half a century. Every country in South America has had a dozen such disputes in regard to frontiers wholly unsurveyed and mostly uninhabited. Until about the period of Cleveland's first administration Venezuela had been usually too busy over its revolutions to enter seriously into this matter. With Colombia, too, as well as with Great Britain, Venezuela had had boundary disputes over territory wholly unknown to the successive dictators or their military henchmen, and with regard to which there were not and never had been any records, or anything in the nature of a map except lines drawn from the imagination. But the English were improving Guiana, and gradually advancing the methods of civilization deeper and deeper into the border-land.

The writer does not purpose to narrate the history of the diplomatic correspondence between Venezuela and Great Britain upon this question. There was not, and there never had been, a definitely established boundary; and each side made such claims as it conceived its interests or its rights justified. The matter lay quiescent for long periods; it was only agitated between revolutions, and then always by Venezuela. Many of her demands were preposterous in the extreme, — for instance, that of January 31, 1844, claiming that Great Britain should recognize the Essequibo River as the boundary line.

Whenever Venezuela made a demand, or committed a trespass, or perpetrated an outrage, she hastened to lay her side of the story before the United States, secure in the belief that the State Department would give her an attentive hearing.

As early as 1876 Venezuela was at work trying to get the United States to become her ally in this matter; and in 1881 Mr. Evarts, Secretary of State under President Hayes, had informed the Venezuelan minister that "this government could not look with indiffer-

ence to the forcible acquisition of such territory by England" — referring to territory between the Essequibo and the Orinoco, since adjudged to England by The Hague Tribunal.

The American minister in Caracas, on November 30, 1881, sent to Secretary of State Blaine (Arthur's administration) a strong representation made by the Dictator of Venezuela on this subject; and in July, 1882, Secretary Frelinghuysen, Blaine's successor, proposed arbitration. Two years later, Mr. Frelinghuysen wrote to Minister Lowell, in London, that "in view of our interest in all that touches the independent life of the Republics of the American continent, the United States could not be indifferent to anything that might impair their normal self-control," etc.

The attitude of our government in the premises served to embolden the marauding Venezuelan bands whose normal occupation is revolution and pillage, and they made many attacks and committed many outrages upon British subjects and upon some Americans among them.

In 1883 marauders of this ilk, acting under authority of the Venezuelan Dictator, seized some English vessels and imprisoned and seriously maltreated their crews. Great Britain thereupon forced Venezuela to pay some $40,000 by way of indemnity. Naturally the Venezuelan Dictator protested, and appealed to the sacred Monroe Doctrine, served up with lurid and harrowing embellishments, and naturally the government at Washington listened to the lying, cunning scoundrels, suave as Chesterfield, who presented Venezuela's side of the case, and naively sympathized with the outragers of English ships and seamen, and grieved over that involuntary indemnity.

From this time onward the boundary dispute grew more acute and the efforts of Venezuela to involve the United States grew more persistent and systematic. Fresh advances by the English near the Orinoco's mouth, and occupancy by British miners of an interior district (claimed by Venezuela) where gold had recently been found, may be mentioned as two of the matters that added to the dispute. Both of these events occurred in the neighborhood of 1886–1887.

The Venezuelans would make aggressions upon the territory occupied by British colonists, the aggressors oftentimes murdering the colonial police or robbing the settlers, and then Washington would get the wrong end of the story. If the American minister in Caracas had been bought and paid for by the Venezuelan Dictator, he could not have served him more faithfully; while President Cleveland seemed to inspire first one Secretary of State, then another, with a frenzy of anxiety about the welfare of our "Sister Republic." The correspondence of Secretary Bayard, Secretary Gresham, and finally of Secretary Olney, on this subject, would give the reader, otherwise uninformed, the impression that the prime object of our national existence is to enforce the Monroe Doctrine.

I

On February 17, 1888, Secretary Bayard, writing to Mr. Phelps, Envoy of the United States to Great Britain, suggested that he should "express anew to Lord Salisbury the great gratification it would afford this government to see the Venezuelan dispute amicably and honorably settled, by arbitration or otherwise, and our readiness to do anything we properly can to assist in that end." In later years Mr. Bayard became the Ambassador of the United States to the Court of St. James; and it was the despatch of July 20, 1895, from Secretary Olney to Mr. Bayard in the latter capacity, that brought matters to a crisis.

Mr. Olney referred to the disparity in the strength of the two claimants, and alleged that Venezuela had striven for arbitration, which Great Britain had refused, except upon the renunciation by Venezuela of a large part of her claim. He continued:

> "Those charged with the interests of the United States are now forced to determine exactly what those interests are and what course of action they require. It compels them to decide to what extent, if any, the United States may and should intervene in a controversy between, and primarily concerning, only Great Britain and Venezuela, and to decide how far it is bound to see that the integrity of Venezuelan territory is not impaired by the pretensions of its powerful antagonist."

Mr. Olney further asserted that the United States was "entitled to resent and resist any sequestration of Venezuelan soil by Great Britain," and that it "may legitimately insist upon the merits of the boundary dispute being determined. . . . That distance and three thousand miles of intervening ocean," he said, "make any permanent political union between a European and an American state unnatural and inexpedient will hardly be denied. . . . The States of America, south as well as north, by geographical proximity, by natural sympathy, by similarity of governmental constitutions, are friends and allies, commercially and politically, of the United States. To allow the subjugation of any of them by a European power is, of course, to completely reverse that situation, and signifies the loss of all the advantages incident to their natural relations to us."

Mr. Olney went into a fine frenzy on the blessings of liberty, as exemplified in the Republican governments of South America, and thought that the people of the United States, imbued with these sentiments, "might not impossibly be wrought up to an active propaganda in favor of a cause so highly valued both for themselves and for mankind." But then he remembered that the "age of the Crusades has passed," so that it is incumbent upon us to settle down to the more prosaic business of enforcing the Monroe Doctrine for the "defence of the right of popular self-government." He was horror-

stricken at the thought that at the period of our Civil War, "had France and Great Britain held important South American possessions to work from and to benefit, the temptation to destroy the predominance of the Great Republic in this hemisphere by furthering its dismemberment might have been irresistible." Near the close of the despatch Mr. Bayard was instructed to "present the foregoing views to Lord Salisbury by reading to him this communication (leaving with him a copy should he so desire), and to reinforce them by such pertinent considerations as will doubtless occur to you." Mr. Olney intimated, moreover, that, in the event of Great Britain's declining to submit the question to arbitration, such a decision would be "a result not to be anticipated and in his [the President's] judgment calculated to greatly embarrass the future relations between this country [the United States] and Great Britain."

Did ever a more extraordinary specimen of assurance than this communication issue from the State Department of a civilized country? Fortunately for the world Victoria's incomparable personal influence with her subjects and government doubtless prevented the war that Mr. Olney's amazing despatch might well have provoked.

In reply, Lord Salisbury, in his despatch of November 26, 1895, to the British Ambassador in Washington, Sir Julian Pauncefote, controverted most of Mr. Olney's positions, denied that the Monroe Doctrine had any application to the Venezuelan boundary dispute, and stated that the doctrine, while entitled to respect on account of its origin and the great nation that had promulgated it, was nevertheless not international law, and had never been accepted by the government of any other country. He said:

"The government of the United States is not entitled to affirm as a universal proposition, with reference to a number of independent States, for whose conduct it assumes no responsibility, that its interests are necessarily concerned in whatever may befall them, simply because they are situated in the Western Hemisphere."

II

The correspondence between Mr. Olney and Lord Salisbury was submitted to Congress, on December 17, 1895, by President Cleveland, a considerable portion, including the conclusion, of his message being as follows:

"Without attempting extended argument in reply to these positions, it may not be amiss to suggest that the doctrine upon which we stand is strong and sound because its enforcement is important to our peace and safety as a nation, and is essential to the integrity of our free institutions and the tranquil maintenance of our distinctive form of government. It was intended to apply to every stage of our national life, and cannot become obsolete while our Republic endures. . . .

"In the belief that the doctrine for which we contend was clear and definite, that it was founded upon substantial considerations and involved our safety and welfare, that it was fully applicable to our present conditions and to the state of the world's progress, and that it was directly related to the pending controversy, and without any conviction as to the final merits of the dispute, but anxious to learn in a satisfactory and conclusive manner whether Great Britain sought, under a claim of boundary, to extend her possessions on this continent without right, or whether she merely sought possession of territory fairly included within her lines of ownership, this government proposed to the government of Great Britain a resort to arbitration as the proper means of settling the question to the end that a vexatious boundary dispute between the two contestants might be determined and our exact standing and relation in respect to the controversy might be made clear.

"It will be seen from the correspondence herewith submitted that this proposition has been declined by the British government upon grounds which in the circumstances seem to me to be far from satisfactory. It is deeply disappointing that such an appeal, actuated by the most friendly feelings towards both nations directly concerned, addressed to the sense of justice and to the magnanimity of one of the great powers of the world and touching its relations to one comparatively weak and small, should have produced no better results.

"The course to be pursued by this government in view of the present condition does not appear to admit of serious doubt. Having labored faithfully for many years to induce Great Britain to submit this dispute to impartial arbitration, and having been now finally apprized of her refusal to do so, nothing remains but to accept the situation, to recognize its plain requirements and deal with it accordingly. Great Britain's present proposition has never thus far been regarded as admissible by Venezuela, though any adjustment of the boundary which that country may deem for her advantage and may enter into of her own free will cannot of course be objected to by the United States.

"Assuming, however, that the attitude of Venezuela will remain unchanged, the dispute has reached such a stage as to make it now incumbent upon the United States to take measures to determine with sufficient certainty for its justification what is the true divisional line between the Republic of Venezuela and British Guiana. The inquiry to that end should of course be conducted carefully and judicially, and due weight should be given to all available evidence, records, and facts in support of the claims of both parties.

"In order that such an examination should be prosecuted in a thorough and satisfactory manner, I suggest that the Congress make an adequate appropriation for the expenses of a Commission, to be appointed by the Executive, who shall make the necessary investigation and report upon the matter with the least possible delay. When such report is made and accepted, it will in my opinion be the duty of the United States to resist by every means in its power, as a wilful aggression upon its rights and interests, the appropriation by Great Britain of any lands or the exercise of governmental jurisdiction over any territory which after investigation we have determined of right belongs to Venezuela.

"In making these recommendations I am fully alive to the responsibility incurred and keenly realize all the consequences that may follow.

"I am nevertheless firm in my conviction that while it is a grievous thing to contemplate the two great English-speaking peoples of the world as being otherwise than friendly competitors in the onward march of civilization, and strenuous and worthy rivals in all the arts of peace, there is no calamity which a great nation can invite which equals that which follows a supine submission to wrong and injustice and the consequent loss of national self-respect and honor, beneath which are shielded and defended a people's safety and greatness."

In pursuance of the President's message, Congress passed a law authorizing the appointment, by the President, of a commission to "investigate and report upon the true divisional line between the republic of Venezuela and British Guiana." A commission of five prominent men was soon after appointed, and they proceeded to the work of investigation. Negotiations looking toward arbitration still continued, however. Great Britain withdrew her insistence that the territory she claimed within the Schomburgk line be not questioned, but she demanded as a condition precedent to arbitration that the rights of English settlers who had occupied this section for a considerable time, believing it to be British territory, should be scrupulously respected. Finally a treaty of arbitration was drawn up, specifying that adverse holding or prescription during a period of fifty years should make a good title, and that "the arbitrators might deem exclusive political control of a district, as well as actual settlement, sufficient to constitute adverse holding or to make title by prescription."

The treaty was signed at Washington on February 12, 1897. The arbitrators assembled in Paris in June, 1899, and on October 3 made their award. It was a distinct victory for England on almost every contention, and aroused much criticism among the partisans of Venezuela.

III

The enthusiasm of the swarthy agitators of Venezuela was greatly abated, not only by the award itself, but also by the very respectable fees asked by her American lawyers, chief of whom was ex-President Harrison. To this day the Venezuelans, even the most influential ones, when discussing this episode among themselves, say that the Americans urged arbitration in order that their former President might obtain a big lawyer's fee.

Puerile indeed appears our whole performance in this case. The United States appears to have strained "at a gnat," and may congratulate itself that no camel-swallowing act followed. Mr. Henderson, in his "American Diplomatic Questions," noting the views against "Mr. Olney's radical position," very justly says:

"Finally, it was insisted that the occupation by Great Britain of some hundreds of miles of comparatively worthless territory in South America,

theretofore considered as belonging to Venezuela, in no manner affected the rights or interests of the United States. On the contrary, some critics rather openly hinted that the settlement of the disputed area by British subjects would give to the territory better chances for development under an assured good government, and that England's occupation of the tract would therefore inure to the advantage of American trade. So far as the wilds of the upper Orinoco were capable of civilized occupation, it would be better for the commercial interests of the world if they were under British jurisdiction than under the uncertain rule of a nation whose weak and faltering government has been throughout its history subject to constant revolution. American trade with Great Britain and with British possessions far exceeded the slender volume of American commerce with Venezuela. Indeed, to have imperilled even for a year the five hundred millions of trade with Great Britain for the sake of the annual two or three millions with Venezuela would have been a quixotic proceeding. This suspected expansion of British territory in South America involved no danger to the safety of the United States. England already possessed Canada with a contiguous boundary line of nearly three thousand miles. The islands of Newfoundland, Bermuda, the Bahamas, Jamaica, together with numerous smaller islands of the Lesser Antilles and Trinidad, already formed a chain of English naval posts along the coast of the United States. Belize and British Guiana supplemented these outposts, and all of these English possessions, barring the last, are nearer to the United States than is the territory in dispute, — indeed, a direct line from the southernmost point of Florida to the mouth of the Orinoco River is about sixteen hundred miles. The addition of this tract of land to existing English possessions in the Western Hemisphere would have been, after all, a matter of little consequence. The country was a tropical jungle, where the maintenance of military forces would be impossible, on account of its extremely unhealthy climate; and such military posts as England would be likely to establish thereabouts would be located in her existing Guiana colony. Under these circumstances the danger to the United States arising out of British occupation appeared to be wholly imaginary. If British acquisition of this disputed territory lying so far distant could be justly regarded as threatening the safety of the United States, by similar process of reasoning, to what deplorable condition of helplessness is the American government reduced by the cordon of English possessions, naval stations, and fortified positions which have threatened it for one hundred years!

"Whatever may have been the dangers of European colonization in 1823, that danger had ceased to exist. English liberty is as well guarantied as American liberty. The English colonist is as jealous of his rights and as determined in the support of human freedom as is the American. Wherever he or his descendants go, industry, trade, commerce, civilization, and religion go with them. In reality, the English government in its actual administration more nearly approximates that of the United States than does the government of Venezuela."

IV

Mr. Cleveland, since his retirement from the presidency, has written a book entitled "Presidential Problems," in which he discusses this Venezuelan boundary case at some length, and with a show

of partisanship in favor of Venezuela, which serves merely to emphasize either his ignorance of conditions in that country or some latent antagonism towards Great Britain not justified by the facts of the controversy. In concluding his essay he says:

"I know that occasionally some Americans of a certain sort, who were quite un-American when the difficulty was pending, have been very fond of lauding the extreme forbearance and kindness of England toward us in our so-called belligerent and ill-advised assertion of American principle. Those to whom this is a satisfaction are quite welcome to it.

"My own surprise and disappointment have arisen more from the honest misunderstanding and the dishonest and insincere misrepresentation, on the part of many of our people, regarding the motives and purposes of the interference of the government of the United States in this affair. Some conceited and doggedly mistaken critics have said that it was dreadful for us to invite war for the sake of a people unworthy of our consideration, and for the purpose of protecting their possession of land not worthy possessing. It is certainly strange that any intelligent citizen, professing information on public affairs, could fail to see that when we aggressively interposed in this controversy it was because it was necessary in order to assert and vindicate a principle distinctively American, and in the maintenance of which the people and government of the United States were profoundly concerned. It was because this principle was endangered, and because those charged with the administrative responsibility would not abandon or neglect it, that our government interposed to prevent any further colonization of American soil by an European nation. In these circumstances neither the character of the people claiming the soil from Great Britain, nor the value of the lands in dispute, was of the least consequence to us; nor did it in the least concern us which of the two contestants had the best title to any part of the disputed territory, so long as England did not possess and colonize more than belonged to her — however much or however little that might be. But we needed proof of the limits of her rights in order to determine our duty in defence of the Monroe Doctrine, and we sought to obtain such proof, and to secure peace through arbitration.

"But those among us who most loudly reprehended and bewailed our vigorous assertion of the Monroe Doctrine were the timid ones who feared personal financial loss, or those engaged in speculation and stock-gambling, in buying much beyond their ability to pay, and generally in living by their wits. The patriotism of such people traverses exclusively the pocket nerve. They are willing to tolerate the Monroe Doctrine, or any other patriotic principle, so long as it does not interfere with their plans, and are just as willing to cast it off when it becomes troublesome. . . .

"I hope there are but few of our fellow-citizens who, in retrospect, do not acknowledge the good that has come to our nation through this episode in our history. It has established the Monroe Doctrine on lasting foundations before the eyes of the world; it has given us a better place in the respect and consideration of the people of all nations, and especially of Great Britain; it has again confirmed our confidence in the overwhelming prevalence among our citizens of disinterested devotion to American honor; and last, but by no means least, it has taught us where to look in the ranks of our countrymen for the best patriotism."

Mr. Cleveland's characterization of those who criticised his action in this case, as "Americans of a certain sort," or as "quite un-American," or as "timid ones who feared personal financial loss, or those engaged in speculation and stock-gambling," whose patriotism "traverses exclusively the pocket nerve," is on a par with the remainder of his most extraordinary actions in this case.

I must assure Mr. Cleveland that there are gentlemen, many of them, who do not belong to any of the classes he enumerates, who are just as patriotic American citizens as he is, fully as moral, conscientious, painstaking, well-balanced, conservative, intelligent, and quite as scholarly, and who know a thousand times as much about Venezuela as he knows, or ever will know, and who regard his action in the premises as bordering on criminal insanity.

Did not Mr. Cleveland know, does he not know now, that the very existence of the Monroe Doctrine depends upon the good-natured tolerance of England?

If England had turned on her heel, and snapped her fingers, and said to Mr. Cleveland and his Secretary, Mr. Olney, "Your Monroe Doctrine is dead and the corpse stinks," does not every thinking man know that the thing in fact would have been dead beyond all possibility of resurrection?

Every nation on this earth would have joined with England, should she have desired it, on that proposition. Mr. Cleveland stood ready with phlegmatic *sangfroid* to precipitate a wicked and indefensible war, of a magnitude which no human being could conceive, in all probability with the combined naval and military powers of the earth, while at the same time the party of which he is such a conspicuous member is eternally crying out with strident screeching against any increase of our own military or naval power, on the ground that it will lead to "militarism"!

And "in retrospect" I, at least, am one American who does "not now acknowledge the good that has come to our nation through this episode in our history," nor do I acknowledge that any good has come to any one from it. Nor do I believe that "it has established the Monroe Doctrine on lasting foundations before the eyes of the world," for I do not believe that such a monster of iniquity can be "firmly established" while there is sense and decency among men.

CHAPTER V

THE MONROE DOCTRINE — FOURTH PERIOD IN ITS HISTORY AND DEVELOPMENT

DURING the administration of President McKinley the United States took control of the Philippine Islands and Porto Rico, and, by the Platt amendment, placed certain limitations on Cuba. These acts were regarded by many persons as modifying in some way the Monroe Doctrine. It was argued, if the United States had reversed its traditional policy with reference to the Eastern Hemisphere by acquiring interest there, it must necessarily recede from its policy in the Western Hemisphere, known as the Monroe Doctrine, in virtue of which European nations were forbidden to acquire territorial interest here. This argument is not sound in logic. That a government may change its policy with reference to one hemisphere does not mean that it must change it with reference to the other. The administration of Theodore Roosevelt, however, has added considerable to the literature, if not to the actual history, of the Monroe Doctrine.

Unfortunately, American presidents and their secretaries of State are, as a class, men who have travelled but little; at any rate, their knowledge of the Latin-American dictatorships is very superficial. It would seem, with reference to these countries in which the United States is supposed to have such a direct and peculiar interest, that the American Secretary of State should be a man who had resided in some of them for at least three or four years, and should have a good working knowledge of the Spanish language and of the laws, history, and general conditions prevailing there. The semi-occasional executive pronunciamentos concerning the sacred Monroe Doctrine might then be entitled to a second reading. In the absence of this definite knowledge presidential expressions on the Monroe Doctrine are usually made up of little else than glittering generalities and platitudes.

I. President Roosevelt's Views of the Monroe Doctrine

President Roosevelt declared that, as we could not under the Monroe Doctrine allow European nations to take possession of Latin-American territory, so we could not allow the Latin-American nations

so to conduct themselves as to make such action on the part of the European nations necessary. Those words look well in print, and would receive the thundering applause of an audience. But what do they mean? They mean either that it is our duty to establish civilized governments where there are now semi-barbarous governments, — that is, that it is our duty to see that foreigners are protected in their lives and property in Venezuela and the other lands of darkness; or they mean nothing! If they mean the former, they import the destruction of barbarism and the establishing of civilization in the Western Hemisphere; they signify a greater reformation and a stronger upward impetus to progress than has been recorded in the history of modern times; they indicate that Roosevelt's name will lead all the rest as a benefactor of mankind.

But is it true? Do Mr. Roosevelt's words mean what they say? Has the government of the United States, under Roosevelt, protected its own citizens in Latin America? Has it defended their lives, their liberty, or their property? Mr. Roosevelt has distinctly stated that he would not undertake to defend the rights of our citizens growing out of contracts with the Latin-American countries. How absurd, then, is it to talk in such grandiloquent terms about the United States preventing the Latin-American countries from making it necessary for the European governments to interfere for the protection of their citizens! If the government of the United States will not protect its own citizens — and it admits frankly that it will not — why make any pretence of performing greater and more wonderful feats?

One action of President Roosevelt which will go to make a part of the history of the Monroe Doctrine is worthy of consideration. It relates to Santo Domingo, concerning which a message was sent by the President to the Senate in February, 1905. For years prior to this, Santo Domingo had been the scene of interminable bloodshed and virtual social dissolution. A three-cornered revolution had prevailed between the forces of Morales, Jimenez, and Gil y Wos. At times there were three governments; at other times none. Finally Morales, gaining substantial control of the warring factions, and finding his government confronted with serious problems at home and abroad, had the good sense to appeal to the United States for practical support. President Roosevelt endeavored to straighten matters out, but he was hampered in a serious manner by the inaction of the United States Senate in failing to ratify the protocol which he submitted to it. In his message to the Senate the President stated that conditions had been growing steadily worse in Santo Domingo for several years, owing to revolutions, and to the improvident management of the government, and that certain foreign countries were talking of taking possession of the custom houses, in order to satisfy the claims of their citizens.

Santo Domingo had violated many contracts and concessions,

thereby giving ground for such foreign interference, which, however, would be inimical to the interests of the United States.

Continuing, the President says:

"The conditions in the Dominican Republic not only constitute a menace to our relations with other foreign nations, but they also concern the prosperity of the people of the island, as well as the security of American interests, and they are intimately associated with the interests of the South Atlantic and Gulf States, the normal expansion of whose commerce lies in that direction. At one time, and that only a year ago, three revolutions were in progress in the island at the same time.

"It is impossible to state with anything like approximate accuracy the present population of the Dominican Republic. In the report of the Commission appointed by Grant in 1871, the population was estimated at not over 150,000 souls, but according to 'The Statesman's Year Book,' for 1904, the estimated population in 1888 is given as 610,000. The bureau of the American Republics considers this the best estimate of the present population of the Republic. As shown by the unanimous report of the Grant Commission, the public debt of the Dominican Republic, including claims, was $1,656,831.59½. The total revenues were $772,684.75½. The public indebtedness of the Dominican Republic, not including all claims, was on September 12 last, as the Department of State is advised, $32,280,000; the estimated revenues under the Dominican management of custom houses were $1,850,000; the proposed budget for current administration was $1,300,000, leaving only $550,000 to pay foreign and liquidated obligations, and payments on these latter will amount during the ensuing year to $1,700,000 besides $900,000 of arrearages of payments overdue, amounting in all to $2,600,000. It is therefore impossible under existing conditions, which are chronic, and with the estimated yearly revenues of the Republic, which during the last decade have averaged approximately $1,600,000, to defray the ordinary expenses of the government and to meet its obligations.

"The Dominican debt owed to European creditors is about $22,000,000, and of this sum over $18,000,000 is more or less formally recognized. The representatives of European governments have several times approached the Secretary of State setting forth the wrongs and intolerable delays to which they have been subjected at the hands of the successive governments of Santo Domingo in the collection of their just claims, and intimating that unless the Dominican government should receive some assistance from the United States in the way of regulating its finances, the creditor governments in Europe would be forced to resort to more effective measures of compulsion to secure the satisfaction of their claims.

"If the United States government declines to take action and other foreign governments resort to action to secure payment of their claims, the latter would be entitled, according to the decision of The Hague Tribunal in the Venezuelan cases, to the preferential payment of their claims; and this would absorb all the Dominican revenues, and would be a virtual sacrifice of American claims and interest in the island. If, moreover, any such action should be taken by them, the only method to enable them to secure the payment of their claims would be to take possession of the custom houses, and, considering the state of the Dominican finances, this would mean a definite and very possibly permanent occupation of Dominican territory, for no period could

be set to the time which would be necessarily required for the payment of their obligations and unliquidated claims.

"The United States government could not interfere to prevent such seizure and occupation of Dominican territory without either itself proposing some feasible alternative in the way of action or else virtually saying to European governments that they would not be allowed to collect their claims. This would be an unfortunate attitude for the government of the United States to be forced to maintain at present. It cannot, with propriety, say that it will protect its own citizens and interests, on the one hand, and yet, on the other hand, refuse to allow other governments to protect their citizens and interests."

II. Outcome of the Santo Domingo Case

In the protocol submitted by the President it was provided that the United States should attempt the adjustment of all the obligations of the Dominican government, foreign as well as domestic, including the determination of the reasonableness and validity of the claims. To this end the United States was to take charge of the custom houses, giving to the government of Santo Domingo not less than 45 per cent of the total amount collected, applying the remaining 55 per cent to the payment of outstanding claims. The events which led to the submission of this protocol by the President are thus described by Jacob B. Hollander, in the "American Journal of International Law," April, 1907, pp. 287 *et seq.*:

"The recent history of Santo Domingo may be conveniently dated from the energetic movement to effect its annexation to the United States in 1869–1870. The amazing political experiences of the Republic in the thirty-five years which succeeded the annexation movement can only be described as a miserable sequence of revolution and anarchy, interrupted by ruthless and blood-stained dictatorships. From 1871 to 1882 Cabral, Baez, Gonzalez, and Luperon alternated in control, their struggles being marked by uprising, ravage, and bloodshed, and terminating invariably in social demoralization and economic ruin. It was during this decade that the most vicious rules of the game of revolution as it is played in San Domingo won acceptance. In 1882 Ulises Heureaux came to the fore in Dominican politics, and the next seventeen years form the story of his uncontrolled dominance. For a time his creatures were installed in the presidency to preserve a semblance of constitutional form, but throughout he was absolute Dictator. Heureaux's rule was not even a benevolent despotism. Brutal cruelty, insatiable greed, moral degeneracy, were the man's personal characteristics, and they shaped his political conduct and his administrative activity. If San Domingo was at peace during Heureaux's time, it was the peace of merciless terrorism, not the quiet of civil government.

"A seeming well-being prevailed, but it was attained by bartering the resources of the country in prodigal concessions and by discounting the future in reckless debt accumulation. With Heureaux's assassination in 1899 came the deluge, and the next five years constitute a climax even in the history of Latin-American politics. Figuero, Vasquez, Jimenez, Vasquez again, Gil y

Wos, and Morales successively occupied the presidential chair, each attaining it by much the same means and holding it by as uncertain tenure. The ordinary crimes of the political decalogue became commonplace. The country was laid waste, the people crushed to hopelessness, the treasury left to stew in utter bankruptcy, and a host of creditors, foreign and domestic, after tightening their hold upon the future became more and more insistent in the present."

The United States Senate failed to ratify the protocol of February 15, 1905. An *interim* arrangement was made by the President with Santo Domingo, along similar lines, which served in a measure to preserve the revenues of the dictatorship until the ratification of a new protocol, which was signed by the representatives of the two governments on February 8, 1907, and ratified by the United States Senate on the 15th of the same month.

This protocol recites that foreign creditors have agreed to accept $12,407,000 for debts and claims amounting to $21,184,000 face value; that holders of internal debts will take $645,827 for claims of $2,028,258 face value, and that other claimants of the same class will receive about $2,400,000; making the total of liquidated claims about $17,000,000. A part of the plan contemplated the issuance of $20,000,000 of 5 per cent bonds, redeemable in ten years, the proceeds to be applied to the payment of the aforesaid claims. Under this protocol the United States will control the administration of the custom houses, and thus one of the main incentives to revolution — the hope of seizing the revenues of the government — will be cut off. There yet remains the privilege of looting the property of foreigners as the reward of revolution, and it cannot therefore be said that peace is in any wise assured, but conditions, at all events, are certain to improve.

III. Present Attitude of the United States Government

As the Monroe Doctrine is a President-made doctrine, it becomes important to analyze carefully the position which is taken on this subject by the latest Chief Executive of the United States. We have quoted from Mr. Roosevelt's message on the Santo Domingo problem; now let us see what is his position on the broader question.

In an address before the Chautauqua Assembly in August, 1905, President Roosevelt defined his policy in the following language:

"To-day I wish to speak to you on one feature of our national foreign policy and one feature of our national domestic policy.

"The Monroe Doctrine is not a part of international law. But it is the fundamental feature of our entire foreign policy so far as the Western Hemisphere is concerned, and it has more and more been meeting with recognition abroad. The reason why it is meeting with this recognition is because we have not allowed it to become fossilized, but have adapted our construction

of it to meet the growing, changing needs of this hemisphere. Fossilization, of course, means death, whether to an individual, a government, or a doctrine.

"It is out of the question to claim a right and yet shirk the responsibility for exercising that right. When we announce a policy such as the Monroe Doctrine, we thereby commit ourselves to accepting the consequences of the policy, and these consequences from time to time alter.

"Let us look for a moment at what the Monroe Doctrine really is. It forbids the territorial encroachment of non-American powers on American soil. Its purpose is partly to secure this nation against seeing great military powers obtain new footholds in the Western Hemisphere, and partly to secure to our fellow republics south of us the chance to develop along their own lines without being oppressed or conquered by non-American powers. As we have grown more and more powerful, our advocacy of this doctrine has been received with more and more respect; but what has tended most to give the doctrine standing among the nations is our growing willingness to show that we not only mean what we say and are prepared to back it up, but that we mean to recognize our obligations to foreign peoples no less than to insist upon our rights.

"We cannot permanently adhere to the Monroe Doctrine unless we succeed in making it evident in the first place, that we do not intend to treat it in any shape or way as an excuse for aggrandizement on our part at the expense of the Republics to the south of us; second, that we do not intend to permit it to be used by any of these Republics as a shield to protect that Republic from the consequences of its own misdeeds against foreign nations; third, that inasmuch as by this doctrine we prevent other nations from interfering on this side of the water, we shall ourselves in good faith try to help those of our sister Republics, which need such help, upward toward peace and order.

"As regards the first point we must recognize the fact that in some South American countries there has been much suspicion lest we should interpret the Monroe Doctrine in some way inimical to their interests. Now let it be understood once for all that no just and orderly government on this continent has anything to fear from us. There are certain of the Republics south of us which have already reached such a point of stability, order, and prosperity that they are themselves, although as yet hardly consciously, among the guarantors of this doctrine. No stable and growing American Republic wishes to see some great non-American military power acquire territory in its neighborhood. It is to the interest of all of us on this continent that no such event should occur, and in addition to our own Republic there are now already Republics in the regions south of us which have reached a point of prosperity and power that enables them to be considerable factors in maintaining this doctrine which is so much to the advantage of all of us. It must be understood that under no circumstances will the United States use the Monroe Doctrine as a cloak for territorial aggression. Should any of our neighbors, no matter how turbulent, how disregardful of our rights, finally get into such a position that the utmost limits of our forbearance are reached, all the people south of us may rest assured that no action will ever be taken save what is absolutely demanded by our self-respect; that this action will not take the form of territorial aggrandizement on our part, and that it will only be taken at all with the most extreme reluctance and not without having exhausted every effort to avert it.

"As to the second point, if a Republic to the south of us commits a tort against a foreign nation, — such, for instance, as wrongful action against the

persons of citizens of that nation, — then the Monroe Doctrine does not force us to interfere to prevent punishment of the tort, save to see that the punishment does not directly or indirectly assume the form of territorial occupation of the offending country. The case is more difficult when the trouble comes from the failure to meet contractual obligations. Our own government has always refused to enforce such contractual obligations on behalf of its citizens by the appeal to arms. It is much to be wished that all foreign governments would take the same view. But at present this country would certainly not be willing to go to war to prevent a foreign government from collecting a just debt or to back up some one of our sister Republics in a refusal to pay just debts, and the alternative may in any case prove to be that we shall ourselves undertake to bring about some arrangement by which so much as is possible of the just obligations shall be paid. Personally I should always prefer to see this country step in and put through such an arrangement rather than let any foreign country undertake it.

"I do not want to see any foreign power take possession permanently or temporarily of the custom houses of an American Republic in order to enforce its obligations, and the alternative may at any time be that we shall be forced to do so ourselves.

"Finally, — and what is, in my view, really the most important thing of all, — it is our duty, so far as we are able, to try to help upward our weaker brothers. Just as there has been a gradual growth of the ethical element in the relations of one individual to another, so that with all the faults of our Christian civilization it yet remains true that we are, no matter how slowly, more and more coming to recognize the duty of bearing one another's burdens, similarly I believe that the ethical element is by degrees entering into the dealings of one nation with another.

"Under strain of emotion caused by sudden disaster this feeling is very evident. A famine or a plague in one country brings much sympathy and some assistance from other countries. Moreover, we are now beginning to recognize that weaker people have a claim upon us, even when the appeal is made not to our emotions by some sudden calamity, but to our consciences by a long-continuing condition of affairs.

"I do not mean to say that nations have more than begun to approach the proper relationship one to another, and I fully recognize the folly of proceeding upon the assumption that this ideal condition can now be realized in full, — for in order to proceed upon such an assumption, we would first require some method of forcing recalcitrant nations to do their duty, as well as of seeing that they are protected in their rights.

"In the interest of justice, it is as necessary to exercise the police power as to show charity and helpful generosity. But something can even now be done toward the end in view. That something, for instance, this nation has already done as regards Cuba and is now trying to do as regards Santo Domingo. There are few things in our history in which we should take more genuine pride than the way in which we liberated Cuba, and then, instead of instantly abandoning it to chaos, stayed in direction of the affairs of the island until we had put it on the right path, and finally gave it freedom and helped it as it started on the life of an independent republic."

IV. Futility of Roosevelt's Program

It is clear that President Roosevelt's knowledge of Latin-American countries is nil, so far as personal observation is concerned. In his anxiety to stand up straight he leans backwards. Take a sentence from the President's speech:

> "Our own government has always refused to enforce such contractual obligations on behalf of its citizens by the appeal to arms. It is much to be wished that all foreign governments would take the same view. But at present this country would certainly not be willing to go to war to prevent a foreign government from collecting a just debt, or to back up some one of our sister Republics in a refusal to pay a just debt."

Well, it is to be hoped that our government would not go to war for such a purpose! It is to be hoped that there are enough sane men on the North American continent to prevent such murderous idiocy as that! But could a robbing, looting, murdering military Jefe in Latin America desire a nicer interpretation of the Monroe Doctrine than that above given?

We will not use force to protect our citizens in their contractual rights; and as a matter of fact we never have. Their railroads or mines or business houses or gold or residences can be taken from them by force, or by the hocus pocus called judiciary proceedings, and our government will only fire paper bullets, — it says so itself, — and we fervently hope all other nations will permit their citizens to be looted and outraged with similar expressions of suavity upon their lips! Great is the Monroe Doctrine!

"I believe that the ethical element is by degrees entering into the dealings of one nation with another."

Ought not that to work both ways? Does anybody suppose the Military Dictator of Venezuela or Honduras cares a rap for Christian ethics? If he does, why does he not quit robbing and murdering innocent and helpless people? Why did not some philosopher arise to talk of "Christian ethics" when we were dealing with Black Hawk and Sitting Bull and the rest of them? Does a sheriff go out to meet a band of highwaymen with a treatise on Christian ethics in his hands?

The President speaks of the possibility of our taking possession, in certain contingencies, of the custom houses of some of these sisters of ours. What good would that do? Can a Bengal tiger be overcome by cutting an inch off his tail? If not, then you cannot civilize a semi-barbarous dictatorship by seizing one of its custom houses.

What is needed is a complete regeneration, not a mere chastisement. "First seek ye the Kingdom of God and its righteousness, and all these things shall be added unto you." I would paraphrase this by saying: "First establish decent civilized governments

in these dictatorships, and everything else good will come in due season."

What use is it to talk of aggression or self-aggrandizement? A few years ago La Salle explored the West, and there was nothing but Indians there. A little later Fort Dearborn was an outpost on the banks of a murky stream where it entered the lake, with swamps and snakes and Indians all around; to-day the magnificent city of Chicago, with two million inhabitants, with inconceivable wealth, education, and creative intellectual power, stands on the site where such a short time ago the stealthy Indian guided his canoe amid the chirping of the bull-frogs. Is that aggression? Is that aggrandizement? If it be, then am I an aggressionist and an aggrandizer.

CHAPTER VI

PAN-AMERICAN CONFERENCES

IN the development of the general policy of the United States towards the Latin-American countries, the Pan-American conferences must be taken into consideration. They are an outgrowth of the sentimental attitude of the United States government, and may be said, directly or indirectly, to be related to the Monroe Doctrine.

Mention has been made in a preceding chapter of the efforts of Bolívar to inaugurate a Pan-American Congress at Panama in 1826, of the strenuous efforts made by President Adams to obtain the support of the United States Congress to the appointment of delegates, and of the bitter controversy which arose between the executive and legislative departments of the government on account of this subject. On June 22, 1826, representatives of Peru, Mexico, Central America, and Colombia met at Panama, adopted certain resolutions, and signed "a treaty of union, league, and perpetual confederation between the four States represented," to which the other powers were invited to give their assent. They provided that the convention should be renewed annually in time of war, and they also signed a "convention which fixes the contingent which each confederate should contribute to the common defence." After this Panama fiasco other efforts, between revolutions, were made by the South American countries to establish Pan-American Congresses.

The Dictators of Mexico, a country at that time in the throes of anarchy, seemed possessed with a desire to hold conferences, and issued various invitations to this effect to other countries, — on December 18, 1838, August 6, 1839, and April 2, 1840. These were without result.

In 1847 a conference was held of representatives of Bolivia, Chili, Ecuador, Peru, and New Granada at Lima. Nineteen meetings were held between December 11, 1847, and March 1, 1848, when the conference adjourned without having accomplished anything of practical importance.

On September 15, 1856, Peru, Chili, and Ecuador were represented at Santiago in a conference which proposed the "Continental Treaty"; but nothing ever came of it.

On January 11, 1864, Peru extended invitations to all the Spanish countries of the Western Hemisphere to meet at Lima in order,

among other things, to declare that "the American nations represented in this Congress form one single family, bound together by like principles and identical interests to maintain their independence, their autonomic rights, and their national existence." Bolivia objected to the United States being represented in this conference; but the objection meant little, since the meetings produced nothing.

Under date, October 11, 1880, Colombia sent invitations to the other Latin-American countries to hold a "Congress" in Panama in September, 1881. Lengthy essays on "peace," "arbitration," and the rest were written by the different "Doctors" representing the several countries. The Minister of Argentina, Bernado de Irigoyen, in answering Colombia's invitation, took occasion to call attention to the war then raging on the Pacific coast. He said:

> "Bolivia and Chili solemnly agreed upon arbitration, and notwithstanding this agreement, suggested by prudence and fraternity, differences not originally affecting the honor or dignity of those nations were left to the decision of the sword."

A general war broke out about the time fixed for the meeting of this "Congress"; it was, therefore, not held.

Under date, November 29, 1881, Secretary of State James G. Blaine issued a circular letter to all the American countries inviting them to a conference at Washington in 1882. Replies were received from most of the countries. Guzman Blanco, the Venezuelan Dictator, went into ecstasies over "this idea so transcendental, elevated, far-seeing, and practical." But while these grandiloquent replies were coming in to Mr. Blaine, the game of butchery proceeded in South America. When Mr. Frelinghuysen became Secretary of State, he realized how nonsensical it was to attempt to hold such a congress, with most of the countries represented involved in general and internecine strife. Therefore, on August 9, 1882, he sent out a circular letter withdrawing the invitations to the conference.

A "South American Congress" was held at Montevideo from August 25, 1888, to February 18, 1889. This "Congress" held thirty-five meetings and drafted treaties on international law, etc.

While these various schemes have been presented for Pan-American Congresses, a large number of different bills have been introduced in the Congress of the United States bearing on the subject. Those interested in the history of this subject are referred to the "Historical Appendix, International American Conference," Washington, 1890.

I

On May 24, 1888, the President approved a law of Congress authorizing him to invite the Latin-American governments to a conference to be held in Washington in 1889, for the purpose of discussing and recommending some plan of arbitration and settlement of dis-

agreements, and for various other purposes. They were to consider measures to preserve the peace, the formation of a customs union, the establishment of better communications, the adoption of a common silver coin, a uniform system of weights, measures, copyrights, trademarks, etc. Answers were promptly received from the several countries. The conference assembled in the Diplomatic Chamber at Washington on October 2, 1889. James G. Blaine, who was then Secretary of State, delivered an eloquent address of welcome. The conference was organized by the election of officers, the adoption of rules of procedure, the appointment of a large number of standing committees on railway communications, customs regulations, sanitary regulations, international law, etc.

Proposed Changes in International Law

The Latin-American delegates to this conference seemed to be very anxious to establish new doctrines of "International Law." Indeed, that would seem to be the prime function of these conferences, and the *raison d'être* for their existence. The "Congress" at Montevideo on March 25, 1888, had promulgated a number of proposed treaties affecting private international law, civil law, commercial law, and the law of proceedings; and this conference recommended that the respective governments "cause said treaties to be studied, so as to render themselves able, within the year . . . to declare whether they do or do not accept the said treaties."

The Committee on "Claims and Diplomatic Intervention" displayed in its report the true animus of this conference. This committee on April 12, 1890, submitted the following recommendations:

The International American Conference recommends to the governments of the countries therein represented the adoption, as principles of American international law, of the following:

(1) Foreigners are entitled to enjoy all the civil rights enjoyed by natives; and they shall be accorded all the benefits of said rights in all that is essential as well as in the form of procedure, and the legal remedies incident thereto, absolutely in like manner as said natives.

(2) A nation has not, nor recognizes in favor of foreigners, any other obligations or responsibilities than those which in favor of the natives are established, in like cases, by the Constitution and the laws.

Fernando Cruz.
Manuel Quintana.
J. M. P. Caamano.
Jose Alfonso.

The heart of this entire conference is summed up in this report, — the intention to deprive the foreigner at all hazards of the protection of his own government, so that the military Jefes could rob him to their hearts' content.

Several other reports were made by different committees, important or otherwise, according as to whether the reader regards the proceedings of this conference seriously. One of the reports contemplated a general plan of arbitration which was adopted. At the end of the conference, on October 3, 1889, the delegates started on an enjoyment tour throughout the United States, making a journey of about six thousand miles on a special train, to the principal cities of the United States.

II

The second Pan-American conference was held in the City of Mexico. It opened on October 22, 1901, and closed on January 31, 1902. The American delegates to this conference were Henry G. Davis, of West Virginia; William I. Buchanan, of Iowa; Charles M. Pepper, of the District of Columbia; Volney W. Foster, of Illinois; and John Barrett, of Oregon.

The delegates from the Latin-American countries were as a class the ablest men that the respective governments could select.

At the outset the conference, in its desire to regulate all things mundane, sent effusive cablegrams to Venezuela and Colombia — two sister Republics, which were at that time engaged in a hair-pulling contest — urging them to arrive at an "equitable and brotherly understanding" of their difficulties.

General Castro, Dictator of Venezuela, promptly sent the following cablegram to the conference:

"As the impartiality of your judgment will be the best guaranty for your opinion, I call your attention to the important fact that the Venezuelan government explained its conduct in this matter in a memorandum to friendly nations, and it would be very opportune if the Colombian government in turn should — since it has not up to this date — explain to you its reasons for permitting its army on that occasion to cross our frontier in a warlike attitude and an infamous and perfidious manner, no declaration of war having preceded it, and thereby causing great calamities to Venezuela.

"Colombia has been influenced only by the desire to establish conservative governments in the neighboring Republics, as appears from official documents issued by the Colombian Minister of War since April 1.

"Furthermore, shameful insults to the Venezuelan government constantly fill the columns of the Colombian official press. No case can be cited of the Venezuelan press indulging in such degrading conduct, wounding the majesty of the Colombian nation in the person of its magistrates.

"I thus sum up the desire of Venezuela to be that of peace with all civilized nations, but an honorable, fruitful peace, worthy of the existing civilization and progress."

General Castro has been severely criticised for this boorish message; but it does not seem to have occurred to the critics that he was attending to his own business when he received the cablegram from the conference.

When the flurry caused by Castro's cablegram subsided, the "Congress" settled down to business, adopted rules, elected officers, and appointed the following committees:

1. Arbitration, nineteen members.
2. Water Transportation, seven members.
3. Commerce and Reciprocity, nine members.
4. Tribunal of Equity or Claims, seven members.
5. Pan-American Railway, nine members.
6. Reorganization of the Bureau of American Republics, five members.
7. International Law, seven members.
8. Extradition, and Protection Against Anarchy, five members.
9. Pan-American Bank and Monetary Exchange, seven members.
10. Sanitary Regulations, seven members.
11. Patents, Trademarks, Weights and Measures, three members.
12. Practice of the Learned Professions and Literary Relations, three members.
13. Resources and Statistics, seven members.
14. Interoceanic Canal, five members.
15. Agriculture and Industries, five members.
16. Rules and Credentials, three members.
17. Future Pan-American Conferences, five members.
18. General Welfare, seven members.
19. Engrossing, three members.

Mr. Ignacio Mariscal, of Mexico, was elected Honorary President.

After the conference began its deliberations, it, of course, devoted a great deal of time and space to the discussion of international arbitration. Many of the delegates were in favor of declaring for the compulsory arbitration of all questions between the nations, except the pecuniary claims of foreigners for damages, which were to be relegated to the alleged courts of the several countries. Much oratory was spent on the beneficence of arbitration, but it was soon seen that there were intrigues and counter-intrigues in the proceedings. Noel says ("The Second Pan-American Congress," page 118):

> "Unfortunately, it is only too evident and self-confessed that, by securing the consent of the majority of the delegations to a plan of compulsory arbitration, to include 'present questions,' Peru and her allies cherished the delusion that they would then be able to find some method of bringing to the notice of the Congress her quarrel with Chili over the manner of conducting the Plebiscite concerning the proprietorship of the Provinces of Tacna and Arica."

The debate over the question of arbitration became so acute that it threatened to break up the conference, and on January 10 the delegations of Argentina, Bolivia, Peru, Paraguay, Venezuela, and Santo Domingo absented themselves, and announced that they would not participate any further in the meetings unless something were done to mollify them.

After all the discussions, the conference passed a resolution of "general adherence to the Conventions of The Hague," and matters rested there.

Arbitration of Pecuniary Claims

Of course no really successful Pan-American Congress could be held unless some new scheme or device were originated for aiding the military freebooters in looting the hapless foreigner who may be domiciled in those brigand territories; and this Congress was no exception to the rule. The delegates talk learnedly about "arbitration"; they deliver threadbare essays on sanitation, schemes which will never be put into practical operation; they discourse on "resources and statistics," the "learned professions," "customs union," "codification of international law," etc.; but every delegate knows that these discussions are perfunctory and useless. The real *raison d'être* of the conference, is the question of the "rights of aliens" ; in other words, what is the most scientific and artistic method of robbing the foreigner?

The Chilian delegation proposed the following articles:

"Article I. The contracting parties agree that their citizens have no right to claim indemnization for damages, losses, or exactions sustained in the territory of another country or State, in case of insurrection or civil war, except when the constituted authorities or their agents have failed to comply with their duties, or have not used the necessary vigilance or precautions.

"Art. II. In every case when a foreigner has claims or complaints of a civil, criminal, or administrative order against a State, he shall comply by filing his claim with the ordinary courts of such State. However, the government of the State to which a claimant belongs may solicit that such claims as may be designated by it shall be brought before the Supreme Court of the country against which the claim is made.

"Art. III. The contracting parties shall not officially support any claim of those which must be brought before a court of the country against which the claim is made, excepting cases in which the court has shown a denial of justice, or abnormal delay, or evident violation of the principles of International Law. It shall be understood that a denial of justice exists only in case the respective court refuses the claim based on the nationality of the claimant."

Several similar schemes were proposed by the different delegations. The conference finally adopted the following in the form of a convention, the American delegation abstaining from voting:

"First. Foreigners shall enjoy all civil rights granted to citizens, and they may make use thereof in substance, form, or procedure, and to the recourses to which they may give rise, under the same terms as the citizens.

"Second. The States shall not have, nor acknowledge, in favor of foreigners, any other obligations or responsibilities further than those established by the Constitution and the laws in favor of natives.

"Therefore the States shall not be responsible for damages sustained by foreigners through the acts of rebels or individuals, and in general for damages originating from fortuitous cases of any kind, considering as such the acts of

war, whether civil or national, except in case of negligence on the part of the constituted authorities in the fulfilment of their obligations.

"THIRD. Whenever a foreigner may have claims or complaints of a civil, criminal, or administrative nature against a State or its citizens, he shall apply to a competent court, filing at the same time his demands, and such claims or complaints shall not be made through diplomatic channels, except in cases where there may have been, on the part of the court, manifest denial of justice, or unusual delay, or evident violation of the principles of international law.

"FOURTH. The American States shall recognize the principle of native citizenship, and therefore they shall consider as citizens the individuals born in their respective territory.

"FIFTH. Naturalized foreigners, who abandon the territory of the State, to establish themselves in the country of their origin with no intention of returning, shall lose the right which they acquired by naturalization."

It is useless to waste space discussing this absurd convention. The very first statement, that "foreigners shall enjoy all the civil rights granted to citizens," is untrue, because in many of the countries in question foreigners are prohibited by the "Constitution" or laws from owning real estate. All kinds of discriminations are made against them, while the citizens have some blessed privileges, such as the "recluta" and the "forced loan," that foreigners do not want.

The declaration that "the States shall not be responsible for damages sustained by foreigners through acts of rebels or individuals," etc., is in harmony with the policy of all the Central and South American countries. This doctrine is a poisonous fungus, which has grown up under the shadow of the Monroe Doctrine. It is time that civilization put an end to it.

CODIFICATION OF INTERNATIONAL LAW

Of course, no genuine Pan-American conference could meet without upsetting, suppressing, amending, interpreting, abolishing, codifying, or otherwise maltreating international law, or some of its provisions. The fact that international law has been growing up for thousands of years among the civilized powers; the fact that no one nation or combination of nations, let alone a body of amateur "jurists," doctors, and politicians, has authority to change this law; the fact that the great powers of the earth are amply competent to decide upon their own policies without the impertinence of outside suggestion, — these facts are lost sight of when a so-called Pan-American Congress gets through with its preliminary speeches and champagne, and settles down to the more prosaic work of regulating the universe.

This conference provided for commissions of "jurists" who should be charged with the preparation of a "Code of International Law" and a "Code of International Private Law." Of course these "codes" will not omit to provide fully and specifically as to just what may be done to "foreigners" who are caught within the territorial limits of the Latin-American countries in question.

The Pan-American Railway

The conference did some things which, in their way, were really praiseworthy.

It sent a message of encouragement to "the brilliant young Brazilian aeronaut Santos-Dumont." It can readily be seen that the subject of balloons would arouse a sympathetic interest among the delegates — it is such a practical question. Doubtless the real sentiment of the Congress was that Santos-Dumont's gas-bag should be taken under the protection of the Monroe Doctrine. While this sentiment, if it existed, did not find verbal expression, two other still greater "gas-bags" were blown up by the conference with as much enthusiasm as a boy would blow a soap-bubble. The first was a recommendation that a "large banking-institution, established in an important mercantile centre of the continent, with branches in the principal cities of the American republics, would stimulate trade." Such a bank would doubtless be very handy in times of revolution. It could supply both the "ins and the outs," and take their promises to pay — *mañana.*

The second project was the Pan-American railway from New York to Buenos Ayres. Of course, the enthusiasm for this scheme was indescribable. Panegyrics over it were entirely in order. The committee made a report in which it was stated:

"From this it will be seen that it was estimated by the engineers of the commission, at the time their report was made in 1895, that $175,000,000 will construct the railroad necessary to join existing lines and give through-rail communication. Since then some additional railroad has been built, and could be utilized as a part of a continental system, and it is the opinion of this committee that now not more than 500 miles of road would have to be constructed to establish railway communication between the systems of North America and South America. Basing the cost at $40,000 per mile, which we believe would be ample, $200,000,000 would be required for this great work. The surveys made by the engineers of the commission demonstrate the practicability of constructing the needed lines, and there should be no great difficulty in financing such a project, when the results to be obtained are considered. Such railway systems in the United States as the Pennsylvania, New York Central, Atchison, Northern Pacific, Union Pacific, Southern Pacific, Southern, and others, operate more miles of road than are needed to make the Continental Railway a reality, and each of these systems has bonds and stock outstanding aggregating more than the sum estimated as the cost for this enterprise. The Russian government has just completed a long railroad for the purpose of developing Siberia, at a cost considerably exceeding the estimated cost of the Inter-Continental Railway, and more difficult to construct."

A permanent commission was appointed on this matter, with headquarters at Washington, consisting of Henry G. Davis, chairman, Andrew Carnegie, Manuel de Azpiroz, of Mexico, Manuel Alvarez Calderon, of Peru, and Antonia Lazo Arriaga, of Guatemala. Mr. Charles M. Pepper was made secretary of the commission, and placed

in actual control of the affair. The last gentleman has written many articles exploiting this wonderful project. He is also author of a book entitled "From Panama to Patagonia." Ponderous official publications have also been issued from Washington about this proposed railroad, — one set of volumes, with maps, costing $25.

And yet the whole thing is a saffron dream. The greatest navigable rivers of the world, with the most productive valleys, lay unnavigated, in primeval barbarism, simply because civilization and commerce are impossible under the governments there existing. To operate boats on a river costs nothing in comparison with the operation of railroads. Yet even that is unprofitable in the whole northern part of the continent. To equip this Pan-American railroad, it would be necessary to build 1200 miles in Central America, 900 miles in Colombia, 500 miles in Ecuador, 1200 miles in Peru, etc., and all through the most mountainous countries of the world. If the railroad were built, under present conditions, it would not pay for its axle-grease. There would not be one passenger in a year who would buy a through ticket. The journey by rail would be wholly intolerable, not alone on account of the distance, but because of the great stretches of high plateaux with their heat and dust. The journey from New York to Buenos Ayres could be made in half the time on a good ship and with infinitely greater pleasure. So far as through freight is concerned, it is preposterous to discuss the subject. Coal can be carried from New York to Buenos Ayres by ship for $5 or $6 a ton; it could not be carried by rail, if such a railroad were in existence, for less than $30 or $40 a ton.

In such visionary, chimerical dreams as this do Pan-American Conferences find their strongest and most wholesome inspiration.

III

The Third International American Conference was inaugurated in Rio de Janeiro, Brazil, on July 23, 1906.

Considerable interest was lent to this meeting by reason of the visit of Secretary of State Elihu Root, who circumnavigated the continent of South America in a war-ship. Mr. Root was received with great honors at the conference, and was made its Honorary Vice-President. Mr. Root's address was received with much favor. It was as follows:

"Mr. President and Gentlemen of the Third Conference of American Republics:

"I beg you to believe that I highly appreciate and thank you for the honor you do me.

"I bring from my country a special greeting to her elder sisters in the civilization of America.

"Unlike as we are in many respects, we are alike in this, that we are all engaged under new conditions, and free from the traditional forms and limi-

tations of the Old World in working out the same problem of popular self-government.

"It is a difficult and laborious task for each of us. Not in one generation nor in one century can the effective control of a superior sovereign, so long deemed necessary to government, be rejected and effective self-control by the governed be perfected in its place. The first fruits of democracy are many of them crude and unlovely; its mistakes are many, its partial failures many, its sins not few. Capacity for self-government does not come to man by nature. It is an art to be learned, and it is also an expression of character to be developed among all the thousands of men who exercise popular sovereignty.

"To reach the goal towards which we are pressing forward, the governing multitude must first acquire knowledge that comes from universal education, wisdom that follows practical experience, personal independence and self-respect befitting men who acknowledge no superior, self-control to replace that external control which a democracy rejects, respect for law, obedience to the lawful expressions of the public will, consideration for the opinions and interests of others equally entitled to a voice in the state, loyalty to that abstract conception — one's country — as inspiring as that loyalty to personal sovereigns which has so illumined the pages of history, subordination of personal interests to the public good, love of justice and mercy, of liberty and order. All these we must seek by slow and patient effort; and of how many shortcomings in his own land and among his own people each one of us is conscious.

"Yet no student of our times can fail to see that not America alone but the whole civilized world is swinging away from its old governmental moorings and intrusting the fate of its civilization to the capacity of the popular mass to govern. By this pathway mankind is to travel whithersoever it leads. Upon the success of this our great undertaking the hope of humanity depends.

"Nor can we fail to see that the world makes substantial progress towards more perfect popular self-government.

"I believe it to be true that, viewed against the background of conditions a century, a generation, a decade ago, government in my own country has advanced, in the intelligent participation of the great mass of the people, in the fidelity and honesty with which they are represented, in respect for law, in obedience to the dictates of a sound morality, and in effectiveness and purity of administration.

"Nowhere in the world has this progress been more marked than in Latin America. Out of the wrack of Indian fighting and race conflicts and civil wars, strong and stable governments have arisen. Peaceful succession in accord with the people's will has replaced the forcible seizure of power permitted by the people's indifference. Loyalty to country, its peace, its dignity, its honor, has risen above partisanship for individual leaders. The rule of law supersedes the rule of man. Property is protected and the fruits of enterprise are secure. Individual liberty is respected. Continuous public policies are followed; national faith is held sacred. Progress has not been equal everywhere, but there has been progress everywhere. The movement in the right direction is general. The right tendency is not exceptional; it is continental. The present affords just cause for satisfaction; the future is bright with hope.

"It is not by national isolation that these results have been accomplished or that this progress can be continued. No nation can live unto itself alone

and continue to live. Each nation's growth is a part of the development of the race. There may be leaders and there may be laggards, but no nation can long continue very far in advance of the general progress of mankind, and no nation that is not doomed to extinction can remain very far behind. It is with nations as it is with individual men; intercourse, association, correction of egotism by the influence of others' judgment, broadening of views by the experience and thought of equals, acceptance of the moral standards of a community the desire for whose good opinion lends a sanction to the rules of right conduct, — these are the conditions of growth in civilization. A people whose minds are not open to the lessons of the world's progress, whose spirits are not stirred by the aspirations and the achievements of humanity struggling the world over for liberty and justice, must be left behind by civilization in its steady and beneficent advance.

"To promote this mutual interchange and assistance between the American Republics, engaged in the same great task, inspired by the same purpose, and professing the same principles, I understand to be the function of the American Conference now in session. There is not one of all our countries that cannot benefit the others; there is not one that cannot receive benefit from the others; there is not one that will not gain by the prosperity, the peace, the happiness of all.

"According to your program no great and impressive single thing is to be done by you; no political questions are to be discussed; no controversies are to be settled; no judgment is to be passed upon the conduct of any State; but many subjects are to be considered which afford the possibility of removing barriers to intercourse; of ascertaining for the common benefit what advances have been made by each nation in knowledge, in experience, in enterprise, in the solution of difficult questions of government, and in ethical standards; of perfecting our knowledge of each other; and of doing away with the misconceptions, the misunderstandings, and the resultant prejudices that are such fruitful sources of controversy.

"And there are some subjects in the program which invite discussion that may lead the American Republics towards an agreement upon principles the general practical application of which can come only in the future through long and patient effort. Some advance at least may be made here towards the complete rule of justice and peace among nations in lieu of force and war.

"The association of so many eminent men from all the Republics, leaders of opinion in their own homes; the friendships that will arise among you; the habit of temperate and kindly discussion of matters of common interest; the ascertainment of common sympathies and aims; the dissipation of misunderstandings; the exhibition to all the American peoples of this peaceful and considerate method of conferring upon international questions, — this alone, quite irrespective of the resolutions you may adopt and the conventions you may sign, will mark a substantial advance in the direction of international good understanding.

"These beneficent results the government and the people of the United States of America greatly desire. We wish for no victories but those of peace; for no territory except our own; for no sovereignty except the sovereignty over ourselves. We deem the independence and equal rights of the smallest and weakest member of the family of nations entitled to as much respect as those of the greatest empire, and we deem the observance of that respect the

chief guaranty of the weak against the oppression of the strong. We neither claim nor desire any rights or privileges or powers that we do not freely concede to every American Republic. We wish to increase our prosperity, to expand our trade, to grow in wealth, in wisdom, and in spirit, but our conception of the true way to accomplish this is not to pull down others and profit by their ruin, but to help all friends to a common prosperity and a common growth, that we may all become greater and stronger together.

"Within a few months, for the first time the recognized possessors of every foot of soil upon the American continents can be and I hope will be represented with the acknowledged rights of equal sovereign States in the great World Congress at The Hague. This will be the world's formal and final acceptance of the declaration that no part of the American continents is to be deemed subject to colonization. Let us pledge ourselves to aid each other in the full performance of the duty to humanity which that accepted declaration implies; so that in time the weakest and most unfortunate of our Republics may come to march with equal step by the side of the stronger and more fortunate. Let us help each other to show that for all the races of men the liberty for which we have fought and labored is the twin sister of justice and peace. Let us unite in creating and maintaining and making effective an all-American public opinion, whose power shall influence international conduct and prevent international wrong, and narrow the causes of war, and forever preserve our free lands from the burden of such armaments as are massed behind the frontiers of Europe, and bring us ever nearer to the perfection of ordered liberty. So shall come security and prosperity, production and trade, wealth, learning, the arts, and happiness for us all.

"Not in a single conference, nor by a single effort, can very much be done. You labor more for the future than for the present; but if the right impulse be given, if the right tendency be established, the work you do here will go on among all the millions of people in the American continents long after your final adjournment, long after your lives, with incalculable benefit to all our beloved countries, which may it please God to continue free and independent and happy for ages to come."

Program of the Conference

The program of this conference was as follows:

I

International Bureau of the American Republics

(*a*) Reorganization of the International Bureau of the American Republics on a more permanent basis;

(*b*) Enlarging and improving the scope and efficiency of the Institution.

II

A resolution affirming the adherence of the American Republics to the principle of arbitration for the settlement of disputes arising between them, and expressing the hopes of the Republics taking part in the Conference, that the International Conference to be convened at The Hague will agree upon a general arbitration convention that can be approved and put in operation by every country.

III

A resolution recommending to the different Republics the extension for the further period of five years of the "Treaty of Arbitration for Pecuniary Claims" agreed upon at the Mexican Conference between the different Republics.

IV

A resolution recommending that the Second Peace Conference at The Hague be requested to consider whether and if at all, to what extent the use of force for the collection of public debts is admissible.

V

Codification of Public and Private International Law

A convention providing for the creation of a Committee of jurists who shall prepare, for the consideration of the next Conference, a draft of a Code of Public International Law and Private International Law, providing for the payment of the expenses incident to such work, especially recommending for the consideration of the said Committee of jurists the treaties agreed upon at the Congress of Montevideo in 1889 on "Civil Law," "Commercial Law," "Criminal Law," and "Judicial Procedure."

VI

Naturalization

The advisability of concluding a Convention embodying the principle that a naturalized citizen in one of the contracting countries, who renews his residence in the country of his origin, without the intention of returning to the country where he was naturalized, be considered to have renounced his naturalization in the said country, and the intent not to return shall be presumed to exist when the naturalized person resides for over two years in the country of his origin.

VII

Development of Commercial Intercourse between the American Republics

Adoption of resolutions which the Conference may consider proper for:

(*a*) The more rapid communication between the different nations.

(*b*) The conclusion of Commercial Treaties.

(*c*) The greatest possible dissemination of statistical and commercial information.

(*d*) Measures tending to develop and extend commercial intercourse between the Republics forming the Conference.

VIII

Custom and Consular Laws

The simplification and co-ordination of the Custom and Consular Laws referring to the entry and clearance of ships and merchandise.

IX

Patent and Trade Marks

Consideration of the Treaties of Montevideo and Mexico covering this subject, together with

(*a*) Recommendations tending toward uniformity in Patent Laws and Procedure.

(*b*) The creation of an International Bureau for the Registration of Trade Marks.

X

Sanitary Police and Quarantine

Consideration of the Sanitary Convention signed ad referendum at Washington and the one concluded at Rio Janeiro, and such additional recommendations on matters of public health as will most effectively enable each of the Republics to assist the others in the prevention of epidemics and in the reduction of mortality from contagious diseases.

XI

Pan-American Railway

Consideration of the Report of the Permanent Committee of the Pan-American Railway and recommendation, to be presented at the Conference, to the different Republics with regard thereto and reaffirming the interest of all the Republics in the success of this project.

XII

Copyright

Consideration of the Treaties of Montevideo and of Mexico regarding copyright and legislation bearing on the subject in the American Republics.

XIII

Practice of the Learned Professions

Measures which may be deemed necessary to carry into effect the idea embodied in the treaty agreed to in the Second Pan-American Conference with regard to this subject.

XIV.

Future Conferences

WASHINGTON, D. C., April 21, 1906.

(Signed) ELIHU ROOT.
(Signed) JOAQUIN NABUCO.
(Signed) JOAQUIN D. CASASUS.
(Signed) J. B. CALVO.
(Signed) JOAQUIN WALKER-MARTINEZ.
(Signed) GONOZALO DE QUESADA.
(Signed) EPIFANIO PORTELA.

Resolutions of the Conference

The conference passed quite a number of resolutions. One which caused much discussion related to public debts. It was as follows: "The Third International Conference of the American Republics, reunited in Rio de Janeiro, resolves to recommend to the governments represented that they consider the question of inviting the Second Peace Conference of The Hague to examine the subject of the forcible collection of public debts, and in general those measures tending to diminish among the nations those conflicts of exclusive pecuniary origin."

Naturalization

The conference signed a convention to the effect that "if a citizen, a native of any of the countries signing the present convention and naturalized in another shall again take up his residence in his native country without the intention of returning to the country in which he has been naturalized, he will be considered as having resumed his original citizenship, and as having renounced the citizenship acquired by said naturalization.

"The intention not to return will be presumed to exist when the naturalized person shall have resided in his native country for more than two years."

Resolutions of this character, of course, have no binding effect, because each nation has its own legislation on this subject, and it is not to be presumed that the legislative departments of the several governments will abdicate their functions in favor of this continental "pooh-bah."

International Law

The conference, of course, had to pass a number of resolutions on the subject of "International Law." A "Pan"-American Congress that did not pass resolutions about international law would be very tame.

This conference provided for the establishment of a "Commission of Jurists" to draft a "Code of Private International Law," and also another for a "Code of Public International Law."

A sense of overweening modesty — or perhaps, rather, an absence of the sense of humor — seems to pervade these conferences. They pass resolutions on pretty much every subject under the sun, from Mah to Mahi; but even while they are in session, most of the governments of the world continue to mind their own business, as usual.

The Fourth Pan-American Congress

Before adjourning at Rio de Janeiro on August 26, 1906, the conference decided to hold a fourth session within five years, and the Governing Board was directed to designate a place of meeting and formulate a program. Doubtless this Governing Board will welcome suggestions from outsiders as to subjects worthy of consideration. The last three conferences have had a sameness that is wearisome. There has been the same amateurish discussion, from one conference to the next, of "International Law," "Pecuniary Claims," "Sanitary Regulations," "Coinage, Weights and Measures," etc.

It is time for these Pan-American fiascos to go out of business, or to take up some practical subjects with the real intention of solving them, and solving them right. I would suggest the following program of subjects for consideration and definite solution at the next conference.

1. How can the brigandage of the Military Jefes, and their armies, mostly composed of criminals, be definitely and finally ended in Venezuela, Colombia, Ecuador, Bolivia, Brazil, Paraguay, Central America, Santo Domingo, and Haiti, and the outrages committed on civilized natives and foreigners, by both the revolutionary and government armies, be stopped?

2. How can justice be established in these countries, and protection to life and property, both for natives and foreigners, maintained?

Solve these two questions, and every other problem will be automatically settled. Do these things, and a progress will be inaugurated in the countries in question in the next twenty years greater than the world has ever witnessed, — even in the United States, Mexico, or Japan.

Until these problems are definitely settled, once for all, the discussions of the Pan-American conferences seem childish and nonsensical.

PART II — GENERAL DISCUSSION OF THE MONROE DOCTRINE

CHAPTER VII

THE MONROE DOCTRINE — WHAT DOES IT MEAN?

WHAT does the Monroe Doctrine mean? Is there any man living who can answer this question? There are, doubtless, very many who think they can answer it, and the more crass their ignorance as to the history of its numerous phases, the more positive they are that it is a sort of keystone in our national structure. But brush the cobwebs out of the imaginations of these gentlemen and let them get down to solid earth and then state in definite English just what they think the Monroe Doctrine means, and a pretty jargon will be the outcome.

I. The Doctrine enunciated by Monroe

As enunciated by Monroe, the Doctrine has been thus summarized by Henderson in his "American Diplomatic Questions":

1st. "The American continents are henceforth not to be considered as subjects for future colonization by any European power."

2d. "The political system of the allied powers is essentially and radically different from that of America, and, being devoted to the defence of our own system, we owe it in candor to these powers to declare that we should 'consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety.'"

3d. "Having acknowledged the independence of certain governments (in America), we could not view interposition on the part of any European power, for the purpose of oppressing or otherwise controlling them, in any other light than as a manifestation of unfriendly disposition toward the United States."

4th. "The foreign policy of the United States would remain the same, — that is, not to interfere in the internal affairs of any European power."

5th. "Circumstances being radically different on these continents, it is impossible that the allied powers should extend their political systems into either of them without endangering our peace and happiness; therefore it is impossible that we should behold such interposition with indifference."

The above appears to be a fair statement of the meaning of Monroe's message, and it should be studied in view of the situation, or at least the supposed conditions, confronting us at that time.

II. Webster's Extension of the Doctrine

The Monroe Doctrine in its original form was allowed to endure but a short time, since succeeding administrations enlarged it, changed it, or modified it as they saw fit. One of the first extensions given to the doctrine was with reference to Cuba. In 1843 Daniel Webster, then Secretary of State, laid down our policy as follows:

"The Spanish government has long been in possession of the policy and wishes of this government in regard to Cuba, which have never changed, and has repeatedly been told that the United States would never permit the occupation of that island by British agents or forces upon any pretext whatever; and that in the event of any attempt to wrest it from her, she might securely rely upon the whole naval and military resources of this country to aid her in preserving or recovering it."

Three years before this, Mr. Vail, the American Minister to Spain, was instructed "to assure the Spanish government, that in case of any attempt, from whatever quarter, to wrest from her this portion of her territory, she may securely depend upon the military and naval resources of the United States in preserving or recovering it."

These declarations were called forth because certain disagreements between Great Britain and Spain had led to widespread rumors that England proposed to wrest Cuba from Spain. The astounding modification of the Monroe Doctrine made by these declarations seems to have excited no special dissent among our own people. In these latter days of "Constitution Clubs" and "Anti-Imperialism" societies, it would be asked by what authority the Secretary of State, without the consent of Congress, could commit our government to a fast and loose alliance with Spain, for the preservation to her of territory held by her in the most barbarous subjection, and by unparalleled tyranny and bloodshed. It might have been pointed out to the brilliant orator and statesman, Mr. Webster, that the war-making power resides in Congress, and that his declaration was a dangerous usurpation of authority which he did not possess.

The results following from this particular *dictum* do not seem to have been more fortunate than the consequences reaped from an acceptance of the other dogmas of the Monroe creed; for Cuba was immersed for nearly a century in anarchy and oppression, finally to be liberated at the expense of a war between the United States and Spain, in sad mockery of Mr. Webster's vows made sixty years before.

As enlarged by this declaration, then, the Monroe Doctrine means that the United States is the automatic ally of any power, however disreputable it may be, to aid it in maintaining by force of arms its sovereignty over any territory on this continent, however shamelessly that sovereignty may be exercised, as against any other power which might wish to acquire such territory, peaceably or by force of arms,

however decent and civilized the latter power might be, even though it might rule the said territory a thousand times better, and more to our own interest.

III. The Polk Doctrine

The message of President Polk to Congress on December 2, 1845, gives another and radically different meaning to the Monroe Doctrine.

This message, literally interpreted, would imply that, so far as the Continent of North America is concerned, no European power could acquire territory by any method whatsoever. This might even be extended to prevent a foreign power from perfecting titles to territory which it already claimed, but which were in dispute.

When Mr. Polk stated that "the United States . . . cannot in silence permit any European interference on the North American Continent, and should any such interference be attempted, will be ready to resist it at any and all hazards," it would seem that his language is that of a madman rather than of the President of an enlightened people.

To prohibit European dominion and European colonization, when in fact about half of the continent is held by European powers and the colonization of that territory at least is legitimate and desirable; to talk of our "resisting, at any and all hazards," "interference" which might under certain circumstances be highly laudable and meet our warmest approbation, merely serves to show the desperate lengths to which this *ignis fatuus*, the Monroe Doctrine, has led its advocates.

IV. Seward's Interpretation of the Doctrine

The next patch put on the Monroe Doctrine crazy-quilt was the work of Mr. W. H. Seward, a Secretary of State who did so many great things that we must forgive him his follies. On June 2, 1866, Secretary Seward wrote to Mr. Kirkpatrick, the American Envoy to Chili, touching the war then in progress between Spain and the Alliance of Peru and Chili, that the government of the United States will "maintain and insist, with all the decision and energy which are compatible with our existing neutrality, that the republican system which is accepted by any one of those (South American) States shall not be wantonly assailed, and that it shall not be subverted as an end of a lawful war by European powers." Republican System! Think of it!

The United States had just finished the greatest civil war the world had ever known; her sons lay slain by the hundreds of thousands, her treasuries were empty, her cities in blackened ruins, her fields fallow and uncultivated, her homes the abode of sorrow; the beautiful South lay bleeding in agony, while the horrors of reconstruction were upon us, and pandemonium reigned. And yet Mr.

Seward's great heart was able to bear not alone the burden of our own woes, but also to suffer from the haunting fear that the "republican systems" of South America were in some manner endangered by the wicked monarchies of Europe, and that our duty required *us*, Ajax-like, to defy something!

The Monroe Doctrine, therefore, now means that if the precious "republican systems" of Latin America are interfered with, the sparks will fly!

V. Grant's Views of the Monroe Doctrine

The next twist to the Monroe Doctrine was given in the second annual message of President Grant, on December 5, 1870, in which he proposed the annexation of Santo Domingo. He stated that if we did not take the island, "a free port will be negotiated for by European nations in the Bay of Samoa." General Grant thought that "the acquisition of Santo Domingo is an adherence to the Monroe Doctrine; it is a measure of self-protection; it is asserting our just claim to a controlling influence over the great commercial traffic soon to flow from West to East by way of the Isthmus of Darien." Thus was another view of the Monroe Doctrine promulgated, — the idea that it gives us the authority to take an island occasionally, when we want one.

I must express the opinion that the meaning imported into the Monroe Doctrine by General Grant is the only meaning in the history of the Doctrine, subsequent to its promulgation, which seems to have any sense or reason in it. But I think General Grant erred in citing the Monroe Doctrine as authority for anything. We should have taken Santo Domingo long ago, and most of the other Latin-American countries, but not on the authority of the Monroe Doctrine. We should take them on the broader and deeper principle that this continent should be an abode for civilized men.

VI. Olney's Dictum

"Another development of the rule," says Secretary Olney, "though apparently not necessarily acquired by either its letter or spirit, is found in the objection to arbitration of South American controversies by an European power. American questions, it is said, are for American decision, and on that ground the United States went so far as to refuse to mediate in the war between Chili and Peru jointly with Great Britain and France." (Letter to Mr. Bayard, No. 804, July 20, 1895.)

From this it would appear that the Monroe Doctrine means that an European power may not act as mediator or arbitrator, to prevent the desolation of war in South America. The more this Doctrine is studied in its practical effects, the more hateful does it appear.

VII. Bayard's Ideas about the Doctrine

Naturally, Mr. Secretary Bayard would have opinions on the Monroe Doctrine. And he had. The peculiar texture of the ethical cloak worn by him is displayed by his argument in strenuously opposing the payment of certain claims against Haiti. The claims themselves were of doubtful validity; it is his argument that deserves criticism. He said:

> "The United States has proclaimed herself the protector of the western world. . . . She can point with proud satisfaction to the fact that over and over again she has declared effectively that serious indeed would be the consequences if European hostile foot should, without just cause, tread those States of the New World which have emancipated themselves from European control. . . . I feel bound to say that if we should sanction by reprisals in Haiti the ruthless invasion of her territory and insult to her sovereignty which the facts now before us disclose, if we approve by solemn executive action and congressional assent that invasion, it will be difficult for us hereafter to assert that in the New World, of whose rights we are the peculiar guardians, those rights have never been invaded by ourselves."

I can readily understand that it might be construed as an "insult to her sovereignty" to compel one of those dictatorships to pay its debts, or atone for outrages inflicted on law-abiding foreigners; but the Monroe Doctrine has surely fallen to a low estate in hands like these.

VIII. President Cleveland's Message

The Venezuelan-Guiana boundary question brought forth some radically new and extraordinary views as to the interpretation of the Monroe Doctrine.

Lord Salisbury interpreted Mr. Olney's despatches as follows: "If any independent American State advances a demand for territory of which its neighbor claims to be the owner, and that neighbor is a colony of an European State, the United States have a right to insist that the European State shall submit the demand and its own impugned rights to arbitration."

Mr. Cleveland says ("Presidential Problems," p. 263): "This definition of our contention fails to take into account some of its most important and controlling features."

Mr. Cleveland is verbally correct on this point. One of the points not taken into account by Lord Salisbury occurred subsequently, being the message of the President, wherein was recommended the appointment of a commission "to investigate and report upon the true divisional line between the Republic of Venezuela and British Guiana," and in which it was further stated that, "when such report is made

and accepted, it will, in my opinion, be the duty of the United States to resist by every means in its power, as a wilful aggression on its right and interest, the appropriation by Great Britain of any lands, or the exercise of governmental jurisdiction over any territory, which after investigation we have determined of right belongs to Venezuela."

That a man could lay down such a proposition as the above and escape being sent to an asylum for the insane, is one of those strange phenomena for which I am unable to account. Here Cleveland proposed to place the issues of war, and possibly the very existence of this nation, in the hands of a commission of men, to be appointed by himself. This is the doctrine of infallibility carried to an unheard of extreme. Here we arrogate to ourselves, under pretence of the Monroe Doctrine, the authority to decide, by such methods as are satisfactory to ourselves, what in fact is the boundary between two foreign countries, and to assume to make war on either of them, or perhaps both of them — or possibly the world combined — if they refuse to accept our decision.

IX. Roosevelt's Declaration

A more rational interpretation of the Monroe Doctrine is given by President Roosevelt in his annual message of December 3, 1901, in which he said:

"The Monroe Doctrine is a declaration that there must be no territorial aggrandizement by any non-American power on American soil. It is in no wise intended as hostile to any nation in the Old World. . . . We do not guarantee any State against punishment if it misconducts itself, provided that punishment does not take the form of the acquisition of territory by any non-American power."

From this it would appear that if Ecuador wished to sell the Galapagos Islands, or Venezuela the island of Marguerita, or Brazil some of its territory to the French or Dutch, even though the price were satisfactory to both parties and the inhabitants of the territory desired the change and the world would be benefited by it, the transaction could not take place, because that would be territorial aggrandizement.

X. Caveat Emptor and the Monroe Doctrine

But if there is confusion confounded among our Presidents and Secretaries of State as to the meaning of the Monroe Doctrine, what must we say as to the notions current among writers and speakers generally with reference to it? One set of writers harp a great deal in the magazines about the doctrine of *caveat emptor* as applied to the Monroe Doctrine, and I have heard men discuss gravely this "prin-

ciple," and the duty of the government with regard to it, who did not know the difference between *caveat emptor* and an empty cave.

When an effort is made by a civilized power to compel some dictatorship to pay the debts which it justly owes to the citizens of the former, the cry goes up from all parts of the United States that under the Monroe Doctrine *caveat emptor* applies to the case, and hence the United States should prevent the foreign government enforcing the payment of the claims. It is argued by these patriots that the United States ought not to permit the enforcement of the collection of claims growing out of contractual obligations; that the foreigners had no business to give credit to these governments; that, as a rule, the claims arose on account of the ownership of government bonds, fraudulently issued, or concessions granted by corrupt dictators who never intended to abide by them, or that they are ordinary obligations, and that it was the duty of the foreigner to conform to the motto *caveat emptor*, — "Let the buyer beware"; and that, therefore, if the foreigner have claims, their collection should not be enforced.

Wharton's "International Law Digest" cites two manuscript instructions by Secretary Blaine to the American minister at Paris, on July 23 and December 16, 1881, to the effect that "the government of the United States would regard with grave anxiety an attempt on the part of France to force by hostile pressure the payment by Venezuela of her debt to French citizens." Since that date every effort of a civilized power to collect the just claims of its citizens against a Latin-American country has been met with a volley of leading editorials and magazine articles in the United States in opposition. The fact that the great majority of these claims grow out of illegal and violent seizures of the property of the foreigner, often of its destruction, or of his imprisonment or of the murder of his or her family, makes no difference in the eyes of the philosophers who preach *caveat emptor*.

XI. Enlargement of Caveat Emptor Theory

But a most aggravating enlargement of this *caveat emptor* doctrine is found in the writings of many prominent Americans. This is, in effect, that no foreign government shall be allowed to afford any protection whatever to its citizens, even to their lives, in a Latin-American country. This gracious doctrine has found expression on numerous occasions.

Dr. Albert Shaw says (American Monthly Review of Reviews, January, 1903, p. 21): "It would seem only reasonable that if an Englishman or a German should deliberately choose to take speculative chances in a South American Republic of notoriously revolutionary proclivities, he ought to carry his own risk, — provide his own insurance, so to speak."

Dr. Shaw is an editor, a scholar, a thinker, and, in his social relations, doubtless a gentleman. He would not steal your pocketbook, or burn down your house, or cut your throat while you were asleep; but he stands here as the defender of the criminal thugs of South America, who do all those things and worse against men who are as respectable socially, and stand as high intellectually or morally, as himself. He not only seeks to deprive these men of the just protection of their governments, but he emboldens the Spanish-American bandit organizations calling themselves governments, by doing all that in him lies to make their nefarious operations secure. The discouraging thing is that the United States is full of good citizens of the type of Dr. Shaw.

Space is inadequate even to refer to the numerous other vagaries dressed up with ponderous solemnity by editorial writers, and exhibited as the genuine Monroe Doctrine. If a German war-ship is compelled to blow up a pirate crew in the Caribbean, it is a violation of the Monroe Doctrine; if Venezuela is made to pay a fraction of the sums due for the manifold outrages committed by her Dictators, the precious Monroe Doctrine is infringed; if there is a dispute between French Guiana and Brazil over a boundary, it is, of course, an affair under the Monroe Doctrine. This monstrous fanatical superstition seems to have taken possession of the American mind, and robbed us of reason, conscience, and common sense. And yet in its ultimate analysis what does the Doctrine mean? Who is there among us that can give a definition of the Monroe Doctrine?

XII. Root's Corollary

Mr. Elihu Root, who was Secretary of War under President Roosevelt and later Secretary of State, made a speech in New York on December 22, 1904, in which he distinctly recognized the danger of war arising out of the Monroe Doctrine, and admitted our responsibility for the behavior of the Latin-American countries. Mr. Root held the following to be a corollary of the Monroe Doctrine:

"But the way in which cause of war may arise will be, if at all, by the conflict of rights — the existence of rights on the part of foreign powers against American republics, and the result of the enforcement of those rights of foreign powers against the American republics coming in conflict with this doctrine, which we assert for our own safety and preservation.

"All sovereignty in this world is held upon the condition of performing the duties of sovereignty. In the parliament of man the rights of the weakest state are recognized; the right of the sovereign ruler or the sovereign people to be protected against aggression is recognized and protected by the common influence of mankind.

"But that right is held upon condition that the sovereign ruler of the sovereign people perform the duties of sovereignty; that the citizens of other powers are protected within the territory; that the rules of international law

are observed; that national obligations are faithfully kept. And while we assert that we are entitled to say that no foreign power shall undertake to control an American Republic, that no foreign power shall take possession with or without the will of an American people of their territory, that assertion is justified only upon the same condition.

"Its Obligations upon us

"We don't undertake to say that the Republics of Central and South America are to be relieved from their international obligations. We don't undertake to say that the powers of Europe shall not enforce their rights against these members of the sisterhood of nations. It is only when the enforcement of those rights comes to the point of taking possession of the territory of any American people that we say, that is inconsistent with the peace and safety of the United States. And we cannot say it with justice unless we also say that the American Republics are themselves to be just.

"It is always possible that redress of injury, that punishment for wrong, may lead to the occupation of territory. Egypt to-day is held practically under the sway of England because Egypt was unable to pay her debts. Greece to-day is under the control of a government set up by the powers — taken away from the control of her old sovereign, Turkey, because Turkey was unable or unwilling to compel Greece to perform her international duties.

"And if we are to maintain this doctrine, which is vital to our national life and safety, at the same time, when we say to the other powers of the world: 'You shall not push your remedies for wrong against these Republics to the point of occupying their territory'; — we are bound to say that whenever the wrong cannot be otherwise redressed we ourselves will see that it is redressed.

"Our Fiat Law in America

"That is the doctrine in the quotation from the President's letter which you find upon our program this evening underneath the toast to which I speak. That statement of the American position made by the American President was not an advance, an aggression, a statement of a purpose beyond the purposes declared before by American statesmen. It was a definition and limitation of American purposes with reference to what had already been said by American statesmen.

"The most extreme declaration of the Monroe Doctrine which I know of was made by Mr. Olney in his letter at the time of the Venezuela boundary question in 1895, when he said: 'To-day the United States is practically sovereign on this continent, and its fiat is law upon the subject to which it lends its interposition.' The tremendous scope and meaning of those words for the weak little Republics of Central and South America cannot be exaggerated. The United States is sovereign to-day upon this continent, and its fiat is law."

XIII. Assuming Authority without accepting Responsibility

Many newspapers and prominent men have recognized the force of Mr. Root's arguments. They see that to assume authority without accepting the corresponding responsibility is indefensible. Therefore

they argue that the United States should assume the rôle of the big policeman on this hemisphere, and that if we cannot permit Europe to do a given thing, such as taking possession of Latin-American ports for the payment of debts and torts, then we cannot in decency permit the Latin-American countries to make such a thing necessary. Therefore, it is argued, if the Latin-Americans commit an outrage against the citizens of a foreign power, it is our duty to intervene, and punish the crime, or repair the delinquency, thereby rendering it unnecessary for the home government to interfere.

This view is taken by those adherents of the Monroe Doctrine who cannot reconcile themselves to the manifold indecencies which have grown up under the protection of this "voodoo" god, and who are anxious to wash away the stains which have been made on our reputation for sense and good faith. If the Monroe Doctrine is to be sustained at all before the court of reason and conscience, it is clear that nothing less than the acceptance of full responsibility for the acts of the Latin-American Dictators, on the part of the United States, can be defended. But do the proponents of Root's corollary realize what this means?

It means, first, an abdication by the European powers of their inherent rights, as sovereign States, to protect their own citizens, and a delegation of that authority to the United States, — a thing which no self-respecting government on the earth can or will do. Can it be seriously proposed that Germany should submit to the United States the power of deciding *ex parte* whether or not one of Germany's citizens had been mistreated in Brazil, and as to what, if any, reparation should be made? Is it not certain that this might involve us in an infinite number of broils, in which, in many cases, we would have the antagonism of both parties to the controversy? If we are to make it unnecessary for European nations to intervene in South America for the protection of their citizens, that would involve an exercise of sovereignty and a display of force by us which would extend into the uttermost ramifications of every department of the so-called governments of Latin America. It would be a shorter and cheaper way out of it to take possession of every one of those countries and establish once for all responsible constitutional governments, where civilization could thrive.

XIV. Other Pronouncements about Applications of the Doctrine

Mr. Root's view that our promulgation of the Monroe Doctrine necessarily imposes upon us certain corresponding obligations is accepted by some of our citizens — and ought to be accepted by all — but it by no means reflects the policy which has obtained in theory, in official circles prior to the administration of Roosevelt, nor in

practice even by that administration. The genuine policy of the Monroe Doctrine in its pristine simplicity, as advocated generally in the United States, may be inferred from the following editorial in the "New York Times," January 21, 1905:

"It is to be expected that there will be causes of friction from time to time. Thus far these have arisen mainly from the measures which the European nations have taken to enforce the collection of debts due, or claimed to be due, to their respective nationals. The chief source of friction would be removed by the adoption, as a principle of international law, that private claims, even against a government, are not collectible by force. This principle obtains in the municipal law of the most advanced nations. Imprisonment for debt has in these been long abolished, unless there was fraud in the incurring of the debt. But in this, as in many other things, international law lags barbarously behind municipal. There is no more reason why the private creditor should be allowed to invoke the armed force of his own country against a defaulting national debtor than why the private creditor of a private debtor should be allowed to do so. The character of a nation, like that of an individual, is an element in its credit, and the creditor has even more ample means of informing himself about it. In fact, it often has happened that the seller has charged in the price of his goods for a risk of which he was perfectly aware in the character of his debtor, and has then appealed with success to his government to remove the risk by employing its armed force as a collecting agency. If the creditor of a nation were put upon the same footing as the creditor of an individual is now put by the practice of the most enlightened nations, and made to take the risk of the solvency or the honesty of his debtor, no injustice would be done. And there would be an end at once of such procedures as we have found so internationally irritating in the past, and as we are likely to find still more irritating if they should be resorted to in the future."

The above statement represents the views substantially of such great journals as the "New York World," the "Boston Herald," "Harper's Weekly," the "New York Evening Post," and a host of other influential publications too numerous to mention.

As a matter of fact, torts of all kinds, duress, robbery, oppression, blackmail, are punished by imprisonment by all enlightened municipal law. The very theory of law is that there shall be redress for every wrong; and international law "lags barbarously behind" municipal law, not because it affords better facilities to the "creditor" for collecting what is due him by some alleged sovereign government, but rather because it gives him no adequate remedy for wrongs suffered, and no recourse whatever by way of injunction or otherwise to prevent the perpetration of outrages upon him. The above comments on the relative development of international and municipal law are evidently made by a man who has no special knowledge of either class, but nevertheless such opinions are published as the authoritative views of great newspapers, and are given currency throughout Latin America as though they were the oracles of Divinity.

It is just such writings which encourage the Latin-American free-

booters to rob and murder foreigners and their own civilized inhabitants, secure in the belief that the United States will protect them in their deviltry.

Nine tenths of the debts due by, or the claims made against, these dictatorships are for outrages committed against the persons and property of the foreigner, — such as the looting, confiscation, and destruction of property, the levying of "forced loans," which is an euphemism of highway robbery by the government, the levying of unnumbered exactions, the immuring of innocent men in dungeons because of their failure or refusal to yield to further tribute. And for all of this the "Times" thinks that if the "creditor" — that is, the victim of the outrage, who claims redress — were made "to take the risk of the solvency or the honesty of the debtor," — that is, the gang of freebooters styling themselves a government, — "no injustice would be done!"

Speech falters in an attempt to characterize the gross wickedness of such a doctrine. I must leave the editor of the "Times" to the devices of his own conscience, and say that it is high time that a doctrine which can give birth to such monstrous opinions should be exterminated.

XV. Conflicting Views of the Monroe Doctrine

Mr. Whitelaw Reid, in the course of a Commencement address at the Yale Law School, June 23, 1903, made the following remarks on the Monroe Doctrine, and the extension given to it by President Polk:

"It is always an advantage, in any effort to see all around a subject, to find the other man's point of view. Perhaps we may get a clearer insight into the action of the European mind on this subject if we should try to work out some European Monroe Doctrine, and especially some European Polk Doctrine.

"China, or at any rate China and Russia combined, hold a position in Asia far more commanding than that of the United States in the three Americas. In both cases the governments are as absolutely committed to the despotic as we are to the republican idea; and there is no obvious proof that the overwhelming majority of their people do not believe in their system as much as the corresponding majority of our people believe in ours. Suppose China, or China and Russia together, had taken ground that the Asiatic continent, being entirely occupied by the existing governments which were mostly in form and principle like their own, was no longer a field for colonization or conquest by any American power; and on that ground at the outbreak of the Spanish-American War had warned us off Manila and the Philippines?

"Great Britain, entrenched at the North and at the South of Africa, and reaching thence in each direction yet farther and farther toward the point where her two lines of settlement must meet, holds a position on the continent of Africa comparable at least to that of the United States on the continents of America. In connection with the minor colonies by other govern-

ments of like tendencies toward constitutional monarchy with England herself, Belgium, Portugal, and Germany, she has the immensely preponderating influence. Suppose Great Britain, with the concurrence of the rest, had said to the United States that Africa, having already had governments under their control and committed mainly to the ideas of the constitutional monarchy, set up over her whole extent (so far as it is accessible excepting through their territory), is no longer a field for colonization by Republics, and so had warned us off, say, from Liberia?

"Would the United States have cheerfully accepted that doctrine in Asia, or even in Africa? Suppose it had been announced when Dewey was compelled to leave Hong Kong, and had his choice between falling upon the national enemy at Manila or turning his back upon the Spaniard and steaming home across the Pacific? Or suppose that after the war China and Russia had called upon us to give up what we had conquered and restore the Philippines to Spain?

"With our mental vision possibly a little clarified by this glimpse of how the boot might look on the other leg, it may be useful now to consider dispassionately the present advantage to us of the two doctrines, and particularly the doctrine of Mr. Polk; and to count from the only point of view a representative government on its own initiative has any right to take, that of the interest of its citizens, whether it is now worth to them what it might cost.

"What would be our present precise motive for aggressively asserting against the world the two doctrines, as to countries farther away from us than half Europe and Africa are? One obvious advantage, from the point of view of our naval and mercantile marine, must always be remembered and never undervalued, — that of making naval and coaling stations scarce for our commercial rivals and possible enemies. And yet our position would seem a little curious, spending hundreds of millions on a Panama canal, so as to open to all the world on equal terms the trade on the Pacific, in which, until a canal is dug, we have such an enormous natural advantage ourselves, and then saying, nevertheless, by our Polk Doctrine we can still delay you or hamper you a little about coaling stations! But as to the old grounds of the Monroe Doctrine are we afraid now of peril to our own institutions? Have we any interest in forcing the maintenance of similar institutions elsewhere beyond the legitimate sphere of our influence, unless at least they give promise of bringing to others something akin to what they have brought to us? If it be true that in considerable parts of the regions to the south of us they have resulted, through the three quarters of a century since the Doctrine was announced, in tumult, lack of development, disaster, and chronic revolution, what is the precise real advantage for our citizens which the United States derives from meddling, and aggressively insisting that the world must continue to witness this result of so-called republican institutions on so colossal a scale?

"Mexico is now a model for all Spanish America, but in the short period since her escape from her colonial government, in 1821, a statistical historian has counted three hundred revolutions, successful or abortive.

"There is one particular South American State in which, for one reason or another, and in one way or another, we have of late greatly interested ourselves. I hold the table of its revolutions, forcible removals of chief magistrates, and civil wars in my hands, with dates and duration of each, but shall not delay you by reading the list. From 1811, when it proclaimed its independence, till 1903, it has had, under Dictators, Supreme Chiefs, self-

proclaimed Presidents, and otherwise, over thirty changes, has spent over twenty-five years under three dictatorships, each violently overthrown, and has had civil war for twenty-nine years. No doubt as to this government, too, which has sustained its independence, and, to use the stately language of Mr. Monroe, whose independence, on great consideration and on just principles, we acknowledged, we could not view any interposition for the purpose of oppressing it or controlling in any manner its destiny by any European power except as a manifestation of an unfriendly disposition toward the United States. It is directly within the sphere of our influence, as Cuba was, and if there should ever arise an imperative necessity for the restoration of order from the outside, the task would be ours rather than that of any European nation. But would that task be quite so imperative or exclusive if, instead of overhanging the Caribbean Sea and the Gulf of Mexico, this nation were double as far away from us as half Africa is?

"Such turbulent and revolutionary governments commit offences against foreigners; sometimes injure foreign residents, sometimes affront or injure foreign vessels in their waters, sometimes run in debt and fail to pay. What then? Is the Monroe Doctrine, or, still more, the Polk Doctrine, to be construed into an international bankruptcy act, to be enforced by the United States for the benefit of any American Republic against all European creditors? Or, on the other hand, is it to degenerate into an international collection agency, maintained by the United States for the benefit of European powers which may have just claims against American Republics?

"But what then? What alternative is left? Shall we simply say to any European creditor that, as to any debt of any American Republic, the only rule is *caveat emptor?* Must the lender under any circumstances be merely told that he should have considered the risks before he made the loan, and that now he has no remedy? When the debtor country has no assets save its custom houses and its lands, must the United States, a power aiming to stand at the head of the world's civilization, say for all time, You shall not touch the only assets of your debtor, because it is an American Republic? And, assuming that to be just and our determination, are we ready to carry that doctrine in case of need, as far afield as Uruguay and Paraguay and Patagonia — and then to fight for it?

"That is the vital point in the whole subject, as our First Assistant Secretary of State, Mr. Loomis, pointed out in a recent sagacious address. It is better to consider the question before a case springs up and the patriotic temper of the people is aroused. Obviously we shall either modify the present extreme extensions of the old doctrine, which carry it far beyond any national interest it now serves, or some day or another we shall have to fight for it, — and ought to, unless we mean to play the part of a vulgar braggart, and loudly assert that we are not ready to maintain. How far would it really have concerned our interests in the case of the Argentine troubles, which prostrated the Barings and brought on a great financial crash in London, if Great Britain had found it necessary for the protection of the rights of her people to take steps in that remote country, twice as far from New York as London itself is, which would seem to infringe upon the extreme extensions of the Monroe Doctrine by Polk and Buchanan? Happily the case did not arise. But some day and with some nation it is reasonably sure to. We may better now, in a time of profound calm, and when there is no threat to affect our dignity or disturb the serenity of our judgment, give serious consideration ourselves to this

question: How far south do we mean now, in the twentieth century, to push the Monroe Doctrine and the Polk Doctrine, and hold ourselves ready at any challenge to fight for them?

"I am not seeking to prejudge the question or even to influence the answer. I am only presenting the subject in a light in which it has never yet had from the American people at large that serious and solemn consideration which should always precede acts of war.

"In this day, in the light of the last hundred years and with the present unassailable strength of representative government on this continent, it is for us to say if there is any ground of justice or right on which we rest the Monroe Doctrine, save that of our proper predominance, in our own interest, and in the interest of republican institutions generally, within the legitimate sphere of our national influence. Unless we stop there, we cannot stop logically short of a similar care over republican institutions wherever they exist on the surface of the globe. For in an age of fast steamers and wireless telegraphy, the two American continents can no longer be treated as shut up to themselves and measurably isolated from the rest of the world. Oceans do not now separate; they unite. Buenos Ayres is actually nearer in miles to Cadiz and Madrid than to New York, and so is more than half of all South America."

XVI. A German View of the Monroe Doctrine

Among Europeans the Monroe Doctrine is generally regarded as a remarkable assumption of authority, which rests purely upon force, without any regard to "Right Reason," or to the rights and interests of other nations, and without conferring any very clear or well-defined benefit upon ourselves.

According to the "Literary Digest" for March, 1905:

"As a means of affording the German mind a correct notion of what it pronounces 'the amazing dexterity' of American diplomacy, the Berlin *Kreuz Zeitung* finds space for a hypothesis which it admits to be preposterous. Let it be assumed, we read in the semi-official daily, that Berlin had informed the powers that such claims as they might henceforth present against Holland, Belgium, Denmark, and Switzerland must first be submitted for approval to the Imperial Chancellor of the German Empire, and 'any power neglecting to do this and taking direct measures against the countries named would be met with a declaration of war from Germany.' Add the additional hypothesis that Berlin, in thus announcing its intentions, omitted the formality of consulting Holland, Belgium, Denmark, and Switzerland regarding their several sentiments in the premises, and we shall have a European counterpart of Washington's latest expansion of the Monroe Doctrine. 'What right has the United States to set up such pretensions?' inquires our authority, and it replies: 'Absolutely none.' Furthermore:

"'What does this mean? It means that the Union sets up a claim to supremacy over all Central and South American Republics without having made so much as a thrust of the sword to attain it. Prussia had to wage three great wars in order to attain her position of precedence in the German Empire. It almost seems as if the Union is attaining a similar, even higher, end through a mere declaration, accompanied, to be sure, by a veiled menace that all who

do not approve of the step will be constrained to recognition of the claim by the keen edge of the sword.

"'This threat, too, is by no means an empty utterance. If Germany, for instance, were forced to undertake a new expedition against Venezuela, an American squadron would put itself across the path of the German squadron. Only against England would it be out of the question to make good such an attitude, since the United States is not able to cope with the British fleet. But it must be assumed from the recent speech of former Secretary of War Root that in this particular a mutual understanding exists between the two great "Anglo-Saxon" powers.'"

I am not prepared to deny that the hypothesis of the *Kreuz Zeitung*, however preposterous it may appear, is a true likeness of the Monroe Doctrine. Indeed, the Berlin paper might have gone further and added an additional hypothesis, to the effect that the German government denied all responsibility for the acts of the powers mentioned, refused to restrain them from insulting foreign nations and maltreating their citizens, stood ready automatically to defend them in the perpetration of any act of diabolism, however gross, and maintained dogmatically this attitude until civilization had been throttled and hell and anarchy reigned supreme; and I think this supposition, in conjunction with those above set forth, would not form a likeness of the Monroe Doctrine in any wise distorted.

XVII. Latin-American View of the Monroe Doctrine

The military Jefes, as a class, regard the Monroe Doctrine as a good thing during periods of squally weather, that is, when there are foreign war-ships in the neighborhood. But when the atmosphere clears up, the Monroe Doctrine is merely a dish-rag, to be thrown aside with contempt until there is another dirty pot to be cleaned. The thoughtful, the scholarly, men of South America regard the Monroe Doctrine with ill-concealed antagonism or with positive contempt.

Thus one of the most authoritative newspapers of Brazil, *Correio da Manha*, Rio de Janeiro, said (March 30, 1903) of the Monroe Doctrine that it is —

"up to the present time regarded as a pure eccentricity of the kind for which America has become the classic source. . . . The Monroe Doctrine, as such, has no value whatever. At best it is simply another document for the benefit of those who would determine the characteristic psychology of the North American. Such a doctrine passes not only for a work very original and very Yankee, but also as being without substance as a whole. The government of the United States can invoke it, and put it into force when it is to its advantage to do so, and whenever it is able to give to the formula the unanswerable validity and strength of canons. And even for this purpose it might well be dispensed with. . . .

But as a North American doctrine, created and interpreted exclusively

by the government at Washington, and by that government, through its sovereign criterion, exclusively applied, what we, nations of South America, should do is, not admit any such doctrine, and treat it, moreover, as if it did not exist, as the statesmen of the Plata, as a matter of fact, and others principally wish. We ought not to talk any more about that doctrine. Our feelings of delicacy as a nation, our juridic conscience, our perception of our sovereignty, repel that doctrine thus disfigured and converted into an easy means for complications, that doctrine in whose circle in this part of the world live so many leaders and so many Chauvinistic patriots."

But the next time a Brazilian fort fires on a French passenger steamer, killing helpless passengers, and war-vessels come "nosing" around making inquiries about it, "Chauvinistic patriots" will be forgotten, and everybody will yell, "Viva Monroe!"

CHAPTER VIII

THE MONROE DOCTRINE — A NATIONAL SUPERSTITION

WHAT good has the Monroe Doctrine done the world, or what hope does it hold out for the future? Has it made life sweeter and better worth living in South America? The answer from a million throats from that unhappy continent would be, No! Has it brought about the establishment of genuine republics there? No! A greater and more stupid farce could not be imagined. Despotism, dictatorships, and anarchy are the fruits of a century of Monroeism. Has it encouraged the advance of civilization? No! Barbarism, like an eternal pall, hangs over the continent. Has it promoted enterprise and inured to the benefit of the Latin-American people themselves? No! It has placed the good people of those countries at the mercy of the bandits, and encouraged the latter to outrage all the amenities of civilization. Has it advanced the cause of true liberty in the world? No! It has made the name liberty synonymous with license and pillage, and has filled with dismay all lovers of genuine freedom. Has it added to education, science, or knowledge in Spanish America? No! It has rather made them impossible, for it has permitted the devastation of that continent with blood, and these things come only with peace. Has it developed the enormous natural resources of that continent, and made the struggle for existence less fierce? No! It has made the lot of the pioneers of commerce, from whom alone there is hope, more dangerous than that of the sharpshooters on the firing-line of battle. Has it made friends for us among the nations of Europe? No! Ten thousand thousand times, No! Has it made friends for us among the Latin-Americans themselves? No! They consider us hypocrites when we claim to have established the Monroe Doctrine for their benefit, and they hate us accordingly. Have we increased our own trade with them, or in any way benefited ourselves by this doctrine? No! Reference to trade statistics shows that there is a balance against us of hundreds of millions of dollars. Has our Monroe Doctrine brought about cultivation of their illimitable prairies? No! They remain barren wildernesses. Has it developed cities, railroads, industry, and commerce? No! Vast sections of South America are no forwarder than when

Columbus discovered America. Does our Monroe Doctrine hold out any hope for the future? No! In its present shape it means continual anarchy and barbarism.

I

If he who makes two blades of grass grow where only one grew before is a benefactor, what shall we say of him who enables one hundred civilized men to live in luxury and splendor where before only one semi-barbarian existed in squalor and misery? And what shall we say of a doctrine which accomplished exactly the reverse of this? It is time that the world was rid of these intriguing, pestiferous bandit outfits. The day of barbarism has passed. The day of science, education, commerce, civilization, is here.

They say we must let evolution accomplish its work among these people, that they must work out their own salvation. Philosophic dreamers may calmly contemplate large areas of the earth's surface held in barbarism for some thousand of years to come, but I am not one of them. When thistles become roses then may these people become civilized. They have had a hundred years in which to show what kind of stuff they were made out of, and their demonstration has been complete. Their process is revolution, not evolution. Evolution is held out as a hope by men who are not deeply versed in this latest and most alluring theory of science. If evolution means anything in this connection, it would mean the development which comes from the full and free play of all the forces of nature, intellectual as well as material, external as well as internal. If these forces, in fact, had free play, doubtless evolution would eventually eliminate the present semi-barbarism, for the influx of civilized foreigners, supported and protected by their governments, would be one of these forces, and it is to that and that alone that any hope of regeneration may be entertained. But the Monroe Doctrine prevents the free play of this supremely important force; it is an arbitrary rule imposed by superior power, which prevents the development of these countries by successfully depriving them of the only element which would make that development possible.

II

One thing is certain; the United States ought to repudiate absolutely the Monroe Doctrine, or hold itself responsible for the maintenance of law, order, and decency in South America. The United States can abandon its own citizens in these lands of darkness and barbarism if it wishes; that is its own business. It has a right under international law to do what it wishes with reference to the protection of its own citizens, and we Americans, knowing the policy of our gov-

ernment, can stay at home, or confine our foreign investments to those countries where civilized governments like England are in control. But the United States has no right, neither under moral law nor under international law, to prevent or to try to prevent England, Germany, and other civilized powers from protecting the lives and property of their citizens against the attacks of revolutionary bands, or the spoliation of these bandit governments.

The governments of Europe may be our friends; but no friendship is strong enough to stand the strain of the everlasting pestiferous interference to which the Monroe Doctrine has given rise. No intelligent foreigner in South America, no American citizen in business there, can feel other than deep resentment at the wholly indefensible attitude of the United States in this matter. If the United States would be responsible for their protection, every man of them would be satisfied; but to disavow all responsibility and then leave civilized men at the mercy of these bandits, — nay more, insist that English, German, French, and other foreign citizens shall be left in the same condition of abandonment in which the luckless American finds himself, — is an assumption of authority on the part of the United States which it does not possess; it is the Monroe Doctrine gone mad. If persisted in, this policy bids fair to become infamous among the nations, and is in danger of involving us in a war with all civilization.

III

And let us see how this Monroe Doctrine is applicable to the facts — to the real situation which confronts us.

Has it anything, ought it to have anything, to do with British North America? No! Any attempted application of the Monroe Doctrine to Canada would be ridiculous. It would seem that our sense of the humorous ought to save us from even discussing such a question.

What must we say of it with reference to Mexico? That it is unnecessary. No European nation wishes to oppress Mexico, and if they should we would be free to act in such a case as our interests might dictate, even if there were no Monroe Doctrine.

What shall we say of the Monroe Doctrine in so far as it affects San Domingo, Haiti, Central America, Colombia, and Venezuela? That it is immoral, a bar to civilization, a disgrace to the United States government, a refuge and protection for military despots, an outrage on civilized foreigners residing there, and a grave menace to our national peace, in that, as the aider and abetter of these bandit chiefs, we are at all times liable to become involved in war with the civilized world.

And what shall we say of the Monroe Doctrine as applied to Argentina, Chili, and Brazil? That it is rank impertinence. The

vested interests of England and Germany in these countries are vast, while ours are small. It is estimated that there are fifteen hundred millions of dollars of British capital invested in Argentina, three times as much as we have in Mexico. In the year 1902 twenty-four thousand three hundred and thirteen foreign ships entered and cleared from the ports of Argentina, of which only three hundred and fourteen were American. To what a pitiable pass has the sophomore statesmanship of theorists brought us! The Monroe Doctrine, indeed! If our sense of humor should prevent us parading this antiquated absurdity in front of the Canadians, our sense of shame should have a similarly restraining influence where Argentina is mentioned, and our sense of decency when Venezuela or San Domingo is considered.

I know this is plain talk, but the day for buttered words and honeyed phrases has passed. It is time that every dictator and military bandit in Spanish America be given clearly to understand that if he molest a civilized man, either in his person or property, he does so at his peril. Nor should this be given as a threat; we should "make good" and comply with our words. The fact that Central America, Santo Domingo, Haiti, Venezuela, and Colombia are barbarous is a disgrace to the United States, for without the protection afforded by the Monroe Doctrine they could never have fallen to their present shameless state. It would not be fair to say that the Monroe Doctrine has brought them to their present condition, for they have brought themselves there; but it is certainly correct to assert that had it not been for the Monroe Doctrine they would probably have been placed under the restraining influences of civilization long ago.

IV

When an American is imprisoned, for purposes of extortion in one of those reeking cesspools of disease, a Latin-American jail, such as La Guaira, and an effort is made to secure his release, or even a semblance of justice for him, how long is the gamut of official red tape which must be run in Washington before any measures are taken to succor him! His friends in the United States, if he have any, must first be aroused to the gravity of the situation; and communication with them is exceedingly slow, and subject to the censorship of the officials of the "Sister Republic." But let us assume that his friends learn of his predicament and are active to help him out, what then? Why, dilly-dallying at Washington, red tape, hesitation, expressions of polite incredulity, and a general disposition to avoid trouble. Our traditions require us to deal gently with our "Sisters," and the very atmosphere of the Department of State is so cool and eminently proper that it seems almost vulgar to intrude

with harrowing stories, which are received with every evidence of *ennui*. But suppose that the friends of our prisoner are persistent, that they have political "pull," that they have influence enough to secure a Congressman or Senator to go with them to see the Secretary, what then? Will there be lightning and thunder and earthquakes? Will objurgations of the oppressors and expressions of sympathy for the oppressed greet our visitors? Not at all. The Secretary is a man of polished literary attainments, a verbal athlete, with a reputation to sustain as a diplomat. Therefore our Secretary, with grave mien, and ill-concealed annoyance at the rudeness of his interlocutors for having the presumption to occupy his valuable time with such relatively trivial matters, promises to have some of his bureau chiefs look into the matter, and with all courtesy dismisses his auditors. In the mean time the poor fellow, whose only offence is the fact that he is an American, is slowly rotting in a dungeon filled with human and inhuman excrement, its slimy walls a paste of bacteria, and everything in it horrible.

But suppose — a supposition highly improbable, but which may nevertheless occur — that the United States government is finally induced to take some action, what does it amount to? Usually a dignified protest, and nothing more. One might as well read the riot act to Mount Shasta as protest to these murderous dictators. They know nothing of the United States, and care less. Many of them never wore a pair of shoes until they became "President," or "Supreme Jefe of the Republic." They can "lick" all the Americans they have ever seen, and think they can whip the whole American nation, and Europe thrown in. So that protests are of no avail.

But suppose — and this is extremely improbable — that the United States makes a display of force. Up to the present time it has never done more than make a show of this nature, and the Dictators generally regard a foreign war-ship as a joke rather than anything else. Suppose a war-ship is sent, what then? To begin with, it does nothing; but it does afford a pretext for every "anti-imperialist" and disgruntled demagogue in the United States to attack the administration on account of its alleged "jingoism" and its disposition to "bully a weaker sister Republic." And it appears that there are men living who seriously consider such disgraceful talk. If these anti-imperialistic individuals of the type of the Vallandingham Democrats were all of them immured in Latin-American dungeons, while the petitions for their protection went their tortuous course through the circumlocution department of our government, I feel that I might be able to restrain my grief, secure in the conviction that by the time they were released two thirds of them would be dead, and the other third would have sense enough to be decent American citizens.

However indefensible it may be morally, and however unwise as a matter of public policy, it must be admitted that the United States

has the legal right to abandon its citizens to the mercy of the swarthy blackguards of Spanish America if it wishes so to do. But what right has the United States, legally or morally, to prevent other nations from protecting their citizens from the outrages practised by these dictatorships?

Under the pretended authority of this, our most wicked national superstition, which seems to have robbed us of reason, the United States appears to be ready to intervene in every one of the thousand controversies which are being continually thrust upon civilized men by the Jefes of Spanish America. Is a foreign merchant thrown into jail, or his property destroyed, because of his refusal to yield further tribute to these military chiefs? And if his government try to help him out, where does the United States stand in the case? Always ready to intervene in behalf of the bandit chief, and openly hostile towards the government which is trying to extricate its own citizen, requiring from it pledges and explanations as to its intentions.

If South America were a million miles from the United States, so far that the baneful effects of our fatuous National Superstition could never reach it, it is reasonable to believe that civilization might take root in the continent the northern portion of which now seems to be lost beyond all hope. But so long as leaders of military bands can rely upon the United States to defend them against Europe, right or wrong, so long will their chief occupation be murder, and their chief revenue be derived from robbing the few civilized men who upon mistaken ideas of security have been induced to invest their means among them.

Cannot the American people see the wrong of our attitude in this matter? Every drop of innocent blood which is shed in South America, every dollar extorted from an honest man by these dictatorships, every outrage committed on a civilized woman and child, cries aloud for redress. The people of the United States is a moral people. But even such are defending a doctrine that is an international infamy. It makes us in fact the ally, aider, abetter, and the ultimate and sole defender of the so-called governments of Venezuela, Colombia, Haiti, Santo Domingo, and most of the other Central American and South American dictatorships.

Intent is an essential element in the commission of a crime, and our people who defend and believe in the Monroe Doctrine have a good motive and not a bad one. But that cannot exculpate them. There is such a thing as unextenuated ignorance and criminal carelessness. A man, however benevolent his disposition, cannot clear himself from blame for blowing the head off another man by claiming that he "did not know it was loaded." It was his business to know whether or not the gun was loaded.

How much greater is the moral obligation resting upon a great nation to know the truth and to do right! And how infinitely greater

the moral turpitude of a great and enlightened people to condone a million crimes and actively abet a million others as the allies, in effect if not in theory, of the chief actors in a prolonged saturnalia, committed under the flimsy pretext of sustaining a heresy which has no relation to our own welfare or the welfare of any other portion of the world.

But the foreigners in Latin America are usually men of means and social position. If their lot is rendered unendurable by our Monroe Doctrine, what must be said of the condition of the millions of non-combatant Latin-Americans who are, as I have repeatedly stated, kind-hearted, good people. These are the principal sufferers. Deprived of all arms, having no desire to use them did they possess them, incapable of organization, ignorant of means of defence, millions of them live in a condition worse than slavery, victims of every military Jefe who comes along with a gang of armed vagabonds.

Year after year, during the most varied business and social intercourse in Spanish-American countries, I have been a mute and helpless witness of the unnumbered wrongs committed under the sheltering influence of the Monroe Doctrine. My personal feelings towards the Monroe Doctrine are much the same as were those of Wendell Phillips towards slavery.

Senator Chauncey M. Depew says:

"The fear of the dissolution of the Union had made the Constitution and the Union too sacred to be discussed, too holy to be endangered even to preserve liberty. Phillips in his famous oration described the arrest under the fugitive slave law of Anthony Burns and his return to servitude. Burns had escaped, while very young, to Boston. He had educated himself, demonstrated marked ability, had gained considerable property and owned a comfortable home, in which he was living happily with his wife and children, one of the most respected citizens of the neighborhood. His owner ferreted him out, and when he was carried to the court the feeling was so strong that United States troops had to be placed around the court-house, which was also further protected by chains to keep out the populace, and the United States soldiers under the American flag escorted him to a United States man-of-war, which carried him back to his master and to slavery.

"Phillips's description of this scene was agonizing in the extreme. Women fainted, and the Puritan blood drove from the brains of this Puritan audience their political antagonisms and welded them into sons of liberty. It was at this supreme moment that Phillips paused, and rising higher and higher finally lifted his hands in solemn invocation to heaven and said: 'If such crimes against humanity and liberty, against home, wife, and children, are to be perpetrated under the authority and by the power of the Constitution and the Union, may God damn the Constitution and the Union!'"

God did not damn the Constitution or the Union; but the American people received a most frightful castigation for having nurtured that monstrous curse, slavery. And if there can be no cause without an effect, sane and patriotic Americans may well dread the day of reckoning which will surely come upon them for having perpetrated and

sustained that greater curse, the Monroe Doctrine. This must come unless we repent of our folly and make amends for the wrongs we have inflicted. As against the dictum of Monroe I would establish another doctrine — that this ought to be a civilized man's hemisphere; that we have had enough of the Latin freebooters; and that law, order, and Justice shall henceforth be ineffaceably stamped on the Continents of North and South America.

CHAPTER IX

THE MONROE DOCTRINE — A BAR TO CIVILIZATION[1]

THERE is probably no doctrine or principle on which the American people are more unanimously agreed, without respect of party, than the Monroe Doctrine. If a general vote were taken on the subject, it is more than likely that ninety-nine Americans out of every hundred would declare in favor of defending the Doctrine everywhere, under all circumstances, and without reference to the consequences. Yet, of our fifteen million voters, I wonder if there is one per cent who have an accurate and definite idea as to what the Monroe Doctrine in fact is; and of that one per cent I wonder if there are ten per cent who have an accurate notion, from personal observation or reliable information, as to the precise effect which this famous Doctrine has had and is having on the civilization and commerce of the world, and particularly of Central and South America. I seriously doubt it.

In order to understand thoroughly the effect which this Doctrine has upon civilization, the rights which it involves, and the dangers which it invites, it is necessary that we should carefully examine into the institutions, customs, and character of the people who are most directly affected by it.

As one journeys towards South America, one longs to believe that the Star of Liberty, like that of Bethlehem, leads the way, and that one will find our brethren to be animated by high ambitions and noble resolves, struggling upward like ourselves. This pleasant anticipation appears to be in a fair way towards realization when one picks up the constitution and laws of one of these countries, and reads the somewhat ornate but sufficiently profuse declarations in favor of liberty, justice, and equality. The Bill of Rights is scarcely shorter than the Moral Law, but the traveller soon learns that it is most apt to be vociferously preached from the house tops in those communities where anarchy and despotism reign supreme.

The visions of constitutions with their sacred guaranties of personal liberty, and of laws with their well-rounded periods of equity, soon fade away; and the observer finds in their stead the decrees of

[1] This chapter appeared in the "North American Review," April, 1903, signed "An American Business Man."

dictators and military despots. True, these decrees, by whatever military despot issued, are mostly interlarded with protestations of undying patriotism, with references to the sacred will of the people, and with appeals to the Deity, in every form of canting phrase, in testimony of the purity of intention and spotless nobility of character of the promulgators. All this does not deceive the intelligent observer. He is not long on Latin-American soil before he discovers that he is outside the bounds of civilization. For every move he makes he must first obtain a passport from the military Jefe. Everywhere he goes he is confronted by a soldier or a policeman who demands his name and his business. If he send a telegram, he must first get the approval of the government censor. If he write a letter, a hundred chances to one it is broken open and read by the postal authorities before it is sent. If he walk along the street, he knows not what moment a soldier will bring him to halt with a "Quien viva?" and a Mauser levelled at him, and an order that he walk in the middle of the street. He soon finds out that he himself is liable to be locked up in jail on any trivial pretext or none at all. It does not matter what may be his social or business standing, if he make protest at the acts of these tyrants, he may be expelled from the country without redress or incarcerated in a jail. If he appeal to the American consul for aid, the chances are that the mouth of that dignitary has long been stopped by government concessions, or that he is an actual party to the intrigues. But our traveller has by this time only commenced his initiation. He has only learned what any intelligent man would certainly ascertain to be true within forty-eight hours after setting foot on the soil of any Latin-American country, with the exception of Mexico, Chili, and the Argentine Republic.

It does not take the observer long to ascertain that there is not in any of these countries such a thing as a legally constituted government. The constitutions prescribe that elections shall be held at stated periods and in a certain manner for the election of the President and other officials of the government. But no elections are ever held. Occasionally a newspaper correspondent, some disciple of Mark Twain, as a huge joke, writes about an election in Venezuela or Colombia, the same as he might about a sea serpent; but not within the memory of any living man has there been a real election in those countries.

The constitutions of those countries provide how the members of the legislatures and of Congress shall be elected but not since they were separated from Spain has there been one single Congress or legislature elected in the manner prescribed. An honest ballot and a fair count, such as we understand them, are so strange and foreign to these countries that in the wildest dreams of fancy no one of them ever imagined such a thing. One might have greater hope of success in attempting to explain the Australian ballot system to a

Chinese peasant in the centre of Manchuria than to any of those people.

The constitutions provide that the laws shall be passed by the legislatures of the several States, or by the Congress for the Federal Union. Yet ninety-five laws out of every hundred are edicts of the dictators, pure and simple; and no pretence is made that any legislative body ever read them, let alone passed them or engrossed them. Read the daily or weekly issues of the respective *Gazeta Officials* of these countries, and you will see that they are almost wholly composed of laws in the shape of decretas of the dictator. It would appear that the respective dictators — and in this they all seem to be alike — spend their odd moments thinking up schemes for robbing the people, and keep their typewriters busy in formulating these into decretas, which their courts are obliged to interpret as law, and which in fact form the law, and the only law that there is.

The constitutions describe how they may be amended, and their regulations are so precise and formal that a foreign jurist might be inclined to take them seriously. As a matter of fact, a dictator abolishes a constitution or amends it or adopts a new one with as little ceremony as he would use in ordering his breakfast. True, changes of this character are sometimes made by a so-called provisional Congress; but as the members of such a body are always appointed by the dictator and selected to do his bidding, a little thing like amending the constitution or abolishing it or making a new one is such a trifling affair that it may be done almost any afternoon. Indeed, the constitution, in whole or in part, is suspended at the whim of the dictator, without consulting anybody and whenever it suits his convenience.

Having learned the novel and easy method by which laws are made and unmade, one will not be surprised to know that the methods of their interpretation and enforcement are no less unique. There are in these countries many able scholars and fine lawyers, who constitute the material for a creditable judiciary; but, unfortunately, even this department of the government is at the mercy of these brutal, ignorant, corrupt, vicious, and wholly intolerable despots. Lawyers of character and ability are not wanted as judges, and they would fear to accept such positions if tendered to them. In fact, the better element shuns politics as it would a pestilence.

It may be asked whether the travesty on government herein described is not abnormal and temporary. The reply is that this condition of anarchy — for it is nothing else — is and has been the normal and ordinary condition of Venezuela and Colombia. Most of the other Latin-American countries, ever since Spain lost its dominion over them, with the exception of brief intervals, when some dictator more powerful than the rest has succeeded by force of arms in maintaining his authority, are in the same condition.

For one period, of about twenty years, Guzman Blanco, the greatest Dictator Venezuela ever had, succeeded in overawing opposition, although it was necessary for him to use the most high-handed methods and finally murder his chief opponent, contrary to the constitution, which forbade capital punishment.

As to the character of the people in these countries, I shall now describe and analyze it, so that it can be readily understood why there is not, and never has been, anything but anarchy and disorder in South America.

The people of those countries, — and they are all practically the same, — apart from the foreigners, naturally fall into four groups:

1. The Spaniards of pure blood, who do not form perhaps more than ten per cent of the total population. These people as a class are cultured, highly civilized, religious, hospitable, many of them of literary attainments and scholarly pursuits. This class contains many families of distinction. They do not take any part in politics, nor desire positions under the government. They are among the chief sufferers from the numerous predatory excursions, both of the government troops and of the revolutionists. The story of the outrages committed on the women of this class by the military chieftains would make a chapter of horrors which would shock mankind. These people remain in constant terror, not only of the revolutionists, but more particularly of the government itself, which confiscates their property, commits nameless outrages upon them, and renders life a burden to them. It is no uncommon thing for a military chief who desires the daughter of one of these families for his mistress to imprison the father or brothers, and hold the daughter's virtue as the price of their ransom. This class fervently desires and earnestly hopes that some foreign nation will eventually take hold of these countries and establish law, order, and civilization.

2. This class comprises the peons who do farming, the laboring men, the small traders, cattlemen, fishermen, woodsmen, mechanics, etc., or perhaps more than seventy per cent of the total population. As a rule, these people are exceedingly simple-minded, honest, kind-hearted peasants, fairly industrious, and much more intelligent than the peonage of most other countries. They dread war, take to the woods at the slightest intimation of trouble, have nothing to do with politics, and pray to be left alone to live in peace. In habits these people are simple, in manners polite and hospitable, and but little drunkenness and crime are found among them. They are the most docile and easily managed people in the world. They are respectful to their superiors, they seldom fight, and they are so easily managed and governed that the semi-brigands who constitute the governing class do just what they please with them, and handle them as a man would handle pieces on a checkerboard. These people are descendants from the Spaniards and native Indians, a mixed breed, and

comprise almost all shades from very near pure Indian to pure Spaniard.

3. This class comprises the pure Indians, who are comparatively few in number and unimportant to this discussion.

4. This is the ruling class. It will not comprise more than twenty-five per cent of the total population in any Latin-American country, but it makes all the trouble, is responsible for the rapine, bloodshed, murders, revolutions, and anarchy which have so long disgraced Latin America. This class, as a rule, represents a mixture of Spanish and Indian blood, oftentimes with a heavy sprinkling of negro, and sometimes of other elements. He who originated the formula for the composition of this class must have laughed grimly when he finished his work, for one might study chemistry for a thousand years without being able to devise such an atrocious composition. It is true that a small number of good men are always to be found in this class. Why, no one knows, unless it be for the same reason that leads a good woman to carry bouquets of flowers to a brutal murderer. Occasionally an able lawyer or good doctor or a responsible business man becomes ambitious to hold office, infatuated with the glamour of politics, or falls in love with the music of the drums or the clash of the swords, and he joins this class, much to the consternation of his friends as well as of his enemies. As a rule, this class is composed of adventurers, ambitious and unprincipled military men, many criminals, others whose lives have been devoted to intrigue and to the machinations for which these countries are noted. Taken altogether, it is the most aggressive, pretentious, good-for-nothing, nondescript, villanous, treacherous set of semi-banditti which was ever organized on the face of the earth, held together by the cohesive power of public plunder and by the ambition to tyrannize over others. It is of this class that the so-called "governments" of these countries are formed. One faction of it is always in power, looting the public funds, living in Oriental splendor on the forced contributions from foreign merchants, or on the receipts of custom houses, running things generally in that high and mighty way in which only a Latin-American can, while the other faction is endeavoring to get into power, so that it may have the good things; and there is where the revolutions originate. There is not enough for all. Foreign merchants have been plucked until they have become few in number. Now the influx of foreign capital is small, and the pie for these dictators contains so few plums that it behooves them to fight royally over what few there are.

The outrages which are committed by the faction of this fourth class which is in power, and concurrently by the faction which is out of power and consequently in revolution, cannot be properly described within small limits. It must suffice to say that no foreign house or company doing business in one of these countries has ever been able

to escape destruction unless continuously backed by its government, and that in most cases heretofore that has been unavailing. In every case, without exception, the foreigner has been systematically looted and robbed by the officials of the government and their political henchmen. Usually he has been in the end ruined financially, and often he has lost his liberty and his life, and always without redress. South America, from one end to the other, is strewn with the wrecks of American and European investments. But to the Dictators of these countries the financial outcome has not been so unfortunate. Guzman Blanco, a fairly decent Dictator, accumulated only about forty million dollars in twenty years; while Crespo managed by strict economy to lay up something over twenty million dollars in four years. Andrade was less fortunate. He had to divide up with Crespo, so that he came out with less than a million. Castro, who was a mule-driver when he inaugurated his revolution, began with the intention of beating Crespo's record. It is supposed that he is now worth about ten million dollars.

There is a large class of professional blatherskites in the United States who are always talking about the necessity of creating friendly relations with our "Sister Republics" of South America. To an American who understands the situation there could be nothing more disgusting. After half a century of such twaddle our total commerce in Venezuela and Colombia now amounts to probably half as much as the business of one big New York dry-goods house, and at least nine tenths of the business that we have with them is done through German houses. There are not seven American concerns doing business in either of these countries, and among them there is not one which has not been made the subject of continuous blackmail by the party in power. If the German houses were taken out of Venezuela and Colombia, those countries would become more barbarous than the negroes in the centre of Africa or the North American Indians. Nothing except capital invested in these countries by American, English, and German business men stands between them and the utter blackness of barbarism. The Germans in particular deserve the greatest possible credit, not only for their enterprise, but for their tenacity in enduring the hardships of the climate and maintaining themselves against the almost inconceivable obstacles which surround them. They are the true pioneers of commerce. Without them our business with these countries would be of no importance, and practically every American company doing business in those countries does its banking through some one of these German houses

Prophetic appear to have been the words of Bolívar near the end of his long and marvellous career. He learned three quarters of a century ago what our North American officials seem never to have learned — that the people of Latin America are helplessly and hopelessly incapable of self-government. He said:

"In America there is no such thing as good faith, neither among nations nor among men. Our constitutions are books, our laws are papers, our elections are combats, and life itself is a torment. We shall arrive at such a state that there is no foreign nation which will condescend to return and conquer us, and we shall be governed by petty tyrants."

No passage in any writings contains a truer prophecy than these memorable words of Bolívar.

That the Monroe Doctrine has been the mightiest force in bringing about the unhappy conditions predicted by Bolívar there can be no shadow of a doubt. Whatever construction may be placed on the Monroe Doctrine in official circles in the United States and Europe, there is but one view of it among the Dictators of South America. To them it means that however shameless may be their disregard of international rights or of the obligations of civilization, they have one strong arm on which they can rely for defence, one great power which will protect them from the consequences of their wrong-doing. Their intrigues are founded on the idea that the United States may be relied upon to aid and abet them. To that end the mouths of many American consuls are stopped by one species of favoritism or other, usually in the form of worthless government concessions, and the chief occupation of some of these worthies is, apparently, to palm off such "green goods" on those of their countrymen who come within the sphere of their influence. When an able and conscientious representative of the United States is appointed to one of these countries, a man who looks after the interest of his country fearlessly, and does his duty as the law provides, and refuses to take part in intrigues, concessions, or affairs which do not concern him, it is only a question of time when he will receive his passports as *persona non grata*.

Having seized the avenues of communication with our government in this manner, the military Jefe knows that, whatever atrocities he may commit, there will be no mention made of them in Washington. Every other government among the great powers has incomparably more accurate information in regard to the affairs of those countries than our own. American citizens in those countries are very few, and if one of them gets into serious trouble he usually applies to the English or German consul rather than to his own for aid. And while official circles in those countries — that is, Dictators' circles — think it is the bounden duty of the United States to help them under all circumstances, they teach their followers to be more jealous of Americans, if possible, than of any other class of foreigners. They do this by claiming that the Monroe Doctrine means "America for Americans," which, being interpreted, imports that the United States intends ultimately to take possession of their territory. Every effort to revive the old alliance among the countries which formerly constituted New Granada is based on the doctrine of final hostilities with the United States. It will be thus seen that, while their hostility to an English-

man or a German is in proportion to the difficulty which they experience in extorting money out of him, their opposition to an American is more fundamental.

The extravagant ideas and consequent demands of the average military Jefe are past belief, and the sums of money he squanders are limited only by his ability to squeeze the English or German merchant. Even a barefooted colonel (a man is not supposed to wear shoes until he becomes a general) would not condescend to talk about anything less than thousands of dollars. The boss Dictator never imagines himself to be other than a second Napoleon, with the treasures of the world lying at his feet and a decorated Paris waiting to receive him.

To the unpoetic, plodding German or English merchant all this seems foolishness. When his Mightiness, the military Jefe, with his gang of ragged, starving, half-breed soldiers who are held to the performance of their patriotic duty largely by the persuasive influence of *aguardiente* and the hope of loot, demands a forced loan of a few thousands or hundreds of thousands, as the case may be, there are often muttering and grumbling. Sometimes, after having paid tribute repeatedly, the foreigner finds his credit impaired, or he becomes stubborn and refuses to pay. Then there is trouble. Such insolence on his part must be wiped out in blood, or at least he must be locked up in jail, his property confiscated, his house of business closed, his family insulted and terrified, and such other pleasantries practised upon him as the product of a mixture of Spanish, Indian, and negro blood may devise. Ordinarily this calls forth a protest from the English or German consul. For a consideration the American consul will also sometimes use his good influence. Usually the merchant by this time is willing to pay and apologize; then that international incident is closed. Of course, that is the best way to settle the affair, for any other method might threaten infringement of the Monroe Doctrine.

Do not good and patriotic citizens say:

> "It would seem only reasonable that if an Englishman or a German should deliberately choose to take speculative chances in a South American Republic of notoriously revolutionary proclivities, he ought to carry his own risk, — provide his own insurance, so to speak."[1]

Occasionally, however, England and Germany decide "to provide the insurance" and protect their own citizens, as every government worthy the name ought to do. Then it will be found that the American newspapers, with prominent headlines shouting "Monroe Doctrine," are followed by a horde of cheap politicians; while every American business man in South America hangs his head in shame at the ignorance and stupidity of his fellow-countrymen.

How long can America permit herself to remain the *confrère* of thieves and brigands, in the attempt to protect these violent, dangerous,

[1] Dr. Albert Shaw in "American Monthly Review of Reviews," January, 1903, p. 21.

and wholly irresponsible Dictators from the punishment they so richly deserve? If the United States would assume the responsibility of intervention for the maintenance of law and order in those countries, — in other words, if it would police all of Latin America, and prevent the perpetration of outrages, not only against foreigners, but also against their own helpless population, — then it could with some show of dignity and good faith say to Europe, "Hands off."

To talk of our becoming involved in war with Germany, as many newspapers do, because of the Venezuelan affair, is utterly indefensible. Such a war would be the greatest crime in history, in which the United States would be in the eternal wrong. No higher or nobler service could be done to humanity, to the Latin-Americans themselves, and to civilization for all time, than for the United States to take possession and control of all Latin-American countries, except the three previously mentioned, and govern them in the same manner as it governs other dependencies. Until this is done, there will be no peace in the Western Hemisphere.

The United States should adopt a sane and practical policy, consonant with the requirements of modern civilization. Whether it acts alone or in conjunction with other powers is immaterial. The important thing is that stability and security should take the place of anarchy, desolation, and destruction. Until that is done, there can be no permanent peace upon the earth. Every session of Congress will witness calls for additional naval appropriations, with the undisguised intention of making common cause with the banditti of South America against those great and civilized powers with whom we chiefly trade, who are related to us by ties of blood, literature, religion, and commerce, and whose friendship we ought not lightly to throw away. Such a war would cover with eternal infamy the administration responsible for it, and would make a blot on the fair page of American history which time could never efface. That sane and intelligent Americans can talk of possible war with England or Germany on such an issue is one of those disquieting things which can only be explained on the hypothesis of inexcusable and criminal ignorance. It is inconceivable that any right-minded American, conversant with the facts, could do other than applaud the German Emperor, who is doing so much towards making it possible for a white man to exist in these countries.

CHAPTER X

THE MONROE DOCTRINE — A MENACE TO OUR NATIONAL PEACE AND SAFETY

IT must be clearly evident that the position of the United States in the world, its strength, and its relations are different from what they were when the Monroe Doctrine was promulgated. At that time it was believed to be essential to our peace and safety; European aggression was feared upon this continent, and it was vaguely believed that if Europe established powerful colonies on the Western Hemisphere, these might be made the starting-point for attacks upon us, involving us in ruinous wars and possibly threatening our existence as a Republic. It is difficult now to estimate the real danger which existed; it may merely have been one of those portents of evil which so greatly exceed the reality. And yet there was enough of truth in it to make it a matter of wise precaution. It was precisely for the purpose of preventing an occurrence like that which happened to the Boer Republics three quarters of a century later, on another continent but under very similar conditions, that the people of the United States instinctively made the Monroe Doctrine a part of their national creed. And they were entirely right, amply justified by the elemental principle that self-preservation rises above all other dogmas. So long as the Monroe Doctrine, or almost any other doctrine that could be conceived of, should be necessary to our national self-preservation, there could be no argument or hesitation in reference to its adoption.

But nobody believes to-day that the United States could be endangered by any European colony, or any number of them, however powerful they might be, on the Western Hemisphere or anywhere else. Suppose South America grew to be as powerful as Russia or Germany or Great Britain, or all of them combined, should we be alarmed by reason of that fact? Not in the slightest; rather we would rejoice. From South America to North America is as far as it is from Europe to North America; all the ships of the world could not transport troops enough from there to successfully attack us. Are we so contemptible that we would hold a continent in barbarism because of some fancied danger, wholly imaginary, that if it were great and strong it might attack us?

Canada to the north of us is an eternal hostage for the good behavior of England. In the event of war with the latter power it is well understood that we could overrun the former as easily as a giant could handle a baby; that we could bind it hand and foot, and hold it helpless and prostrate as was the South at the close of the Civil War. And this fact as to our mighty power, being unquestioned, is all the stronger reason why we should and why we will deal gently, kindly, justly, not alone with Canada, but with all nations. Our territory is invulnerable, and not all the nations of the earth could successfully invade it. If Napoleon found that narrow stretch of water, the English Channel, impassable to his armies; if the same great captain had his legions scattered and destroyed in his descent upon Russia without scarcely making a mark on that empire, how absurd the vagary to suppose that the United States could in any way be endangered by European colonies on the Western Hemisphere!

What, then, are we to say of the message of President Cleveland in the Venezuelan case, in which he said:

> "Without attempting extended argument in reply to these positions, it may not be amiss to suggest that the doctrine upon which we stand is strong and sound because its enforcement is important to our peace and safety as a nation, and is essential to the integrity of our free institutions and the tranquil maintenance of our distinctive form of government. It was intended to apply to every state of our national life, and cannot become obsolete while our Republic endures."

Shades of innocuous desuetude and paramount Blount, what are we to think of that? "Essential to the integrity of our free institutions"! "Cannot become obsolete while our Republic endures"! Has ever greater nonsense been written?

Does the aiding, abetting, or defending of barbarism in South America; does the pestiferous interference by which we make the lives of civilized foreigners on that continent unendurable, — in any manner contribute to "the tranquil maintenance of our distinctive form of government"? Is the protection of dictatorships — those bandit organizations misnamed governments, more completely unlike our own system than is the absolutism of China — in any way "essential to the integrity of our free institutions"? If men are so utterly devoid of the power to reason as Mr. Cleveland's declarations would indicate, ought not their sense of the ludicrous at least to save them from committing themselves to such unmitigated absurdities?

Enough has already been said to show that our "peace and safety" are by no means conserved by the Monroe Doctrine. Indeed, if we had no concrete evidence to the contrary, it would be a legitimate inference that the "peace and safety" of a nation would probably not depend upon a doctrine which has long since outlived its usefulness, and now has no higher warrant for its existence than that it is the

vague form of reminiscences and traditions, exercising its influence upon the minds of men rather because of its historical associations than of any present applicability to the world in front of us.

I. A Menace to our Peace

I now propose to go far beyond a mere denial of the dogma that the Monroe Doctrine is in any way essential to our peace and safety, and to assert unequivocally that the Monroe Doctrine has become the greatest existing menace to our peace and safety, and even to the very peace and safety of civilization itself. This danger is augmented by the fact that the Doctrine as it exists to-day is a jumbled up mixture of platitudes, founded in neither sense nor reason, exercising the power of a superstition, and utterly unrelated to anything like logical or orderly processes of thought.

Mr. Francis B. Loomis, First Assistant Secretary of State, in a recent address before the American Academy of Political and Social Science, clearly indicated that he appreciates the dangers which confront us in connection with this Doctrine. He said:

> "If an European nation, or a number of European nations acting together, were to take over and administer the finances of a Latin-American nation, contrary to the desire and will of its government, it would not require keen foresight to predict that in a few months the destiny of the country whose customs were being administered through foreign interposition would be in a large measure controlled by the agents of the alien creditor. In this wise, then, there might be evolved a situation fraught with danger to the peace of the world, and full of menace to the spirit of the Monroe Doctrine.
>
> "But we cannot deepen the meaning nor widen the scope of the Monroe Doctrine without proportionately increasing our own responsibility. The time may ultimately come when we shall have to abandon some of our views respecting the Monroe Doctrine, or fight for them, and if I read aright the present disposition of the American people they will be slow to abandon any position which they have taken in their international policy. Therefore it behooves us to consider the Monroe Doctrine in our most serious vein, and to examine with scrupulous care every indication pointing to a change in its application and interpretation.
>
> "The future is pregnant with embarrassing possibilities. Up to the present time we have been too busy to do more than guess at the potential dangers which confront us. Our government wisely attempts to cross no bridges before it reaches them. Yet its leaders scan the horizon, and they are not blind to some of the problems the future may hold. Suppose, to make concrete a single example, the recently much discussed Acre territory, between Brazil and Bolivia, had been strong enough firmly to establish an independent government; suppose, then, the people of that State had invited one of the continental powers to send a governor general to rule it as a colony, or as a protected State under the dominion of any European monarch; suppose, too, that the people of Acre, or a very large part of them, ardently desired this transfer of sovereignty or dominion, and that it were to take place. What, then, would be the position and attitude of the United States?

"Take another example: Suppose Venezuela, under the stress of poverty, were to sell or lease for a large and wholly satisfactory price the island of Marguerita to France for a period of ninety-nine years; would we maintain that Venezuela was not within her sovereign rights in selling or alienating a portion of her territory if she so chose? Or, leaving Venezuela, let us suppose, if you please, that some more potent Latin-American nation decided to lease important islands or harbors to European powers for coaling or naval stations, and we determined to resist the execution of the lease, sale, or transfer; should we not, in all probability, find our pretensions vigorously combated by two armed foes, each denying, from different points of view, our right to invoke the Monroe Doctrine?"

II. Danger of Unnecessary Complications

The suggestions of possible dangers, so briefly indicated by Mr. Loomis, by no means convey an adequate idea of the magnitude of the real menace to our national peace which this Doctrine constitutes, — a situation which if it had any foundation in our interests, or in any other reasonable motive, might be regarded with patience, and, if the worst came to the worst, suffered with fortitude. But being unnecessary, contrary to our own interests and to the interests of the world, including the very people we are supposed to benefit, it is well calculated to fill with apprehension any man who has regard for the welfare of humanity.

There is scarcely a day, certainly not a week, that passes but some one or more of the great metropolitan journals of the United States have a leading editorial calling the attention of the government to alleged violation of the Monroe Doctrine, until an American in South America becomes disgusted with the unending stream of drivel. Many of these editors would apparently have the government carry on a dozen or more wars at a time over this Doctrine with every nation which has any territory on this hemisphere. If there is a boundary dispute between French Guiana and Brazil, the great newspapers are nervous for fear the United States will not get mixed up in it in some manner. If the Italian government asks Paraguay to pay damages for having murdered some of her citizens and looted others, depend upon it, a metropolitan editor is "on the spot" with a scare headline demanding that Uncle Sam whip Italy in virtue of the Monroe Doctrine. From the dignified editorial of a great conservative newspaper to the language of a demagogue who would try to arouse public excitement on these matters, is a far cry, yet it is bridged, and the morning editorial is converted in the afternoon into the stampede of the irresponsible rabble.

Fine business indeed would it be for us to get mixed up in every boundary dispute of these anarchistic barbarous countries. There is scarcely a single completely surveyed boundary line in South America. Reference to our chapter on Boundary Surveys will show what a

pretty mess we should run into were we to undertake to intervene in these interminable disputes. A man who is always looking for trouble usually succeeds in finding it, and doubtless the same rule will apply to nations. It would seem to a rational man that when we are dealing with countries where the majority of the inhabitants would take to the woods at the sight of a transit, probably thinking it to be some new-fangled machine gun, we at least ought "to go a little slow," and instead of making it a point of honor to defend every trumped up boundary line designated by some Dictator, devote our efforts to the protection of the lives and property of our own citizens in the disputed territory.

III. The First Coalition against the Monroe Doctrine

As early as 1850 the United States was face to face with the possibility of war on account of the Monroe Doctrine. At that time France and England, at the request of Spain, sent heavy naval forces to the West Indies, with the avowed intention of making war on the United States if we should attempt any invasion of Cuba, or other hostile action towards Spain. The controversy grew out of the execution by Spain of Lopez and other American citizens, who had been engaged in filibustering expeditions to Cuba. Our own government had endeavored to prevent these expeditions, and disclaimed any intention of seizing Cuba or interfering in its domestic affairs; but great demonstrations of indignation were made by the citizens of New Orleans, and elsewhere, against these executions, and Spain feared an attack by our government. The administration at Washington declared that it viewed this hostile naval demonstration "with grave disapproval, as involving on the part of European sovereigns combined action of protectorship over American waters"; but rhetoric is of little avail in the face of battleships.

The administration, had it been wise, might not only have viewed this naval demonstration with "grave disapproval," but also with grave concern, for even at that early date it was a mute but startling intimation that if the Monroe Doctrine should ever pass beyond the status of the nebular hypothesis, it would have to do it in defiance of the cannon of the world.

IV. The Venezuelan Boundary Episode

Grotesque as appears to be the thought of war with Europe on such an issue, there is no gainsaying the fact that we have been perilously near it before, and may be again. Every one remembers the famous message of President Cleveland on the English-Venezuelan boundary dispute, that famous document which startled the world. The day before that message was sent to Congress, we were at perfect

peace with England. There was nothing unusual in our relations, scarcely a portent of the coming thunder. Mr. Olney, Secretary of State, and Sir Julian Pauncefote, had been writing amiable letters to each other about the Venezuelan boundary matter, as well as other things, but nobody was paying especial attention. We were floating brewery syndicates in England, and they were getting the money back by marrying our heiresses, and peace, happiness, and genuine friendship existed between the two countries.

Then came Mr. Cleveland's message to Congress; wantonly insulting, and throwing down the gauntlet to one of the mightiest nations of the earth, — a nation which is our best friend and which has placed every civilized human being under obligation to it for all time to come. Let any responsible man read these words of Mr. Cleveland:

"I suggest that the Congress make an adequate appropriation for the expenses of a commission, to be appointed by the Executive, who shall make the necessary investigation, and report upon the matter with the least possible delay. When such a report is made and accepted, it will, in my opinion, be the duty of the United States to resist by every means in its power, as wilful aggressions upon its rights and interests, the appropriation by Great Britain of any lands, or the exercise of governmental jurisdiction over any territory, which after investigation we have determined of right belongs to Venezuela.

"In making these recommendations I am fully alive to the responsibilities incurred, and keenly realize all the consequences that may follow.

"I am nevertheless firm in my conviction that while it is a grievous thing to contemplate the two great English-speaking peoples of the world as being otherwise than friendly competitors in the onward march of civilization, and strenuous and worthy rivals in all the arts of peace, there is no calamity which a great nation can invite which equals that which follows a supine submission to wrong and injustice, and the consequent loss of self-respect and honor, beneath which are shielded and defended a people's safety and greatness."

V. Possibility of War

What is to be thought of such language? Some men appear to be radical when in fact they are conservative; others appear conservative when they are really dangerously radical. Cleveland is the best illustration of the latter type of man; and the message from which the above is quoted may be regarded as the most dangerous mixture of ignorance, false ideas, and unnecessary insolence to a friendly power which ever emanated from one of our Chief Executives.

Well may Sir A. E. Miller have said ("North American Review," May, 1903):

"The patience and self-restraint of a great nation, conscious of its own strength, and with a fixed determination not to take needless offence, enabled Great Britain to pass lightly over President Cleveland's amazing message to Congress and Mr. Olney's hectoring despatch; but had there been any

attempt to transmute words into action, neither the insignificance of the question at issue, nor the passionate desire of the people of Great Britain for the friendship of the United States, would have been sufficient to have prevented a collision, the evil effects of which, whether it eventuated in actual hostilities or not, would have been felt in both countries for generations. It is matter for earnest thankfulness that vaporings of this sort have never been acted on by any responsible authority; and that, with the single exception above mentioned, the official interpretation of the doctrine by the United States government has been uniformly unexceptionable."

But the fact that President Cleveland wrote such a message is not the most disquieting feature of the case. The writer does well remember the tremendous enthusiasm with which the message was received by all parties and all classes. The Republicans vied with the Democrats in an effort to twist the British Lion's tail; men of unquestioned standing and responsibility were as crazy as the rabble in favor of sustaining the administration to the uttermost. And it is doubtless true that had it been any other great power that we had needlessly offended in this manner, war preparations would have commenced on both sides. Even to-day Mr. Cleveland's message is referred to as one of our great state documents by newspapers that never tired of deriding him and abusing him for his alleged shortcomings. And this may well lead us to ponder as to whether such a wave of national lunacy may seize us again; and if so, what might be the consequences.

That any man, rational and responsible, who in fact did "keenly realize all the consequences that may follow," should write such a message, is to me incomprehensible, and yet the facts are before us that such a man did write such a message and that it met with wellnigh universal approval. Unless the American people shall seriously and conscientiously go to the bottom of this whole subject, and put an end to the whole Monroe Doctrine foolishness, it may happen again, with consequences much more unfortunate than before. If the time shall ever come when such stupendous national folly shall lead our people into the condition of hysterical insanity which such an indefensible and gigantic crime would imply, I at least am determined that my hands shall be clean. As he of old stood upon the walls and cried aloud and spared not, so must I to-day warn my fellow-countrymen with shout and gesture, with word piled upon word, with fact and argument and figure, with the deductions of logic and the inferences of common sense, with appeals to justice, and with the utter fearlessness and abandon of truth, against any repetition of that most dangerous and disgraceful episode in the history of the intangible mixture of superstition, ignorance, and sentimentality in furtherance of which Grover Cleveland wrote his singularly revolutionary message.

VI. The Venezuelan Blockade

An impressive and ominous warning is afforded by the combined action of the powers in blockading Venezuela in 1903. I have no purpose to give a history of the events leading up to that action. The causes were ample in the opinion of the powers — and in my opinion — to justify the action. The point of the whole proceeding is, why was such a mighty array of force used against a nation which is entirely insignificant in strength? Here we find England, Germany, and Italy bound together, acting as a unit, and other great powers apparently ready to join them at their request. Was that mighty combination of strength made for the purpose of overawing Venezuela, or was it made as a silent but grim intimation to the United States that its Monroe Doctrine should be obtruded with great modesty?

Fortunately we had, during this episode, for President a man of sound judgment, and for Secretary of State a man who harbored no hallucinations, and the relations of our own government were never seriously affected by the affair. But even this case could not pass by without leaving an unpleasant taste in the mouth of every power connected with it. H. W. Bowen saw fit to abandon temporarily his position, as representative of the greatest government of the world, to become the apologist and agent of the nefarious gang which had justly incurred the displeasure of the civilized powers by its outrages on foreigners. Not alone is this irregular proceeding a strange precedent, but it is fraught with danger. A man acquires some political influence, is appointed minister of the United States government, and then, for the sake of the notoriety and possible political preferment it might give him, appealing as all demagogues do to popular ignorance and prejudice, adopts in his intercourse with gentlemen manners which are euphemistically called "shirt-sleeve diplomacy," and does not even hesitate to say that if the allies do not do thus and so, he would do so and so himself, — tactics finding their climax in the cold-blooded argument made by himself and his colleague, Wayne MacVeagh, before The Hague Tribunal, that the allied powers had agreed to submit the case for the purpose of avoiding possible war with the United States.

Of course a man is nothing more nor less than a demagogue who would seek to use the United States as a club to threaten war with a friendly power, on any issue whatever, let alone such a crazy one as the Monroe Doctrine; for no man, not even the President, has any such authority. Nevertheless we must not lose sight of the fact that meddling notoriety seekers are always in abundance; that they often hold high official position; that with such pernicious precedents in front of them, the next like incident which occurs may call forth another with an equally fatuous hankering for glory; that the Mon-

roe Doctrine affords a perfect mine of opportunity for just such blatherskites; and finally, we may not always have a man at the head of the government in whom we could rely to do the right thing under similarly vexing circumstances.

VII. Combined Action against Guatemala

W. Godfrey Hunter, American Minister, Guatemala, under date of February 26, 1902, informed the State Department that the external debt of Guatemala, held by a committee in London, was about £1,600,000, and that when President Cabrera came into power the internal obligations in silver were about $60,000,000.

On September 4, 1901, the governments of Belgium, Great Britain, France, Germany, and Italy addressed a joint note to the government of Guatemala regarding its failure to fulfil its pledges to the holders of its bonds. A long statement of the facts was made. The government of Guatemala under pressure paid some of the principal claims.

James G. Bailey, Chargé d'Affaires, Guatemala, on July 24, 1902, wrote:

"Very reliable information discloses the fact that collective coercive pressure was resorted to by the respective diplomatic representatives here of England, France, Germany, and Belgium in order to bring about the payment of said claims. It appears that they as a body notified this government that if arrangements were not made to satisfy their respective creditors on a specific date, a man-of-war would take possession of each of the principal ports of the Republic of Guatemala.

"No arrangement has yet been made to meet the just demand of American creditors."

Of course not! But why bring so mighty an array of force against little, insignificant Guatemala? Cannot the American people see that the most portentous fact of all history has at last been consummated, — a coalition of all civilization against the United States on account of this insane Monroe Doctrine of ours? Think of eight tenths of the battleships of the world pouncing down on miserable, inconsequential Guatemala to collect a trifling debt! An American who cannot understand the philosophy of this takes a narrow view of the world-wide relations of men.

The transcendent fact must not for a moment be lost sight of that if we ever get into a war over the Monroe Doctrine, it will not be a war with England alone, or with Germany alone, or with any other single power; it will be a war with all civilization, — with every power on the earth that has a rifle, or the money to buy one with. Let us not deceive ourselves. When it came right down to the test, every country in South America would be as strongly against us as would the powers of Europe. I know the Latin-American people, I have

studied them as carefully as the Spanish toreador studies his fierce Andalusian bull, and I say that all South America would join with Europe on the Monroe Doctrine if it ever came to an issue.

The leading men of South America believe it is our Monroe Doctrine that has kept them at the mercy of these bandit chiefs for nearly a hundred years, while the "Generales" fear and hate the United States more than they do any European country. So, before we permit a theorist like Grover Cleveland, or an enthusiast like Mr. Herbert W. Bowen, to involve us in a war over the Monroe Doctrine, we had better give the matter serious thought. The conflagration which this would start might be world-wide.

No power, not even the mighty government of the United States, can defy Europe. It may tickle our vanity to have campaign orators tell us that we can whip the world; but we cannot do it. Europe is the very seat and origin of the intellectual and military power of the world. We are the offspring of Europe, and the child is not yet as great as its parent. Any attempt to meet Europe on the field of duel is foredoomed to appalling disaster. The policy of bully and bluster and brag should be held in check by the authority of an enlightened and powerful public opinion. If we ever get into a war on account of the Monroe Doctrine, the Great Rebellion will pass into history as child's play alongside it; and at the end of the war the Monroe Doctrine will be eternally dead.

VIII. Santo Domingo announces that it will resist all Coercive Acts and solicit the Assistance of the United States

In 1895 diplomatic relations were broken off between France and Santo Domingo, and the former country sent a formidable fleet of war-ships to visit the latter. The "Republic" had undertaken to destroy the National Bank of Santo Domingo, a French institution, because it refused to place its vaults completely at the service of the Dictator, General Heureaux. Outrages were also committed on various French citizens, among them Boimare and Chiapini. The Spanish minister had undertaken to restore harmony, when a French citizen, Noel Caccavilli, was assassinated, and affairs were brought dangerously near a crisis. Admiral Abel De Libran, with a fleet, was sent to Santo Domingo to demand the execution of the murderer and the payment of an indemnity of $80,000 cash. General Heureaux bitterly opposed the demand for the execution of the assassin, and the Santo Domingo Chargé d'Affaires in New York, A. Wos y Gil, endeavored long to get the United States to interfere. Mr. Wos y Gil wrote Secretary Gresham on February 18, 1895:

"But your Excellency will permit me to state the idea that the French government might seek some other way to exert a pressure upon the Dominican

government, and, saving the existing American interests in Santo Domingo, might carry into effect its plan of assault against our sovereignty, has not been lost sight of by my government.

"In case of such an event transpiring, I beg to say to your Excellency that my government, in defence of its rights and the principles of justice upon which its cause is based, is disposed to resist all coercive acts and solicit the assistance of government of the United States. For this purpose I beg to inform your Excellency that I have received special instructions from my government, and in the event that such a contingency should arise, they will be at once submitted for your consideration. I cannot forego the present opportunity to express to your Excellency the high appreciation in which my government holds the United States, and how deeply it esteems its aid and sympathy, so potent and so powerful that no suggestion of other assistance has been made."

How pleasant to have the United States, with its navy, at the support of every assassin in Latin America, at least morally, if not physically! In this case the United States used its "good influences" sufficiently to prevent the punishment of Caccavilli's assassin. Of course, the negotiations did not take exactly that form; they related to "friendly neutrality," and all that sort of thing; but in the final round-up the murderer went unpunished.

Any one who is familiar with the facts as to the firing on the American schooner Henry Crosby in Santo Domingo only a short time before the French incident, who has observed the disgraceful impotency of our government in that case, who then reads the "stuff" from Santo Domingo authorities about their love and sympathy for the United States as soon as they get in real trouble with a foreign power, and who weighs well the supine folly of the Cleveland administration in its foreign relations, must draw a breath of relief to believe that those days of disgraceful truckling to the sycophant freebooters of the Latin dictatorships are speedily passing away, and forever.

IX. Whether Utopian or Practical, whether designed to promote Republicanism or protect our own Interests, the Monroe Doctrine is a Pathetic Failure

If in adopting the Monroe Doctrine the United States thought it would promote liberty and republicanism the outcome has been an absurd abortion.

Did it think it would promote its own welfare, or the interests of its own citizens? If it did, it has been sadly mistaken. Perhaps it was thought these Latin-American dictatorships would be more friendly to us than would be monarchial governments, or colonies of the European powers occupying the same soil? If so, how great was destined to be our disappointment! To-day we are face to face with the fact that we have elsewhere no such implacable enemies in the

world as these same Latin-American dictatorships, particularly Venezuela, Colombia, Ecuador, Central America, San Domingo, and Haiti.

If these powers, or any one of them, had the strength of Germany, or France, or England, we should have continual war with them. It would not be a war for a day or a year; it would be a war until one side or the other was finally conquered.

The greatest monarchial colony in the world, Canada, is our best friend; it welcomes our citizens, and protects them as its own; we have hundreds of millions of dollars of investments there, and tens of thousands of our citizens; their rights are respected, their property protected, and they are welcomed with open arms. How about Venezuela, Colombia, Nicaragua, Guatemala, Honduras, Salvador, Haiti, San Domingo? In those countries the exequaturs of our ministers and consuls are cancelled on the slightest pretext, our citizens are thrown into jail or robbed or murdered by the so-called governments.

This friendship of "Sister Republics" is a great thing! Suppose they had the power? Now, conscious of their weakness, some of them at times use phrases of flattery when speaking of the Great Republic — especially if they are figuring on some particularly atrocious deed, and think it advisable to curry favor with our government a little in advance, so that it will not upset their scheme. But if they had the power — the navies and the armies — they would soon visit on our government as a whole the spleen and vengeance which they now mete out to our citizens as individuals.

If our people think the Monroe Doctrine has resulted in creating countries which are friendly to us, they are laboring under the greatest of mistakes. We have no enemies in Europe, and never have had, at all comparable with these pestiferous dictatorships. We should be safer from invasion if Russia, Germany, China, Japan, or any other power on this earth possessed that territory than we should be for the present dictatorships to occupy it if they had the power. It is not to the interest of the United States to nourish dictatorships in the littoral of the Caribbean Sea and Gulf of Mexico. The people there are constitutionally and unalterably hostile to us.

CHAPTER XI

THE LOGIC OF TRADE

THE majority of our press and people have been so ready to fight at the drop of the hat in behalf of our "Sister Republics" that it becomes pertinent to ask whether it is worth while to antagonize needlessly those great civilized powers with whom we have such satisfactory trade relations, for the sake of the pure love and affection which it is supposed we ought to have for those countries to the south of us. In discussing this matter, little regard need be given to the ethical theories or absurd vagaries of men who are chiefly occupied in holding conferences, Pan-American conventions, or dreaming of a Pan-American commercial union. A fact is worth forty theories. If South America could be civilized by junketing trips or holding love feasts, if our commerce could be extended there by pretty speeches, then a practical man might be induced to listen with some patience to the raillery against England and Germany, and the laudation of Latin America. But the statistics of commerce do not point that way. Leaving sentimentality aside, let us examine the figures as to our foreign commerce.

I. Balance of Trade against the United States

The first fact of importance, and it is worth considering, is that the United States has bought over one thousand million dollars of products from Spanish-American countries more than we have sold to them in the past ten years. This enormous balance of trade against us is not being decreased in any appreciable degree. Eighty or one hundred millions of dollars of American gold goes into Spanish America every year to remain there. But that is not all. The United States, in order to encourage this trade, subsidizes, if not directly then indirectly by paying large bonuses for carrying the mails, all the steamship lines flying the American flag running to South American ports. This subsidy amounts to two thousand dollars a trip to certain steamers. Not alone have we paid Venezuela fifty millions of dollars in gold more than we have received from her in the past ten years, but we also virtually subsidize the ships which enable that country to carry on this profitable business with us. Nor is this all. There have

been hundreds of millions of dollars of American money invested in these countries which has been absolutely lost, frequently destroyed by the revolutionists, or, because of repeated government interference rendered valueless.

The commerce of the United States with South American countries for the years 1901–1902 and 1902–1903 is as follows, as given by the United States government:

	1901–1902		1902–1903	
	U. S. Imports from	U. S. Exports to	U. S. Imports from	U. S. Exports to
Argentina	$11,120,721	$9,801,804	$9,430,278	$11,437,570
Brazil	79,178,037	10,391,130	67,221,030	10,736,748
Chili	7,740,759	3,714,522	9,380,204	4,038,875
Colombia	3,271,894	2,973,460	4,215,568	4,365,629
Ecuador	1,546,564	1,462,105	1,724,851	1,353,162
Guinas	4,830,334	2,654,469	4,251,140	2,849,048
Peru	3,269,411	2,558,995	2,900,664	2,971,411
Uruguay	2,520,579	1,586,459	2,981,632	1,505,099
Venezuela	6,287,121	2,793,743	5,318,569	1,878,202
Bolivia, Paraguay, and Falkland Is.	20,336	106,930	4,387	62,128
Total South America	$119,785,756	$38,043,617	$107,428,323	$41,137,872

From this it will be seen that there is a stream of American gold yearly going into South America to stay there. Our trade with the other Spanish-American countries for these two years was as follows:

	1901–1902		1902–1903	
	U. S. Imports from	U. S. Exports to	U. S. Imports from	U. S. Exports to
Cuba	$34,694,684	$26,623,500	$62,942,790	$21,761,638
Central America	9,889,530	6,322,685	10,294,867	6,109,797
Mexico	40,382,596	39,873,606	41,313,711	42,257,104
Haiti	1,204,461	2,691,413	1,109,729	2,385,462
San Domingo	2,553,470	1,577,592	1,833,676	1,371,758
Total	$88,724,741	$77,088,796	$117,494,783	$73,885,723

The statistics for the fiscal year 1903–1904 are as follows:

	U. S. Imports from	U. S. Exports to
Brazil	$70,152,745	$11,046,856
Venezuela	6,876,348	3,155,465
Argentina	9,765,164	16,902,027
Colombia	7,948,611	4,678,194
Chili	10,685,189	4,879,762
Guinas	1,877,601	2,608,483
All other S. America	13,000,931	7,554,588
	$120,306,589	$50,825,285

Our trade with the other Spanish-American countries for the year 1903–1904 was as follows:

	U. S. Imports from	U. S. Exports to
Mexico	$43,627,115	$45,906,748
Cuba	60,089,446	25,703,104
Costa Rica	3,529,809	1,936,369
Honduras	2,046,113	1,604,298
Nicaragua	1,514,643	1,837,682
Guatemala	2,665,578	1,281,382
Salvador	948,412	937,171
Haiti	1,214,133	2,597,905
San Domingo	2,885,432	1,533,454
	$118,520,681	$83,338,113

The net result of our trade with the Spanish-American countries, then, is a continual loss of gold, a purchasing from them of nearly twice as much goods as we sell to them, besides the absolute loss of vast sums invested there. The total balance of trade against us in 1901–1902 was $93,378,084; in 1902–1903 it was $109,899,511; in 1903–1904 it was $104,663,872. It would seem as though these people might be willing to take our gold to this extent and in this manner, even if there were no such beneficent institution as the Bureau of American Republics, or Pan-American conferences, and therefore that all this love and affection which we have been injecting into commercial relations is superfluous.

In comparison with these figures, some study may profitably be given to the extent of our trade with those countries with which it is

supposed we ought to be in continually strained relations because of our "Sister Republics."

Our trade with Germany for the years 1902 and 1903 was as follows:

	1902	1903
Our exports to Germany	$173,148,280	$193,841,636
Our imports from Germany	101,997,523	119,772,511
Balance of trade in our favor	$71,150,767	$74,069,125

From these figures it appears that we sold to Germany in the year 1903 nearly four times as much as we did to the whole continent of South America, nor have we lost any money in Germany by collateral investments.

Our trade with the United Kingdom seems even more startling, and in comparison with it our business with South America seems contemptible:

	1902	1903
Our exports to the United Kingdom	$548,548,477	$524,262,656
Our imports from the United Kingdom	165,746,560	190,021,658
Balance of trade in our favor	$383,201,917	$334,240,998

From this it appears that we sold in the year 1903 ten times as much goods to the United Kingdom as we did to the whole continent of South America, and while we lost sixty-six millions of gold to the latter, we gained three hundred and thirty-four millions from the former.

Nor is this all. Our trade with the colonies of England is no less satisfactory. Our commerce with British North America for the two years was as follows:

	1902	1903
Our exports to British North America	$129,794,147	$137,605,199
Our imports from British North America	48,076,124	55,649,656
Balance of trade in our favor	$81,718,023	$81,955,543

From this it will be seen that we sell to British North America three times as much as we do to the whole continent of South America, and that our trade with them leaves us eighty millions of gold to the good.

Nor is this all. Our trade with British Australia shows a balance on the right side, we having sold them, in 1903, $32,749,395 worth of goods, and bought from them products to the value of $6,968,183, leaving a balance in our favor of $25,781,212. Even in British Africa the same story is told. We sold to them in 1903 goods to the amount of $33,844,395, and purchased from them in return only $971,908 of products, showing that we got $32,872,487 more gold from them than we gave them.

It will be seen, then, that our commerce with Germany and England and her colonies for the year 1903 showed a balance to our credit of the enormous sum of $537,090,369, while our net results in dealing with Spanish America was $109,000,000 against us.

Notwithstanding these undisputed facts powerful American newspapers and distinguished men seem ever ready to antagonize these great and friendly powers, and parade the Monroe Doctrine with senseless and useless impertinence.

II. What would be the Effect if England owned South America?

To a plain man it would appear that England is blazing the way for civilization; that it is chiefly she who is subduing and overcoming barbarism in the world and using the powerful weapon of good government in working out the salvation of mankind. And after she has made it possible, with her ships and guns, for a white man to live in the far-off corners of the earth, we come along and reap the benefits of her enterprise by selling our goods — for gold. This is all right — it is business; but an American who has any sense of decency will be very polite in speaking of England and her relations to Latin America.

I do not advocate England taking possession of Latin-American countries, I advocate doing it ourselves; but it may unhesitatingly be affirmed that it would be better for the United States, from every view-point, that England should have Central America and the whole continent of South America than that they should remain in their present condition. And this I would assert for Germany also.

What would be the probable effect on our commerce with these countries if England had them? To answer this question seriously, one should study carefully the facts as regards our commerce, not only with England's other colonies, but particularly with that great colony to the north of us, Canada, and ascertain what advantages, if any, England herself possesses over us in dealing with them. For

this purpose the report of our trade with Canada made by United States Consul Deal, of St. Johns, is here given:

Article	Imported from	
	Great Britain	United States
Breadstuffs	$164,083	$1,151,320
Carriages, railway	1,452	487,890
Carriages, railway, parts of	3,209	313,850
Cotton and manufactures of	5,076,524	1,582,113
Flax and manufactures of	1,781,645	84,189
Furniture	18,357	441,889
Iron and steel and manufactures of:		
Agricultural implements —		
Cultivators	29	22,834
Drills, grain	....	50,092
Forks	116	7,700
Harrows	12	36,718
Harvesters	....	900,179
Horserakes	....	180,658
Mowing-machines	....	599,050
Thrashers and separators	....	147,634
Plows	39	214,069
Bar iron and steel	214,984	705,137
Castings, rough	2,668	195,246
Chains	55,212	156,438
Fittings, pipe	968	231,460
Hardware, builders'	58,208	593,136
Bridges and parts of	153,600	431,477
Locks	7,983	136,984
Machinery, machines, and parts of —		
Ore-crushers, etc.	3,946	48,500
Engines —		
Locomotive	....	611,925
Steam, and boilers	34,998	347,024
Portable	....	261,188
Portable saws and other similar machines	2,750	175,652
Sewing machines and parts of	3,389	243,000
Typewriting machines	15	129,913
All other machinery not otherwise specified	318,338	3,124,135
Scales and balances	2,227	99,875
Stoves	334	169,670
Enamelled ware	7,573	131,448
Steel in bars, bands, etc.	96,447	395,095
Tools, axes, saws, etc.	17,243	265,086
Tools, hand or machine	38,937	544,149
Other manufactures of iron or steel not otherwise specified	363,320	1,989,755
Leather and manufactures of	261,201	1,468,882
Paper and manufactures of	361,692	1,471,789
Wood and manufactures of	31,411	911,121

United States Consul Culver, London, Canada, gives the following as the percentages of imports of the Dominion from the British Empire and the United States:

Year	From British Empire	From United States
1882	47.42	42 87
1892	37.94	45.43
1902	26.57	59.98

The imports and exports from the United States to and from Canada were as follows:

Year	From Canada	To Canada
1896	$40,887,565	$59,687,921
1901	42,482,163	105,789,214
1906	68,249,050	156,736,675

From these statistics it will be seen that not only do we sell to Canada $80,000,000 worth more than we buy from her, but our trade with her actually exceeds her trade with England, in the ratio of more than 2 to 1. It does not require the gift of prophecy to see that if England had control of Spanish America, with the maintenance of law, order, and civilization which that implies, our own trade with those countries would be enormously increased, for the simple reason that a civilized man will consume more than a savage. Furthermore, the probabilities are very great that the balance would not always be against us.

As the population of Canada is only about one tenth that of Spanish America, it will be seen that if the latter were as highly civilized as the former, and we sold it a proportionate amount of merchandise, our exports to it would amount to twelve or fifteen hundred millions of dollars a year. Of course this would be a blessing to them and to us, but it will never be realized so long as three fourths of them live on fish and bananas, or, at best, corncakes and jerked beef, and go barefooted or wear alpagartes.

The reports for the fiscal year 1904–1905 show that our exports to Canada were $166,000,000, or more than 62 per cent of the total imports of that country, — about three times the amount of our exports to the entire continent of South America.

III. Explanation of the Facts

The facts above given are indisputable, but they seem to be generally ignored by those who write or speak on Latin-American affairs. Even when the facts are recognized, the explanations given for them are

such as to mislead our people. At a recent meeting of the American Academy of Political and Social Science, held in Philadelphia, Mr. Frederic Emory, Chief of the Bureau of Foreign Commerce of the State Department, in discussing the causes of our failure to develop South American trade, like most other writers and speakers on the subject, gave every reason except the right ones. He said:

"Most persons, in considering the subject, seem to assume that if the proper instrumentalities were supplied, the requisite effort would not be wanting, and the volume of our sales would soon begin to show a large increase. It has seemed to me, however, that this — to use a homely phrase — is putting the cart before the horse. The establishment of adequate steamship lines and of better banking facilities; the extension of more liberal credits; the adoption of methods of packing specially suited to South American conditions; the production of goods in qualities, patterns, dimensions to suit local tastes or trade requirements; the employment of commercial travellers competent to converse with the people in their own language; the adjustment of tariff relations on a more liberal basis of exchange, — all these are important agencies of growth, which have again and again been urged by our consuls, and here at home have too frequently been regarded as all-sufficient panaceas. But of what avail in a large sense would any of them be, if our manufacturers and exporters failed to utilize them except in a casual and negligent manner? It is just here, it seems to me, that we find the key to the whole situation. Until the business community of the United States makes up its mind that it is worth while to go into South American trade on the large scale of its dealings with Mexico, with Canada, with Europe, the tools and vehicles we might provide could not be profitably employed. That our export interests have not arrived at this decision as yet is a proposition that can hardly be disputed."

Up to this point Mr. Emory's reasoning is unexceptional, but he goes on to say:

"The plain truth is that the home market still absorbs all the energy of the average manufacture, and will continue to absorb it as long as times are prosperous and there is an active demand for goods. It is only when the home market becomes stagnant or depressed that he looks abroad, and then merely for openings to dispose of accumulated stocks. He has but a transient interest in foreign trade, and waits with longing for the revival of domestic prosperity. . . . The whole problem, therefore, seems to resolve itself into this: Shall we have to wait for such slackening of home demand as will again induce export activity before our manufacturers can be persuaded to enter seriously upon the commercial invasion of South America, or will our enormously increased and constantly increasing output of manufactures create, of itself, a condition of surfeit which will ultimately compel us to a systematic effort to find and maintain new outlets for our surplus goods, not only in South America, but in other parts of the world to which we have shown ourselves to be more or less indifferent?"

Mr. Emory's statement that our business men have not as yet arrived at the decision to attempt South American trade on a large scale is true; but the implication that this is in any manner due to

their disinclination to sell goods abroad, or to the supposition that their hands are already full in supplying domestic consumption, is not borne out by the facts. A simple inspection of the figures of our foreign commerce above given will show that our manufacturers and exporters are alive and energetic, adopting most vigorous methods in extending our trade to the very ends of the earth, and with great success. Our exports of domestic merchandise for the fiscal year ending June 30, 1903, were $1,392,000,000. From June 30, 1876, to June 30, 1903, our exports of domestic merchandise (not counting specie) exceeded our imports by the enormous sum of $5,824,427,903, — nearly $6,000,000,000, a sum entirely inconceivable, and exceeding the total amount of gold coin in the world. (The total stock of gold in the world is given at $5,382,600,000.)

But this is not all. Our manufacturers and exporters are pushing the sale of American goods at the present time as they have never done before. They are doing this in British Africa, in India, in China, in Japan, — to the uttermost ends of the earth.

IV. Our Commerce is with the Civilized Powers

Any person studying our commerce cannot help being impressed with the fact that our trade is extending, not with the semi-barbarians, not with countries where the notion of liberty has been permitted to degrade into anarchy, but rather with those great civilized powers and their dependencies where law and order are maintained, and where the example of good living and the awakening appreciation of the advantages of civilization have not alone created the taste for better things, but also provided the means for procuring them. It has often been remarked that our trade follows the flag, and that is true; for the flag stands for civilization, and under it the people soon learn to desire those material comforts which are so essential to civilization. Up to the present, however, it may be safely asserted that our trade has followed the English flag rather than our own. If Mr. Joseph Chamberlain should secure the adoption of his scheme of protection, if British commercial union should ever be realized, or discriminating tariffs ever be adopted against our goods in the British colonies and dependencies, it would soon be pressed home upon us how impotent and short-sighted has been our own foreign policy, how provincial and amateurish are our ideas of our relation to the world at large, and how inadequate are our own domestic markets to give permanent employment to the vast army of our citizens who are now engaged in manufacture.

The fact that commerce is a great civilizing agency, and that conversely it depends completely upon civilization and is not possible without it, is borne out by every fact and figure relating to the subject. And when some theorist or demagoue condemns "commercialism,"

or criticises those who would advance the material interests of the country, he condemns civilization itself.

This fact should be most seriously borne in mind, — that our commercial supremacy will depend upon our commerce with civilized peoples, with peoples where there are stable governments, with people where life and property are safe. We have no special social relations with Belgium, Denmark, or the Netherlands; we have never even by implication threatened the balance of the world on account of our alleged love and affection for any one of these countries; there have never been any "Pan" conventions, or the unending drivel which has flowed out in a stream towards South America for three quarters of a century. All three countries combined occupy less than half the territory of the State of Kansas. Notwithstanding their small size, we have never been called upon to defend them or any of them against the aggressions of the monsters which surround them on every side. But in some manner we managed to sell, in 1903, to Belgium $47,000,000 worth of goods, or $7 *per capita* for the total population of that country; to Denmark, $16,000,000 worth, being also approximately $7 *per capita*, and to the Netherlands $78,000,000 worth, or a *per capita* consumption of $15, of American goods, and the balance of trade in our favor with these three small countries was almost $100,000,000.

Bolivia has nearly 600,000 square miles, or about fifteen times as much as all these three countries combined. We sold to Bolivia in 1903 goods to the amount of $49,107, amounting to a *per capita* of two and one half cents. To Paraguay, with an area of 98,000 square miles, we sold goods to the value of $13,021, a *per capita* consumption of three cents worth of American goods. In Venezuela the *per capita* consumption of American goods is eighty cents a year, and in Colombia and Ecuador one dollar, while we purchase four times as much from Venezuela as we sell there. But even this statement of the absurdly small consumption of American goods is deceiving; for the great bulk of these goods is consumed by the Germans, the English, and other foreigners who reside in those countries, and not by the natives themselves. Likewise what little trade we have with these countries is mostly through the foreign houses and not with the natives direct. It must be obvious to one who has followed the argument thus far that the reasons assigned by Mr. Emory for the unsatisfactory state of our South American trade are not the real reasons. In Mexico, Peru, Chili, and Argentina the balance is not seriously against us. Relatively unimportant as is our trade with Argentina as compared with England's, it does not at least show any enormous balance on the wrong side; and the trade statistics of these countries again show the elemental fact, which cannot for a moment be got rid of, that the higher in the scale of civilization a people are, the more satisfactory is our trade relations with them.

And this brings us to the final deduction, which no amount of sophistry can evade or shake. The business men of the United States are not extending their trade relations with South America because of the insecurity of life and property there, or because of the instability of their governments, or because of the despotism of their Dictators and the violence of their revolutions, or because of the complete demoralization, political and social, which is well-nigh universal. American business men are no less enterprising than English or Germans. No race of men are more truly pioneers than Americans, and they stand ready to carry the products, the liberty, the education and the enterprise of the United States even to Cape Horn if they have a chance. But no individual alone can stand up against the bandit organizations that are called governments in Spanish America.

An Englishman, whether on the alta plain of Bogotá or in the jungles of the Amazon, knows that he at least has the sympathy, the kind wishes, of his government. If he is robbed or imprisoned, or if his family is outraged he knows that his own government will not turn against him. It may not help him out of his troubles; it may not be policy to run counter to the Monroe Doctrine; it may be considered better policy to let him perish than to run the risk of antagonizing the United States; but, at least, he knows that if he fails to secure adequate protection it is not the fault of the home country.

Not so with the American business man. He knows that he is helpless at the mercy of these brigand aggregations. He knows that the Monroe Doctrine has become a national fetish; that it is an abominable outrage on civilized foreigners in South America. He realizes it with that bitterness which springs from absolute helplessness; and he sees our newspapers and magazines filled with articles by college professors and distinguished publicists denouncing as iniquitous the just claims made by foreigners for damages by these most iniquitous of governments. He sees the United States government permit one of its ministers to become a partisan defender of one of the most violent and dangerous of these military Dictators. And he knows, if he has a particle of sense, that so long as the United States maintains its present attitude in reference to the Monroe Doctrine, that portion of South America which is under the immediate influence of that Doctrine will become more barbarous instead of less. He knows, if he has read history, or conversed with business men who have had houses established in those countries for more than half a century, that at least Venezuela, Colombia, San Domingo, and Haiti are absolutely and unquestionably worse off than they were fifty years ago, nearer barbarism. There is no doubt about that; and he fears, considering the present state of public opinion among Americans, that these conditions will not change soon.

Thus it is that American business men are keeping out of South

America. Our activities there are not so great as they were, and they will probably be less before they are greater. And if monumental imbecility is to continue to characterize our foreign policy; if the American people continue to grasp at the phantom of sweet dreams and shut their eyes to the naked acts in all their ugliness; if they will continue to be led by the vagaries of a theory rather than by the logic of facts, — then the American business man is wise in his decision to keep out of South America.

The *Frankfort Zeitung* says:

"The entire exportation of the United States to South America has increased $5,000,000 during the years 1892–1902, but what does this mean when it is remembered that during the same period the aggregate exports of the United States to other parts of the world increased $400,000,000? Moreover, were it not for the increased purchasing power of the Argentine Republic, which has enabled the United States during the period mentioned to increase its exports to this one country to the extent of $7,000,000, there would have been not only a relative but an actual decrease in the total value of exports from the United States to South America."

There we have the practical results of Monroeism expressed in a sentence. Pitiable as are our exports to South America, most of them are sent for the consumption of the foreigners who reside there. Take the English, German, French, Italian, Spanish, and other foreign houses out of South America, and our exports to that continent would not be worth mentioning. This indicates that patent devices of reciprocity, with pan-conventions, are alone not sufficient to establish commerce; while the figures relating to the balance in our favor with Canada show that discussions on reciprocity with that country is unnecessary from our standpoint.

V. Relative Unimportance of American Interests in Central and South America.

After eighty years of "Monroeism" and Pan-American Conventions, let us quote cursorily those American interests in Central and South America which have successfully withstood the ravages of the Dictators. In Costa Rica and Peru, especially in Peru, we have some important railway and mining interests; but our interests in these countries seem insignificant in comparison with those of England, Germany, or France.

I quote from Carpenter's "South America," 1901, p. 427, as follows: "I doubt whether there are twenty Americans, all told, in Paraguay. There is our Consul, a well-educated colored man, who appears to have made himself popular with the government; the Vice-Consul, who is also agent for one of our life insurance companies; two American dentists, a druggist, and a few others. An important

part of the American colony is made up of missionaries of the Methodist Episcopal Church."

With reference to the Argentine Republic, I quote from the same work, p. 297: "Until lately there were so few Americans that they were hardly worth considering. Now Americans of the better class are coming, and they will soon form an important factor in the Republic."

We have no way of learning the number of Americans in Brazil. On November 29, 1893, the American merchants of Rio de Janeiro signed a protest against the bombardment of the Brazilian capital by the insurgents. It is safe to say that every American there signed that protest — and there were but eleven signatures by Americans. It may be reasonably inferred that the number of Americans in other parts of Brazil was then inconsiderable; and it has probably remained so.

In the other South American countries American interests are equally important. In Colombia Americans are few and far between; in Ecuador the American is seldom met; in Bolivia he would be regarded as a curiosity, especially if he were out of jail!

There are probably not one hundred resident American business concerns in all South America. On this point I have applied to the State Department at Washington, but it has declined to furnish definite information for publication.

VI. Commercial Effect of American Supremacy in Porto Rico

Unanswerable statistics are afforded by the brief period of American supremacy in Porto Rico. Prior to American occupation the trade of that island was small and fitful. The island contains only 3606 square miles and has about 1,000,000 population. The influence of the United States has been manifest only since the treaty with Spain on December 11, 1898, — a period too short to give more than a glimpse of the wealth and commercial splendor which await this island in the future. But already the results of education, progress, and morality are lighting up the faces of the inhabitants of that beautiful island. To say nothing of the schools, of the millions spent on good roads, of the security and personal liberty vouchsafed them under American rule, let us turn to the dry but eloquent figures of trade, and see what progress Porto Rico is making as measured by the yard-stick of commerce. The total exports of Porto Rico to all the world in 1898–1899 were $3,093,830; and in 1899–1900, $2,991,416. The average annual exports to the United States for five years prior to June 30, 1898, were $2,271,099.

Let us follow the figures of exports since that date.

	1901	1902	1903	1904	1905
To foreign countries	$3,002,679	$4,055,190	$4,037,884	$4,543,077	$3,076,420
To the United States	5,581,288	8,378,766	11,051,195	11,722,826	15,633,145

There we see the wickedness of American rule written in figures which cannot lie! A people that were exporting only about $3,000,000 worth of products a year prior to 1898 are now selling $18,000,000 of their products yearly.

Prior to 1898 the United States sold to Porto Rico — nothing to speak of. Let us read the figures to-day:

PORTO RICAN IMPORTS

(Fiscal years ending June 30)	From the United States	From Foreign Countries
1901	$7,413,502	$1,952,728
1902	10,882,653	2,326,957
1903	12,245,845	2,203,441
1904	11,210,060	1,958,969
1905	13,974,070	2,562,189

There we have the record! This little island of less than 4000 square miles, and a population of less than a million, is just commencing its commercial development; yet it to-day consumes practically as much American goods as Paraguay, Bolivia, Salvador, Nicaragua, Honduras, Costa Rica, Colombia, Venezuela, and Ecuador combined, — countries which have an aggregate area of nearly 2,000,000 square miles, and an estimated population of 13,000,000. Such are the changes made in only six brief years under our flag, in the face of many obstacles which will hereafter be removed. The flag means civilization, commerce, something to eat, something to wear, and a chance to sleep without the necessity of keeping one eye open and a magazine gun at hand. We are only commencing in Porto Rico; and further, we are making a similarly favorable record in the Philippines.

Book IV

CIVILIZATION VERSUS BARBARISM

PART I—EXPANSION OF THE CIVILIZED POWERS

CHAPTER I

THE COLONIZING POWERS

A NATION may profit from the lessons of history. It is therefore well if we examine the principles which underlie government. The more we study this subject, the more are we likely to agree with Mr. Hannis Taylor, when he says:

"Those who are attempting to maintain that this nation is a sterile monster, incapable of reproducing itself after the manner of all other civilizing nations, cannot venture to appeal either to the past history of colonization in general or to the special history as involved with our own."

There are well-meaning men in the United States who "view with alarm" all growth and progress on the part of this country. These people couple the words "commercialism," "militarism," and "imperialism" in a manner which would have us infer that untold dangers and iniquities are sure to beset any expansion of our trade or influence in the world. Some of these men are able, honest, sincere, and patriotic Americans, like the late Senator George F. Hoar. Senator Hoar belonged to that school of statesmen who take literally the doctrines written by Jefferson into the Declaration of Independence, and would apply these doctrines automatically to every problem which confronts us, as though they were of divine origin.

It is needless to say that no such certain and mathematical regulations of the affairs of men are possible, but that the personal equation is the thing of supreme importance, and that in this sound judgment and common sense are the chief factors. These elements are of as much importance in the interpretation of the Declaration of Independence and the Constitution of the United States as in matters of less weight.

As to the negro, Senator Hoar believed that the Declaration not only makes the negro free, but that he must, by virtue of the same doctrine, be invested with suffrage and all the rights of citizenship. The Declaration says that "all men were created equal," and to the Senator this meant that the Chinaman, the Malay, the Hottentot, all of them, shall have unlimited right to come to our shores, become citizens, and hold office. Some philanthropist in the early days declared that our land should become a home of the oppressed of all nations; *ergo*,

it should become a dumping-ground for all the criminals, anarchists, and vagabonds of the earth. When the Chinese Exclusion Act was before Congress, Senator Hoar voted against it, — the only member of his party and the only Senator who so voted. There is no necessity here to discuss the whys and wherefores of this act; suffice it to say that it affords a sufficient illustration of the theory for which I am contending, namely, that any preconceived theory of our government, or any general principles enumerated by the fathers or by succeeding statesmen, must always be interpreted in the light of facts as they exist, and of the changing conditions which confront us.

How a man can accept literally, for instance, the statement that all men are created free and equal, is past comprehension. No two leaves in the illimitable forests are equal; no two grains of sand on the seashore are exactly, in every respect, the one equal to the other. So far as equality, in an absolute sense of the term, among men is concerned, nothing could be farther from the truth. The diversities among men, not only physically but in their intellectual and moral characteristics, are greater than those of the cattle of the plains, and yet every herdman knows his own. Nor can the further doctrine be sustained, literally, that all men are created free. In very truth, none of us is free, nor shall we be unless

> "The soul can fling the dust aside,
> And naked on the air of heaven ride."

We are all subject to law. Gravitation holds us fast and helpless in its grip, and the thousand laws of nature are but multiplied fetters which bind us round about like leashes. Not only the positive mandates of governments, but the multiplied restrictions of social intercourse are real and positive limitations on our liberty, as absolutely necessary as they are binding.

Let us see, then, what is the true spirit and meaning of the clause of the Declaration in view of the actual conditions: "All men should have the greatest possible individual liberty, consonant with the public good, with a minimum of governmental interference. Before the law all men should stand on equal terms, and receive impartial justice." Is this not what the Declaration really means? Is this not what it ought to mean?

Take the further declaration as credited to Patrick Henry, that "taxation without representation is tyranny." The spirit of this proposition is good, but is the phrase literally true? By no means. Foreigners who own property in our country are taxed, and justly. Yet they are not represented; they have no voice in the government, nor should they have. Women are taxed, though they are not represented. Nor is there the slightest evidence that the framers of our Constitution or the fathers of the government ever contemplated that women should have the right to vote.

Nor can the further doctrine, in its verbatim literalness, be sustained, that all just governments derive their powers from the consent of the governed. We have an old adage that "No rogue e'er felt the halter draw with good opinion of the law." The facts are that governments are mainly instituted for the precise purpose of controlling those who do not give their consent, and this element constitutes such a large minority that we are compelled to support great police departments and expensive systems of tribunals for the purpose of carrying the control into effect. If the phrase had been that all just governments derive their powers from the consent of the majority of the intelligent, responsible, and law-abiding men who live under them, then it would be possible to make a more nearly literal acceptation of the dogma; and no doubt this is the true meaning of the words, since it is at least in harmony with their spirit.

That every man should be allowed to vote, to take part in the affairs of the government without reference to his antecedents or present aptitudes, is a doctrine rapidly being abandoned among thinking men, if, indeed, it has ever been seriously entertained by them. One phase of this is voiced in the statute books of nearly every State, in which the elective franchise is denied to felons or professional criminals who have been duly convicted. That anarchists and those who advocate the destruction of all governments by bloodshed should be allowed to take part in the operation of the machinery of government seems preposterous. That bribe-takers and ballot-box stuffers should be allowed to vote, or take part in the administration of the laws, is equally untenable and absurd. Another class, a large one, is likewise unworthy to vote, and the dangerous power which the ballot confers upon its members should be restricted, — those who sell their votes; the riff-raff and scum in the slums of the great cities; the vagabond class, many of whom can neither read nor write, and whose opinions are of no value on any subject; those who have no stake in this country and no responsibility for the results of their votes. Many people in the United States seem to think that the right to vote is a sacred and inalienable right. It is not. It is a privilege conferred by the State, and the power which conferred it may take it away. The majority should rule; but it should be a majority of intelligent, responsible, law-abiding men, — not a majority of loafers, tramps, criminals, or vagabonds.

These views are the opinions of the soundest thinkers, and are in accord with the decisions of our highest courts. The theories of the anti-imperialists of the Hoar type, then, are based upon a fallacy in so far as they are founded upon the supposed inalienable right of every man to vote, — in other words, to self-government. The privilege of voting, which is not a natural or inalienable right in any sense of the term, is confounded with that broader and more fundamental right which every man ought to possess, namely, the

largest measure of unrestrained liberty consonant with the public good, and the full and equal protection of the law.

Nor does the one right imply, or in any wise involve, the other. The Hindoo subjects of Great Britain and the Malayans are immeasurably freer than they were under their own systems of government; their material, intellectual, and moral progress has been accelerated amazingly by the beneficent rule of England, but they have not the remotest hope, or perhaps wish, for self-government. In Spanish America, where all male citizens of twenty-one years have the constitutional right to vote, no man is free; the fiat of a military boss is the supreme law. Senator Hoar, then, grasped at the shadow and not the substance of freedom.

I. Limitations on the Right of Local Self-Government

A similar mental attitude is taken by this school of statesmen on the matter of the prerogatives of nations when it interprets questions of international law along narrow technical lines. Writers hold generally and sanely that one nation should not interfere in the domestic concerns of another. But international law is a question of etiquette rather than of ethics, and a rule generally salutary and under normal conditions respected by all parties may under many circumstances be more honored in the breach than in the observance. Any nation worthy of the name will interfere, especially in a barbarous or semi-barbarous country, for the protection of the lives and property of its citizens or the civilized subjects of other friendly powers whenever occasion may require. It would be an extraordinary circumstance which would warrant our interference in the internal affairs of England or France or Germany. These governments are, in the main, actuated by like motives with our own, and would unquestionably be found exercising their entire powers to correct any flagrant domestic wrong. But to apply such a rule to Turkey, China, or the South-American countries would be fatuous blindness.

To what extent, if any, has a country an inalienable right to self-government? What are the limitations, if any, as to its exercise of absolute powers over the territory under its jurisdiction?

It is evident that there must be a limit somewhere placed to the exercise of the right of local self-government. Otherwise each State would have the right not only to resolve itself into a sovereign nation, but likewise each county, nay, each township, and we should have a system of governments more nearly approaching anarchy than anything else. The doctrine of State rights in any such sense of the term as this was happily killed forever by the Civil War.

The question as to whether a country is capable of self-government and whether it should be permitted to exercise that privilege is a question of fact and not of theory. No sane man believes that every

little island and local subdivision should be invested with such sovereign powers. Where the line shall be drawn must be decided by sound judgment and an enlightened policy, taking into consideration not alone the welfare of such countries or people, but also of the world as a whole.

II. Limitations on National Sovereignty

Nor is there any sound warrant for the belief, very general throughout South America, that a nation is *per se* absolute sovereign over its territory, with power to alienate it or govern it as it sees fit, without any reference to the interests of the rest of the world. Civilized nations may generally exercise such powers, and their jurisdiction over their territory is practically complete; but this grows out of the fact that they voluntarily comply with the mandates of civilization, and administer their affairs generally in a manner which commends the approbation of mankind. Should a nation heretofore regarded as civilized so administer its affairs as to shock mankind or outrage Christian civilization, such as murdering by government sanction any class of men because of race or creed, it would soon ascertain that no fine-spun theory of territorial jurisdiction based on international law would save it from answering for its crimes to that mightier tribunal, the united powers of civilization.

In promulgating the Monroe Doctrine the United States placed a practical restriction on the sovereignty of every Spanish-American country. In virtue of that doctrine no European power may acquire by force territory in the Western Hemisphere unless it wishes to risk war with the United States. That is the national policy of the United States. The world has had ample notice of it, and its infringement might be accompanied by grave consequences. But what cannot be done directly may not be done indirectly, and to all intents and purposes the Monroe Doctrine means that a European power cannot acquire any additional territory in the Western Hemisphere. When a junta from Ecuador offered the Galapagos Islands for sale in Europe, no offers were made for them, for the sufficient reason that no European power cared to jeopardize its friendly relations with the United States by acquiring, by purchase or otherwise, additional territory in this hemisphere. If Europe were allowed to ride through the Monroe Doctrine by purchasing territory in Spanish America, it would be only a question of time when the majority of the lands from Panama to Cape Horn would be on the block, for the highest and noblest ambition of each succeeding gang of patriots who hack their way into power in those countries is to get money enough as quickly as possible. If there were really purchasers for territory, that would be the shortest road to riches, and hence the one to be adopted. But the Monroe Doctrine steps in and imposes

a real and absolute limitation on the sovereignty of those countries in this respect.

Sovereignty in its highest sense is exercised by very few nations, and those only the highly civilized. From perfect and complete sovereignty down to the temporary control exercised by wandering tribes may be found every shade and degree of sovereignty. Some countries are semi-independent; some are nominally independent but actually under the domination of another power; some are under a suzerainty or a protectorate; some are independent for certain purposes and under general control for others; some, like Turkey, are recognized as independent sovereignties and yet must carry out certain internal policies dictated by superior force; some are free and independent, as Cuba, but are not at liberty to enter into foreign alliance or levy war without the consent of a first-rate power. Sovereignty, when spoken of a first-class power, is one thing, but when the word is applied to a semi-barbarous country, which has not, and never did have, a legally constituted government, it is quite another matter.

The extent or strength of the government is not the principal factor to be considered. Indeed, the tendency of every great power is to defend and protect a weak power rather than oppress it. Switzerland could not be more secure if it were twice as big as Russia; and this safety lies not in its army or its inaccessible position, but in the fact that it has a highly cultured and brave people, who are punctilious in respecting the rights of others. Although there are exceptions, it can generally be said that no great nation desires to incorporate into itself by force a civilized people whose only fault is lack of numbers, and when this occurs the provinces thus annexed usually become a source of weakness to the victor and a menace to him.

The case is entirely different where semi-barbarous peoples are ruled by illegal and dictatorial governments; where, instead of orderly succession by constitutional methods, the man who can muster the most machetes becomes ruler, and where, because of the unending successions of crimes and public disorders, life and property are always unsafe, and progress and civilization made impossible. In such a country there is no legally constituted government, sovereign or otherwise. To recognize each succeeding desperado who seizes the reins of power, invest him and his irresponsible coterie with the attributes of sovereignty, and attempt to throw around him the habiliments of international law, is contrary to the dictates of reason, and has no warranty in sound procedure. Appeals to international law to sustain the sovereignty of such so-called governments, the very existence of which is based not upon law but upon force, appears to be wholly devoid of merit. An axiom of equity jurisprudence is that he who asks equity must do equity, — he who comes

into a court of equity must come with clean hands. And any pseudo-government which appeals to the canons of international law to protect it in the wanton acts which it misnames acts of sovereignty should be required as an antecedent to prove its right to be regarded as a government at all. When there is positive proof that the persons constituting such a government have in fact usurped by force the offices they pretend to occupy, in violation of their own legal systems and in contravention of the usages of civilization, and when there is further unimpeachable evidence that such persons abuse the power which they have thus wrongfully assumed, violating the decencies of life and shocking the sensibilities of mankind by their atrocities, destroying commerce and education, and disregarding the common requirements of civilization, then it is the moral duty of any civilized power to intervene and establish law and order. In the face of such intervention all arguments regarding the infringement of the alleged rights of sovereign nations may be dismissed as sheer nonsense.

The doctrines of the Declaration of Independence, the precepts of our Constitution, and the rules of international law are all designed to promote real liberty and justice in the world, to advance the cause of civilization, and bring about the greatest possible good to the greatest possible number. None of them has any higher warrant than this for their authority, and should they, or any one of them, conflict with this ultimate and highest conception of human advancement, they must in that respect inevitably be modified. But only a narrow and restricted view of these great documents could make them seem to oppose the one or the other.

III. What Rights have Semi-Savages to hold Vast Territories Unimproved, to refuse to Work and to prevent Others from Working?

"There is another celebrated question to which the discovery of the new world has principally given rise. It is asked whether a nation may lawfully take possession of some part of a vast country in which there are none but erratic nations, whose scanty population is incapable of occupying the whole. We have already observed, in establishing the obligation to cultivate the earth, that those nations cannot exclusively appropriate to themselves more land than they have occasion for, or more than they are able to settle and cultivate. Their unsettled habitation in those immense regions cannot be accounted a true and legal possession; and the people of Europe, too closely pent up at home, finding land of which the savages stood in no particular need and of which they made no actual and constant use, were lawfully entitled to take possession of it and settle it with colonies.

"The earth, as we have already observed, belongs to mankind in general, and was designed to furnish them with subsistence; if each nation had from the beginning resolved to appropriate to itself a vast country, that the people

might live only by hunting, fishing, and wild fruits, our globe would not be sufficient to maintain a tenth part of its present inhabitants." (Vattel's "Law of Nations," Chitty's edition, page 101.)

IV. A Good Government is Indispensable; how it is brought about is a Matter of Detail

Government is to a society what a house is to a family. It not only protects and is a place of refuge, but it is essential to all true growth and progress. As families which have comfortable and permanent homes are distinguished from wandering tribes, so a society which has a good government is differentiated from the savages. Not all fathers of families can build houses, so that some must acquire them by purchase or hire. A man may be a talented artist, a profound jurist, or a great banker and still not be able to build a house. We do not esteem it a discredit that such men live in houses built by others. But to establish and maintain a good government requires aptitudes fully as specialized as is architecture or carpentry. Why, then, expect that each society establish its own government, — in other words, self-government? To the family the important thing is that it has a good house in which to live, and he would be set down as a fool who should demand that every family should live outdoors until it knew how to build its own house. Does not the analogy hold good with reference to government? Because I have not the knowledge, the experience, the executive skill, the physical power, or the good faith to establish a good government, shall I therefore live under a bad government?

A bad government has neither excuse nor pretext for existing. However much people may differ about theories, every one knows whether a concrete act is just or unjust, honest or dishonest. Given the one element of good faith, and the problem of government is solved. Ignorance of duty is less to be feared than disregard of duty, for the former may be cured by education. The governments of South America are intolerable precisely for the reason that there is no such thing as good faith among them, and the good people of South America are as impotent to overcome them as the children of a kindergarten would be to construct the house in which they are domiciled. To demand that these people should remain without the benefits of good government until they are strong enough and wise enough and honest enough to establish it themselves, would be like asking children to live in the wilderness without the benefits of education until they are competent to build their own schoolhouses and make their own charts.

V. Expansion of the Civilized Nations

In succeeding chapters we very briefly indicate in a general manner what has been done in the way of expansion and colonization by the powers — Great Britain, Russia, France, Germany, and the United States — in order that we may profit by the precedents thus established.

France is obviously in no condition to extend its influence in a marked degree beyond its present limits. That country finds itself with vast colonial possessions, towards the development of which it is apparently incapable of doing justice. Merely to hold an alien people tribute by military power and collect taxes from them, falls far short of complying with the mandates of civilization. The people must be educated, regenerated, led into the paths of material prosperity and of intellectual advancement. Above all, there should ever be incited in them the spirit and competency of self-government and a keen appreciation of the necessity for unceasing progress. France is by no means living up to these high ideals, because temperamentally and physically she is not equal to the task. The population of France is almost at a standstill, and there have been years in which the number of deaths in that country actually exceeded the number of births. In the French colonies, vast as they are in extent, the number of Frenchmen are comparatively few, and the business of many of them is even now in the hands of the English and Germans. There is not in France that surplus of creative energy and enterprise, that increase in population, which is essential to a great colonizing power. It is doubtful if France will ever till the fields which lie uncultivated at her door, and so far as any new or additional colonization movements on a large scale are concerned, France may safely be omitted from the discussion.

The creative and reproductive powers of Russia are real and vast, but Russian expansion has for ages been confined to adjacent territory. Its area is already so great that it would appear that it has ample room for internal development for generations to come. Owing to the character of its people and its traditional policy, it would appear highly improbable that it should ever enter the Western Hemisphere.

While certain other European powers have colonies, none of them is of special importance, and they may be dismissed so far as this discussion is concerned.

The United States, England, and Germany are left, and into their hands it would appear must be confided the destiny of those vast tracts of the earth's surface which are still barbarous or semi-barbarous. England has done her full share; she has acquitted herself with a glory imperishable. The vast territories now under her

dominion are sufficient to afford a theatre for the activities of her citizens for centuries to come, and the work of civilizing the unnumbered hordes under her jurisdiction will tax to the utmost the powers of her surplus population. Whether England desires any large additional territories added to her empire is doubtful, for it would appear as though she has her hands about full, that she has about all the ground which she can cultivate thoroughly.

Germany and the United States are young giants which have not yet arrived at a realization of their real strength. They are fountains of energy, Atlases on whose shoulders might rest a world. In Germany the births exceed the deaths by eight or nine hundred thousand a year. The increase of the population from 1895 to 1900 was more than four millions, notwithstanding emigrants who have gone into the remotest corners of the earth. Germany needs colonies; she ought to have them, she must have them. The man who loves savages and hates civilized men will oppose Germany in her legitimate efforts to provide outlets for her surplus population and products. In what direction German interests will lead her to extend her territory I do not know, but the larger the number of German emigrants who go to South America — or as to that matter to North America — the better it will be for the world.

As to the United States, I believe she has just fairly commenced to grow. The whole American continent, except Canada, ought to be ours, and I believe it will be. If I see aright, the finger of destiny points that way.

CHAPTER II

ENGLAND AS A CIVILIZING POWER

On, on, you noblest English,
Whose blood is fet from fathers of war-proof!
SHAKESPEARE.

ALL civilized men owe to England a debt of gratitude which is immeasurable. She has been, and is to-day, the mightiest factor in the world for good. It is England who has made it possible for a white man to live on some part of every one of the six continents. In South America the spot of safety is small. Mother of nations, home and birthplace of law and order and progress, England stands to-day a supreme factor in the development of the world.

There is to-day, thanks to England, a band of civilized governments encircling the world. Science and education have followed in the wake of commerce, and when the guns of England have blazed a hole through the walls of barbarism, her system of freedom and justice has followed like a mighty torch illumining the dark places. The crimes and superstitions and tyrannies and pestilences of the past have melted away before the white light of her progress, and millions, nay, hundreds of millions, who were sunk in utter helplessness and despair, have at last caught a glimpse of the Star of Hope. Where squalor and misery and filth and death lurked, and famine slew thousands, there are now peace and happiness and cleanliness and plenty. Where fanatics buried sorrowing widows alive, or murdered helpless babes under the feet of elephants, there is now hope in the presence of death. Where the cruelty and rapacity of bandit chiefs filled regions with fear, there is now luxury and splendor; the whistle of the locomotive is heard, the hum of the factory, the glad shout of happy school children. Incomparable England! Since the sun commenced to shine no other nation has done the world so much good. Where the English flag flies there is peace, prosperity, safety, freedom.

In her work of colonization there has been but little sentiment; she is a practical nation. Suppose England, and not the United States, had been dealing with Cuba at the outbreak of the Spanish War. Do you suppose she would have wasted breath in perfervid declarations of humanitarian ideals? Not at all. England must have smiled broadly when our Congress, with as much emotionalism as a

bevy of old maids at a Mothers' Convention, passed its celebrated resolution pledging the United States to give Cuba freedom. What sentimental twaddle that resolution was!

An Englishman does not apologize for the presence of his flag anywhere. He does not feel that by extending the English government over a semi-barbarous country he is doing the people of that country any wrong. He rather feels that he is conferring a great benefit upon them, that the flag which is good enough for him is good enough for them, that the world is made the better for respecting the principles and practices of civilization. Nor is there very much nonsense about the English government in its dealings with these people. If they behave, it treats them well. No other country in the world can govern colonies like England. No honest, hard-working, decent man, be he black or yellow or copper colored, be he Malay or Indian or Mongolian, has any fear of the power of England. He knows that power will be used for his defence. It is the rascal, the murderer, the criminal, who fears the power of England. The American people are so accustomed to England and her ways that we take them as a matter of course. We seldom stop to think what a tremendous power in the world for good England is.

Italy contains only one hundred and ten thousand square miles, inhabited by a homogeneous people, with all parts of the country readily accessible to the central government. The British Empire comprises nearly twelve millions of square miles of land, with a population of four hundred millions, embracing every race and in every clime, — a diversity in population and a variety of conditions such as have never before been congregated together in one empire. And yet I will venture the assertion that there are more assassinations, more murders, a larger number of bandits, in the little country of Italy than there is in the whole immense British Empire! And the machinery of that vast empire is administered with one thousandth part of the friction that it takes to run any one of the little South American "republics."

Some idea of the magnitude of England's work for civilization may be obtained by a comparison of our own size and that of the countries she rules:

England contains	50,867 square miles
The British Empire contains	11,908,378 square miles

For each square mile in England, she rules about 225 square miles of the rest of the earth.

Population of England	27,483,490
Population of British Empire	400,000,000

In other words, every Englishman governs himself and fourteen other persons besides, and governs them all well. And in this act of

governing these countries the Englishman has not only been of incalculable benefit to the people governed, but he has himself derived great benefits from it, while civilization remains his debtor for all time to come.

Has this enlightened policy of England in any wise imposed the burdens of militarism on her people at home? By no means; for England is to-day the freest and most liberal government of the world, next to the United States. In every respect her citizens have as ample rights and liberties as have the people of the United States. Barring presidential elections and a little extra ceremony about the Crown, an observer would have to be keen-eyed who could detect any real difference in the liberties enjoyed by the two peoples.

While there have been no hypocritical promises on the part of England to grant her colonies liberty or independence, she has gone ahead, establishing the best governments in the world in those selfsame colonies. Never before have the inhabitants of those colonies enjoyed such a large measure of freedom, security, and happiness. England has demonstrated to the world that in the art of government she is *facile princeps.*

While England has been carrying the banner of righteousness over the waste places of the earth, it is pertinent to inquire what our own country is doing.

The United States has a population of 80,000,000. If each American governed himself and fourteen other people, the United States would control colonies with a population of 1,132,000,000, which is more than the population of the world outside the jurisdiction of civilized governments. The principal countries of the world which are only semi-civilized are the South American countries, China, and Turkey. Spain, Italy, and Russia leave a great deal to be desired in the administration of justice, and in many sections of those countries things are wellnigh intolerable. But they appear to be gradually working out their own salvation, and in them it is to be hoped that evolution, even though it be slower than the wrath of the gods, will finally bring about better conditions.

But in China, Turkey, and the northern portion of South America the conditions are altogether hopeless, so far as the people themselves are concerned. Unless outside force is impressed upon them, not in a thousand years will one of those countries become civilized like England or the United States.

The interest of the United States in Turkey and China is somewhat remote, and we may well let the European nations assume the responsibility of establishing civilized governments there. But the United States is directly and indirectly responsible for the condition of affairs in South America. By promulgating the Monroe Doctrine, by making it a cardinal principle in our national policy, we have become responsible for the conduct of these countries. Castro and Nuñez and

Marroquin and Jiminez, all of them stand before the world as our protégés. Now let us compare the records of the United States with those of England.

Area of United States		Area of Dependencies	
Mainland	2,970,230	Hawaii	6,449
Alaska	590,884	Philippines	115,000
		Porto Rico	3,606
		Guam	600
	3,561,114		125,655

Alaska is not properly a colony or a dependency; it is a territory, and should be treated as such in this discussion. Leaving out Alaska, the territory governed by the United States as dependencies or colonies comprises 125,665 square miles, a tract less than one half the size of Texas. We then have only one square mile of colonial territory to twenty-eight square miles of mainland. In proportion to the area of the mother country, England has 6300 times the colonial area that the United States possesses.

When we turn from the consideration of the relative area of the United States and her colonies to their relative population, the result is not quite so disproportionate.

Population of United States		80,000,000
Population of Colonies		
Philippines	8,000,000	
Porto Rico	1,000,000	
Hawaii	154,000	
Guam		
		9,154,000

From this it will be seen that while one Englishman governs fourteen colonists, it takes eight Americans to govern one colonist. The power in this respect executed by the Englishman is one hundred and twelve times as great as that of an American. Each Englishman is doing one hundred and twelve times as much in the world on behalf of civilization as an American, taken man for man.

When the relative sizes of the two countries, England and the United States, are considered, the disproportion becomes very much greater. For each square mile of England 225 square miles of the earth are brought under subjection, while for each square mile of the territory of the United States there is only one six-thousandth part of that amount.

These facts are well worth remembering. The United States should stand for growth and progress. In the march of civilization it should not be behind England or any other country. Its flag stands for freedom. No American need apologize for his flag; rather he should thank God for it and for the people back of it, and devoutly hope that the day will soon come when the liberty, justice, national

progress, and intellectual development which it represents may spread over the earth, to meet the work of that John the Baptist of modern civilization known as John Bull.

Since 1881 the United States has added 125,000 square miles to its territory. Since 1881 Great Britain has added 3,400,000 square miles to the imperial domain, — a territory as great as the area of the United States and its dependencies together. Great Britain has added 120,000,000 to its population since 1871, — an empire within itself by far greater than the population of the whole United States.

I. England's Colonial Possessions

The timid, half-apologetic manner in which our people discuss the question of colonies is in marked contrast to the boldness, prescience, and energy of England. Her statesmen are looking generations, even centuries, into the future. Our statesmen, if we have any men worthy of being dignified with that appellation, seem to be looking only to the next election; and it is doubtful if there is a man in either branch of Congress, or in any of the departments of the executive, who has ever made an attempt boldly, fearlessly, and comprehensively to apprehend the currents of our national life which must control its destiny in relation to the rest of the world.

Follow every channel of commerce, study every strait through which war-ships must pass in the event of a grave international conflict, observe every strategical point in the possible scheme of world-wide naval operations, and it will be seen with what foresight and daring England has seized the vital points for the purpose of controlling communication.

At the southern extremity of South America England has the Falkland Islands, within 259 miles of the Strait of Magellan, through which the commerce passes between the east and the west coast of that continent. At Aden she holds the gates of the Red Sea. Gibraltar gives her command of the Mediterranean. Fiji is a strategic point in the Pacific. Singapore controls the path to China; Jamaica, Trinidad, and many other islands in the West Indies, combine to give England power in the Caribbean; as naval and coaling stations, they afford convenient points from which her ships can reach the Panama Canal whenever it may be necessary. The Cape of Good Hope, the Gold Coast, Malta, and Cyprus are all important naval strategic points. Hong Kong under English domination has become one of the greatest shipping-points in the world, and is an eastern base of incalculable value to England. England holds six great gulfs and nine seas, and in every part of the world she either holds the key to the situation or she is quietly, persistently, and unceasingly seeking to obtain it.

It would require volumes to discuss adequately the colonial pos-

sessions of Great Britain, and the utmost we can do is to give a bare summary of these territories, as compiled by the Statesman's Year Book, 1906.

THE BRITISH EMPIRE

THE UNITED KINGDOM

Countries	Area Sq. Miles	How Acquired	Date	Population
England and Wales	58,324	....	....	32,527,843
Scotland	30,405	Union	1603	4,472,103
Ireland	32,360	Conquest	1172	4,458,775
Islands	302	....	....	150,370
Army, Navy, and Seamen Abroad	....	....	....	367,736
	121,391			41,976,827
EUROPE:				
Gibraltar	2	Conquest	1704	26,830
Malta	117	Treaty	1804	202,134
ASIA:				
Aden, Perim	80	Conquest	1839	41,222
Sokotra	1,382	....	....	12,000
Kuria Muria	....	....	....	......
Bahrein Islands	200	Treaty	....	92,000
Borneo	31,106	Cession	1877	160,000
Brunei	4,000	Cession	1888	10,000
Sarawak	41,000	Cession	1888	500,000
Ceylon	25,332	Conquest	1796	3,578,333
Maldive	....	....	....	30,000
Cyprus	3,584	Convention with Turkey	1878	237,022
Hong Kong	29	Cession	1841	334,862
India and Dependencies	1,766,642	Conquest	1757 to 1858	294,361,056
Baluchistan	131,855	Conquest	1876	914,551
Sikkim	2,818	Treaty	1899	59,014
Andaman	2,508	Conquest	1872	25,000
Nicobar	635			
Laccadive Islands	....	....	....	10,274
Labuan	30½	....	....	8,411
Straits Settlement	1,500	Treaty Cession	1785 1824	572,249 ....
Federated Malay States	26,380	....	....	678,595
State of Johore	9,000	Treaty	1885	200,000
Cocos	....	Annexed	1857	....
Christmas Island	80	Annexed	1889	900
Weihaiwei	285	Convention with China	1898	150,000

Countries	Area Sq. Miles	How Acquired	Date	Population
AFRICA:				
Ascension Islands	35	Annexation	1815	120
Basutoland	10,293	Annexed	1871	347,731
Bechuanaland	386,200	Protectorate	....	119,772
Cape of Good Hope	276,995	Conquest	1806	2,409,804
Nyasaland	40,980	Protectorate	....	924,000
East Africa Protectorate	189,838	Protectorate	1870 to 1890	4,000,000
Uganda	89,400	Protectorate	1890	4,000,000
Zanzibar	640	Protectorate	1891	150,000
Pemba	380	Protectorate	1891	50,000
			Indefinite in area and population	
British East Africa	700,000	Protectorate	....	....
Mauritius	705	Conquest	1810	378,195
Natal, Zululand, etc.	35,371	Annexation	1843	1,108,754
Nigeria	310,000	Agreements	1885 to 1898	25,000,000
Northern Nigeria	258,000	....	....	....
Southern Nigeria	51,500	....	....	....
Orange River Colony	50,392	Conquest	1900	387,315
Rhodesia:				
Southern Rhodesia	144,000	Seizure	1888	600,000
Northeastern Rhodesia	106,000	Seizure	1888	346,000
Northwestern Rhodesia	182,000	Seizure	1888	400,000
St. Helena	47	Conquest	1673	3,882
Seychelles	148½	....	....	20,400
Somaliland	60,000	....	....	300,000
The Transvaal	111,196	Conquest	1900	1,355,442
West African Colonies:				
Gold Coast	82,000	Seized	1896	1,486,433
Lagos	28,910	Seized	1896	1,500,000
Gambia	4,569	Seized	1896	90,404
Sierra Leone	30,000	Seized	1896	1,000,000
AMERICA:				
Bermudas	20	Settlement	1612	17,535
Canada:				
Prince Edward Island	2,184	Conquest	1745	103,259
Nova Scotia	21,068	Conquest	1627	459,574
New Brunswick	27,911	Cession	1763	331,120
Quebec	341,756	Conquest	1759	1,648,898
Ontario	220,508	Conquest	1759	2,182,947
Manitoba	64,327	Settlement	1813	255,211
British Columbia	310,191	Transfer	1858	178,657
Alberta	....	....	....	72,841
Saskatchewan	....	....	....	91,460
Keewatin	500,191			9,800
Yukon	196,327	Charter to Company	1670	27,219
Mackenzie	532,634			5,216
Ungava	349,109			5,113
Franklin	500,000			....
Total Canada	3,619,818	....	....	5,371,315
Water area	125,756			
Total area	3,745,574			

Countries	Area Sq. Miles	How Acquired	Date	Population
Falkland Islands	7,500	....	....	2,043
Guiana	90,500	Conquest	1803	278,328
Honduras	7,562	Conquest	1798	39,668
Newfoundland . . . . . . and	40,200	Cession	1713	217,037
Labrador	120,000	....	....	3,634
West Indies:				
Bahamas	5,450	Settlement	1629	53,735
Barbadoes	166	Settlement	1605	182,306
Jamaica and adjacent Islands	4,424	Conquest	1655	806,690
Leeward Islands	701	....	....	127,536
Trinidad	1,754	Conquest	1797	255,148
Tobago	114	....	....	18,750
Windward Islands:				
Grenada	133	....	....	68,253
St. Vincent	132	....	....	47,548
St. Lucia	233	....	....	52,682
AUSTRALASIA AND OCEANIA:				
Australia:				
New South Wales	310,700	Settlement	1788	1,354,846
Victoria	87,884	Settlement	1832	1,201,070
Queensland	668,497	Settlement	1824	496,596
South Australia	903,690	Settlement	1836	362,604
Western Australia	975,920	Settlement	1828	184,124
Tasmania	26,215	Settlement	1803	172,475
Total	2,972,906			3,771,715
New Guinea	90,540	Annexation	1884	350,000
New Zealand	104,751	Purchased	1845	772,719
Fiji Islands	7,435	Cession	1874	121,773
Pacific Islands:				
Friendly Islands	390	Protectorate	1899	18,959

Several hundred other small islands lie in the Pacific, with an aggregate area of several thousands of square miles and several hundreds of thousands of population. They are too numerous to mention in detail.

II. British Rule in India

The people of the United States may with great profit study the rule and influence of England in India, and draw such comparisons as the facts warrant between the conditions there and in South America.

India comprises an area of 1,766,642 square miles, and a total

population of 294,361,056, or more than seven times the number of inhabitants of South America. It is composed of vast and widely separated districts.

The reader will obtain some notion of the magnitude of India by an inspection of the following table, and a comparison of its figures with the statistics of area and population of our own States:

BRITISH PROVINCES

Name of Province	Area in Square Miles	Population 1901	Population per Square Mile
Burma:			
Lower	81,160	5,389,897	66
Upper	87,390	3,849,833	44
Shan States	68,188	1,250,894	18
Total Burma	236,738	10,490,624	44
Assam	56,243	5,477,302	109
Bengal:			
Bengal	70,184	41,259,982	586
Behar	44,197	24,241,305	548
Orissa	9,841	4,343,150	441
Chota Nagpur	26,963	4,900,429	182
Total Bengal	151,185	74,744,866	495
United Provinces:			
Agra	83,198	34,858,705	419
Oudh	23,966	12,833,077	537
Total United Provinces	107,164	47,691,782	446
Ajmere-Merwara	2,711	476,912	176
Punjab	97,209	20,330,339	209
N. W. Frontier Province	16,466	2,125,480	129
Baluchistan	45,804	308,246	6
Bombay (Presidency):			
Bombay	75,918	15,304,677	201
Sind	47,066	3,210,910	68
Aden	80	43,974	549
Total Bombay	123,064	18,559,561	151
Central Provinces	86,459	9,876,646	114
Berar	17,710	2,754,016	156
Coorg	1,582	180,607	115
Madras	141,726	38,209,436	269
Adamous and Nicobars	3,188	24,649	8
Total Provinces	1,087,249	231,899,507	213

Name of Province	Area in Square Miles	Population 1901	Population per Square Mile
Native States or Agency:			
Haidarabad	82,698	11,141,142	134
Baroda	8,099	1,952,692	241
Mysore	29,444	5,539,399	192
Kashmir	80,900	2,905,578	35
Rajputana	127,541	9,723,301	76
Central India	78,772	8,628,781	109
Bombay States	65,761	6,908,648	105
Madras States	9,969	4,188,086	420
Central Province States	29,435	1,996,383	68
Bengal States	38,652	3,748,544	97
Upper Province States	5,079	802,097	158
Punjab States	36,532	4,424,398	121
Baluchistan	86,511	....	...
Total States	679,393	62,461,549	92
Total India	1,766,642	294,361,056	167

This vast population is by no means homogeneous. It comprises at least fourteen different branches of the human family and one hundred and eighteen languages and dialects. The following are the principal tongues spoken, with the population in millions speaking them:

Hindi	87	Kanarese	10.4	Assamese	1.3
Bengali	44.6	Uriya	9.7	Gondi	1.1
Telugu	20.7	Burmese	7.5	C. Pahari	1.3
Mahrathi	18.2	Malaylam	6	Rajasthani	11
Punjabi	17	Sindhi	3	Pushtu	1
Tamil	16.5	Santali	1.8		
Gujarati	10	W. Pahari	1.7		

Karen, Mundari, Tulu, Oraon, and Khand range from half a million to one million each, while only 252,388 speak English.

RELIGIOUS FEUDS

An ever present problem of government in India are the deeply seated religious antagonisms which break out in the form of feuds. This is particularly true between the Mohammedans and Hindus, which necessitates the maintaining of large garrisons, especially near the centres of population.

The principal religions, with the number of their adherents, are as follows:

Hindus	207,146,422	Mohammedans	62,458,061
Sikhs	2,195,268	Christians	2,923,241
Jains	1,334,148	Jews	18,228
Buddhists	9,476,750	Animister	8,584,349
Parsis	94,190	Others	2,686
		Total	294,233,345

Of this vast population only about fifteen million can read, of which only about 700,000 are females. Immorality and filth are prevalent, as in all Oriental countries; perjury is almost universal, and religious fanaticism has an intensity and violence unknown in other parts of the world. Side by side with the gorgeous displays of the rich is an amount of poverty and disease unknown in Western civilization. It must be confessed that, in view of the elements to be controlled, the task of governing India is a mighty one — vastly more difficult than it would be for the United States to govern South America, — and it becomes of surpassing interest to study the methods which have enabled England to accomplish this modern miracle in empire building.

As to the beneficent effects of the English rule in India, it would be impossible to convey any adequate idea, even in the most general terms, without transcending the limits of our space. One could form no approximate idea of the change for the better unless one were to contrast the India of Warren Hastings in 1774 and the India of Lord Curzon in 1904.

Education is yet backward, but there are 148,525 schools and institutions of learning, with four and a half millions of pupils, and the number is constantly increasing.

A table of the occupations of the people, showing the number engaged in the several classes of industry, is interesting:

Occupation	Number
State and local administrations	3,814,000
Defence	396,000
Service of Foreign States	1,398,000
Provision and care of cattle	3,977,000
Agriculture	191,692,000
Personal, household service	10,717,000
Food, drink, and stimulants	16,759,000
Light, firing, and forage	1,461,000
Buildings	1,580,000
Vehicles and vessels	132,000
Articles of supplementary requirement	1,232,000
Textile fabrics and dress	11,214,000
Metals and precious stones	3,711,000
Glass, pottery, and stoneware	2,143,000
Wood, cane, and matting	3,790,000
Drugs, dyes, gums, etc.	456,000
Leathers, horns, boxes, etc.	3,242,000
Commerce	4,198,000
Transport and storage	3,528,000
Learned and artistic professions	4,928,000
Sport and amusements	128,000
Earthwork and general labor	17,953,000
Undefined and disreputable	737,000
Independent means	5,002,000
Not returned	173,000
	294,361,000

Millions had died in India of plague, famine, and pestilence; the most horrible atrocities were committed by religious fanatics and

unpunished criminals; widows were buried alive with their husbands who had died; children were sacrificed under the feet of elephants as a religious duty; the systems of caste killed hope and reduced the poor to a condition of animalism; ignorant, brutal, corrupt Oriental despots revelled in licentious splendor, while their subjects died of famine and disease; internal revolutions and disorder added to the general misery and degradation.

Were England to give up India to-day, if there were no other foreign interference, it would become another South America in twenty-five years.

To-day there are numerous colleges affiliated with the five great universities; there are normal schools, medical schools, technical training-schools, engineering schools, and agricultural colleges. There are hospitals and dispensaries and competent medical and surgical practitioners.

Above all, the Indian government since 1870 has been strongly encouraging agriculture, establishing experimental farms, schools of chemistry and science as applied to the soil, new appliances, machinery, crop rotation, manures, seeds, the breeding of livestock, etc.

In 1901–1902 the land actually under cultivation in India was 199,710,722 acres, the crops being as follows:

	Acres
Rice	70,067,328
Wheat	18,606,958
Other food stuffs	88,325,309
Sugar cane	2,474,857
Tea	495,539
Cotton	10,301,059
Oil seeds	11,967,839
Indigo	792,179
Tobacco	952,245

Of the above 27,634,536 acres raised more than one crop, making a total acreage under one crop of 227,345,258.

It must also be noted that a vast amount of the land of India is under irrigation, and that some of those canal systems are among the most important in the world. Some of the principal irrigating systems are as follows:

	Miles of Main Canal	Miles of Distributaries
Ganges Canal	440	2,703
Sirhind Canal	538	4,643

The Godavari, Kistna, and Cauvery systems in Madras irrigate 2,364,655 acres, and there are altogether about twenty millions of acres under irrigation.

It is, of course, impossible in this brief article to enter into the details of the vast commercial and manufacturing interests of India, its finances, the income and expenditures of the government, railways, newspapers, posts and telegraphs, public roads (of which there are nearly 200,000 miles, about 40,000 being macadamized), and many other matters of equal importance and interest. But enough has been said to make every intelligent American pause and think. Contrast the results of England's policy in India with that of the United States with reference to South America. Compare, item by item, the material, moral, and intellectual status of these peoples, — their conditions a century ago and to-day. After making such a comparison every reader must agree that the Monroe Doctrine is academic balderdash, advocated only by theorists who go about the world with their eyes shut, ignorant of the facts.

CHAPTER III

FRENCH, RUSSIAN, AND GERMAN EXPANSION

FRANCE cannot be regarded as a colonizing power in the same sense as is England; but her foreign possessions are nevertheless large and important. The reader who will compare the colonial territories of France with our own dependencies will be surprised at the vastness of the former and the insignificance of the latter. France proper, consisting of eighty-seven departments, or 204,092 square miles, had a population in 1901 of 38,595,500. But her colonies and dependencies contain nearly twenty times the territory of the mother country and fifty per cent more population. They are as given below, the Central Africa statistics being, according to the Statesman's Year Book, necessarily rough estimates. From this it will be seen that the total area of France and her dependencies is 4,293,168 square miles, and the total population more than 92,000,000.

As France is increasing in population very slowly, if at all, it would appear that the vast colonial territories will be ample to meet the requirements of her national activities for generations to come, and it would seem that many of them are destined to be ultimately populated, if not actually controlled, by the citizens of other nations.

	Year of Acquisition	Area in Square Miles	Population
In Asia:			
India	1679	196	273,000
Annam	1884	52,100	6,124,000
Cambodia	1862	37,400	1,500,000
Cochin-China	1861	22,000	2,968,600
Tonkin and Laos	1884–1893	144,400	7,641,900
Total in Asia		256,096	18,507,500

	Year of Acquisition	Area in Square Miles	Population
In Africa:			
Algeria	1830	184,474	4,739,300
Tunis	1881	51,000	1,900,000
Western Sahara	....	1,544,000	2,550,000
Senegal	1637–1880	806,000	4,523,000
Senegambia and Niger	1893	210,000	3,000,000
French Guinea	1843	95,000	2,200,000
Ivory Coast	1843	116,000	2,000,000
Dahomey	1893	60,000	1,000,000
Congo	1884	450,000	10,000,000
Somali Coast and Dependencies	1864	46,000	200,000
Reunion	1649	966	173,200
Comoro Isles	1886	620	47,000
Mayotte	1843	140	11,640
Madagascar and Islands	1643–1896	227,950	2,505,240
Total in Africa		3,792,150	34,849,380
In America:			
Guiana	1626	30,500	32,910
Guadeloupe and Dependencies	1634	688	182,110
Martinique	1635	380	203,780
St. Pierre and Miquelon	1635	92	6,250
Total in America		31,660	425,050
In Oceania:			
New Caledonia and Dependencies	1854–1887	7,650	51,410
Establishments in Oceania	1841–1881	1,520	29,000
Total of Oceania		9,170	80,410
Grand Total		4,089,076	53,412,340

I. Russian Expansion

Next to the unparalleled extension of the British Empire and the no less marvellous growth of our own country, the most impressive fact in the world's history is the tremendous advance of Russia, — an extension of territory and an increase of population which may well make the most enthusiastic Englishman or American pause.

In 1804 the population of Russia did not reach forty millions; in 1904 it exceeds one hundred and forty millions. At the present time and for several years past, the natural increase of the Russian population has averaged two millions a year, while in the movement of population, despite a widespread belief to the contrary, emigration and immigration almost balance each other. Obviously we cannot undertake to give even an outline of the historical events involved in each successive accretion of territory and power by this empire.

In the tenth century Russia occupied only about half of its present

European extension, and even as late as 1648 its territory in the northeastern part of Europe did not extend to the Ural Mountains. But in the next one hundred and fifty years a mighty stride forward was taken, and the whole northern part of Asia, comprising a territory as large as the continent of South America and with pretty much the same diversity of population, became an integral part of the empire.

To-day Russia comprises an area of 8,660,395 square miles, or about one sixth of the total land surface of the globe, — the greatest body of contiguous territory ever brought together under one form of government.

What is to be the future of this mighty empire is at the present time extremely difficult of prediction. In the war with Japan the Russian government displayed an extraordinary impotency. Her peasantry forms an excellent soldiery, but the corruption and inefficiency of her administrative organization brought disaster after disaster upon her. The tyranny of the Russian government has been so great in the past that the intellectual development of the people has been retarded and their moral sense blunted. A nation is qualified to control vast areas and govern great populations only in proportion as it in good faith promotes civilization and the betterment of humanity. That means the establishment of justice, the extension of liberty and education, the development of material prosperity and moral improvement. Injustice, ignorance, prejudice, passion, crime, corruption, immorality, — these are all phases of anarchy, and this latter means dissolution, dismemberment, disunion, separation, secession. Russia has presented the strange spectacle of a great nation trying to hold itself together by the adoption of the methods and policies which inevitably have an opposite effect. In proportion as there is tyranny there must be resistance, unless the people are in a merely animal state; and the wider the area over which this tyranny is exercised, the more powerful must this opposition become. Great territories can be held in union only by reducing resistance or opposition to the established order to a negligible quantity; and this can be done only by securing the adherence and affection of the people.

The Russian government is not worth fighting for, therefore the Russian people will not fight for it; but if the Russian people were in earnest, they would make a government worth fighting for, and then fight for it if it were necessary.

Here, then, is a government which has expanded far beyond the bounds which it should be permitted to occupy. If the government were a good one, it would make no difference if Russia occupied all Europe. But it is not a good government; it is a tyranny, and ought not to be allowed to exercise sovereignty over one tenth of the territory which it now rules.

Russia, then, for the present may be disregarded in a consideration

of the colonizing powers. If she thoroughly civilizes the territory she now controls, if she establishes education, liberty, and an honest government within her own domains, — in other words, if she thoroughly cultivates her own farm, she will have accomplished more than is to be expected of her within the next century.

Russia teaches the lesson that no nation should expand for the sake of expansion. Enlargement should be a growth, not an accretion. There can be no permanent extension of dominion without the promotion of civilization which is also justice, and without the one the other is impossible.

II. The German People

The German people need no eulogy from me. In South America the beacon light of progress is carried by the German, and the rays of hope, feeble and flickering though they be, are reflected from his helmet. His wife and children are civilized people; upon his table is food that a civilized stomach can digest; in his library are books which treat of subjects other than murder, intrigue, rapine, and bloodshed. When a white man arrives at the home of a German in South America, it is like finding a spring of cool, fresh water in a desert of alkali.

The German colonies in Brazil, as in Wisconsin, are quiet and peaceful abodes of honest, hard-working people, — men who are using ploughs in a land where others use only machetes, — men who are honestly supporting their families by the sweat of their brows where others think only of gaining money by intrigues.

Other immigrants have come to the United States for the purpose of getting jobs on the police force or running for aldermen, but with the German it is otherwise. He has gone into business, into mining, into manufacturing, into commerce, and, above all, into agriculture. The German is essentially a tax-payer and not a tax-consumer; he produces wealth by creative industry rather than accumulates it by laying tribute on the industry of others.

There is less crime, fewer criminals, fewer tramps, fewer vagabonds, among the German immigrants to the United States than among the immigrants of any other nationality.

But if this be true of the German immigrants to the United States it is doubly true of those who have gone to South America. The latter are not from the common class of the people, but are usually business men of the highest standing, — men of capital and unbounded enterprise.

That these men have patiently endured the outrages heaped upon them under cover of the Monroe Doctrine, that they are still the best friends which Americans have in South America, that they almost unanimously desire to see the American flag fly over those coun-

tries, shows that they are practical men of foresight and breadth of intellect.

The splendid work of the German Americans for the preservation of the Union must be recalled with gratitude by every one who loves "Old Glory." No one can read the history of that conflict without realizing how profound is the obligation which freedom is under to these sturdy descendants of the old Teutons. Nor can the Germans be regarded as our rivals in any other than a friendly sense of the term. They are pioneers of commerce. They hew the way into the great wilderness of barbarism, and the American comes after them — with the railroads and the automobiles.

German capital, German industry, German honesty, German patriotism, are part and parcel of the life of this Great Republic, and the mighty army of German-American citizens have not only accumulated immeasurable fortunes in our country, but they would, almost to a man, fight for the old flag into the last ditch — even against Germany itself, if that were necessary. Talk of war between Germany and the United States on any pretext whatever, and particularly the Monroe Doctrine, is the talk of irresponsible lunatics.

The "white man's burden" — the final civilization of the world — rests especially upon the shoulders of the United States, England, and Germany. Anything which diverts the attention or energy of one of these nations from this supreme question would only delay the final consummation. This world must be a civilized man's world, and the overwhelming proportion of the responsibility for making it such will devolve upon the Anglo-Saxon and Teutonic branch of the white race.

That colossal spectre of insanity — a possible war over the Monroe Doctrine — should be dismissed, and in its place there should come the most fraternal co-operation between the three great responsible powers, — a trinity based upon the one doctrine that this is a civilized man's world.

III. German Colonies and Dependencies

The colonial extension of the German Empire is a matter of recent development, covering a period of only twenty years. It must be confessed that for the brief period of time in which Germany has been actively extending her possessions the net results to date ought to be highly flattering to her statesmen.

Germany proper, comprising twenty-five States and the Reichsland of Alsace-Lorraine, covers 208,830 square miles, with a total population of 56,367,178, according to the returns for 1900.

Her colonies, according to the Statesman's Year Book (1902), are as given in the table on page 531. But no mere enumeration of territorial possessions can convey any adequate idea of the

	Date of Acquisition	Method of Government	Estimated Area Square Miles	Estimated Population
In Africa:				
Togoland	1884	Imperial Gov't	33,700	2,500,000
Kamerun	1884	Imperial Gov't	191,130	3,500,000
South West Africa . . .	1884–90	Imperial Gov't	322,450	200,000
East Africa	1885–90	Imperial Gov't	384,180	6,847,000
Total African Possessions	1884–90		931,460	13,047,000
In Asia:				
Kiauchauboy	1897	Imperial Gov't	200	18,000
In the Pacific:				
German New Guinea				
Kaiser Wilhelm's land	1885–86	Imperial Gov't	70,000	110,000
Bismarck's Archipelago	1885	Imperial Gov't	20,000	188,000
Caroline Islands	1899	Imperial Gov't	560	50,000
Palau or Pelew Islands .	1899	Imperial Gov't	. . . .	. . . .
Marianne Islands . . .	1899	Imperial Gov't	250	2,000
Solomon Islands	1886	Imperial Gov't	4,200	45,000
Marshall Islands . . .	1886	Imperial Com.	150	15,000
Samoan Islands:				
Savaii	1899	Imperial Gov't	660	33,000
Upolu	1899	Imperial Gov't	340	33,000
Total Pacific Possessions	1884–99		96,160	461,000
Total Foreign Dependencies	. . . .		1,027,820	13,508,000

marvellous energy which Germany has exerted within recent years in the direction of imperial expansion. More extraordinary still is the progress being made by Germany in the far East, — an advance greater than that of Russia. Senator Albert J. Beveridge mentions, in "The Russian Advance," the great German houses in Port Arthur, Vladivostock, Canton, Tien-Tsin, Shanghai, — how these are controlling the transportation and banking business, and adds:

"Every German man and woman in the Orient is imperial in bearing, manner, and purpose. Their veins seem to be filled with the winelike blood of German supremacy. Every officer, every diplomat, every consul is the German Emperor in miniature. 'I tell you frankly,' said a resident of Tien-Tsin, and one of the best informed foreigners in China, — 'I tell you frankly, whatever the newspapers may say, and whatever the diplomatic phrases may be, the real, substantial powers here are Germany and Russia. The German's bearing of insolent superiority, with the constant reminder that the mailed hand is back of every demand, impresses the Chinaman far more than it angers him, for he respects nothing so much as power.' When he said that, he gave the key which, in the opinion of Germans, Russians, and English,

unlocks the secrets of the Oriental heart. It was not a discovery. It was merely saying once again what most foreign students of Asiatic peoples have said since the very beginning of Oriental investigation by modern peoples."

That the work of the Germans in Asia, as in South America, is of untold worth to civilization, is indicated in the further remarks of the distinguished observer above quoted:

"No one in Shan-Tung province ever heard of a period of such prosperity, of a time of such good wages in that vicinity, as the inhabitants of Kiaochow and the surrounding country have enjoyed since the German came among them, for he came, not with his musket alone, not equipped with the bayonet, sword, and cannon only, but, as with the Russian in Manchuria, he came with spade and adze and plane and saw, and all the building implements of peace. He has promised himself that he will reproduce England's miracles at Hong Kong in Germany's miracle at Kiaochow. (In less than fifty years a barren rock, rising from the water, with a few huts of starving Chinese fishermen, clinging like crabs to its base, has been transformed into one of the greatest ports and one of the most beautiful cities in the world. Such has been the Englishman's work in Hong Kong; and be it remembered, too, that when the work began, and while it was in progress, it was denounced by English statesmen in Parliament and its failure predicted by economists of almost every other nation.)

"In her Kiaochow concessions Germany has erected modern buildings, modern storehouses, modern everything. Perhaps the best hotel (but two) in the Orient, the Prince Heinrich Hotel, stands where filthy hovels made of a paste of disease and mud, housed wretched Chinamen less than eight years ago. The railroad runs around the bay of Kiaochow itself. The sandy hills are being reclaimed with forests planted by the hands of scientific foresters from the Fatherland. A work of beauty, of cleanliness, of system, of industry, is being wrought by the determined Teuton at this forbidding and unwelcome gateway to a province whose twenty millions of inhabitants are yet to be told of the great world outside, and yet to be brought into human, civilizing, saving contact with their brother human beings. Meanwhile, slowly, and yet quite as rapidly as the yellow hands can do the work, the iron and steel nerves of the railway creep into the interior towards the mountains."

Such, in brief, are some of the practical results of the currents flowing through German national life. What is to be the future of this mighty, virile, intellectual people one not gifted with prophetic powers would hesitate to predict; but that the future holds promise of a career of imperial glory, rivalled only by that of the United States and Great Britain, seems certain. The solid, dogged stability and solidity of the German, his strict discipline, industrial as well as military, the practical and technical nature of his education, his daring, enterprise, and phlegmatic patience, and, above all, his freedom from the baneful influence of impractical theories regarding the alleged political rights of these semi-barbarous peoples, make him peculiarly fitted for carrying the banner of civilization into the countries where darkness now reigns.

CHAPTER IV

GROWTH OF THE UNITED STATES

THE opinion is widely prevalent that in the annexation of Puerto Rico and the Philippines the United States had made a wide departure from its traditional policy. The acrimonious discussion to which this gave rise was calculated to cause the impression in the minds of the uninformed that an entirely new precedent had been established, a new policy adopted contrary to the spirit of our institutions, and that we were entering upon an experiment fraught with danger to the principles of democracy.

Mr. Bryan, with all his dramatic power, quoted from the Bible, "Thou shalt not forsake the landmarks of thy fathers." The cry was taken up by a great political party, and we might have supposed that the fathers had established definite bounds to the territory of the United States which should remain forever unalterable.

A very cursory investigation into the history of our country should have convinced these patriots that the fathers did nothing of the kind. Rather, the fathers instituted a policy of expansion which we have by no means kept up, and those who glory in the power of the United States, and hope to see it increase, may well accept in its literalness the text quoted by Mr. Bryan, and cite it as authority in favor of their desire to see the flag over South America as well as over North America.

The first great step in the enlargement of our territory was made at the termination of the War of Independence and before signing the treaty of peace with England. This may be regarded as a triumph of diplomacy for which the American Commission, consisting of John Jay, Benjamin Franklin, John Adams, and Henry Laurens, deserve the lasting gratitude of their countrymen. In 1782, at the close of the Revolution, they were named to meet the representatives of England in Paris, and one of the first questions to be determined was the amount of territory which we should receive. As France had been our ally, the American Commissioners were instructed to consult with the French government and be guided by its wishes. Our Commissioners felt that the new States were entitled to all the territory granted to the colonies originally, extending west of the Alleghany Mountains. The French government was adverse to this claim, and its representative, Count de Vergennes, proposed that the western boundary should

follow the Alleghanies from Pennsylvania south to Florida. He proposed that the vast tract north of the Ohio from the Alleghanies to the Mississippi should remain under English jurisdiction; while south of the Ohio from the Alleghanies west to the Mississippi should be neutral ground, to be inhabited by the Indians under the joint protection of Spain and the United States.

The patriotism, foresight, and wisdom of John Jay were mainly instrumental in influencing the American Commission to reject this proposal, which it did with firmness; and notwithstanding its instructions, declined to consult further with France or to be guided by her wishes in the matter.

By the most determined insistence on its rights the Commission finally succeeded in carrying its point with the English representatives, and the boundaries of the United States were extended west to the Mississippi, north to the Great Lakes, and south to Florida. And thus was established one of the "landmarks of the fathers."

I

The national domain was now 827,844 square miles, a very large territory when compared with most of the European countries. Indeed, in one sense of the term, that area was larger than the whole world is to-day. From the Atlantic to the Mississippi was more than a thousand miles through a trackless wilderness, to make a journey through which was a work of weeks and involved the most serious hardships. All transportation was effected in wagons or on muleback, and the territory west of the Alleghanies was almost impenetrable. We may legitimately estimate the size of a country as bearing relation to its facilities for communication. Judged by this standard, almost any of the original thirteen colonies was larger than the entire United States is to-day.

The apparent vastness of this territory did not dismay the "fathers," however, for one of their first acts was to more than double it, and this they did without any precedents to guide them, and in the face of as strong an opposition as the most orthodox modern anti-imperialist could summon. By the purchase of the Louisiana territory in 1803, during the administration of President Jefferson, the United States acquired 883,072 square miles of additional territory, out of which have been developed 14 States and Territories, with a present population of more than 15,000,000. At the time the United States "committed the atrocious wrong" of acquiring this territory, and governing the people therein "without their consent," thus wickedly "stifling their aspirations for liberty," there was a miscellaneous population of about 100,000 negroes, mulattoes, Indians, and whites in the territory.

The history of the Louisiana purchase reads like a romance. It is

enough to shake the scepticism of the stoutest agnostic, and make the coldest-blooded scientist admit the possibility that there is a "divinity which shapes our ends."

Prior to that time Spain held the mouth of the Mississippi, having jurisdiction of the land on both sides of it. This led to unending friction with our citizens in Kentucky and the West, to whom the free, untrammelled navigation of this great waterway was absolutely necessary. Hamilton, a statesman of uncommon breadth and foresight, insisted with all his power on the right of the United States to navigate the river to its mouth, — an opinion strenuously advocated by Jefferson and other great statesmen, but from different standpoints. Spain, with singular short-sightedness, adopted a policy of evasion and caprice, at one time granting to our people the right to deposit their merchandise in New Orleans and then arbitrarily rescinding it and seizing our boats, so that when one of our merchants started with merchandise for the Gulf he never knew whether he would succeed in completing his journey or not. So supine was the American administration at one time, and so urgent became the demands of our Western citizens for free and unlimited navigation, that there was serious danger of secession on the part of Kentucky, and revolutionary movements were actually inaugurated by Clark, Wilkinson, and others.

Owing to the exigencies of diplomacy in Europe, Spain secretly transferred the Louisiana territory to France, by the treaty of San Ildefonso, late in 1800. When the news of this transfer reached the United States, it caused intense excitement. At about the same time Morales, the Spanish Comandante at New Orleans, practically blocked up the mouth of the Mississippi, entirely destroying our commerce there. France was then in her heyday of glory, and Napoleon was intoxicated with military power. It was evidently his intention to establish a vast French empire in the new world, so that the United States would be hemmed in by the power of England on the north and France on the south, with Spain in Mexico ready to make common cause with France if necessary.

In this situation the greatness of President Jefferson made itself manifest. He threw his previous record to the winds and trampled consistency in the mud. A few days before and he had been a blind worshipper of France and a strong opponent of England. Immediately he became an enemy of France, and was ready to form an alliance with England, — he, who of all men hated entangling alliances. The traditional opponent of Hamilton and dreaming of continental power for the United States, Jefferson now became an expansionist of the most pronounced type. Forgetting for the moment all theories about the "consent of the governed" or about the "wickedness of aggression," it was determined to take New Orleans and Louisiana, — peaceably if possible, by war if necessary; for it was recognized that

with Spain or France in possession of the mouth of the Mississippi war must come sooner or later, and the sooner the better.

Jefferson wrote, on April 18, 1802, to Livingston, the American minister at Paris:

"The cession of Louisiana by Spain to France works most sorely on the United States. It completely reverses all the political relations of the United States. There is on the globe one single spot the possessor of which is our natural and habitual enemy. It is New Orleans. It is impossible that France and the United States can continue long friends when they meet in such an irritable position. The day that France takes possession of New Orleans fixes the sentence which is to restrain her forever within her low-water mark. It seals the union of two nations which, in conjunction, can maintain exclusive possession of the ocean. From that moment we must marry ourselves to the British fleet and nation."

The people of the United States were behind Jefferson, and an army of 80,000 volunteers stood ready to transmute his words into action.

Our Commissioners to France to treat for the securing of commercial rights on the lower Mississippi were Monroe and Livingston. Congress had authorized the President to spend $2,000,000 for the settlement of the Mississippi question, in a vague resolution, the general understanding being that they would purchase a small strip of land on both sides of the river sufficient to give the United States jurisdiction, and the President had only authorized the Commissioners to treat for that, — a proposition which Napoleon laughed at immoderately.

And then happened one of those strange things which make philosophers pause and contemplate in wonder the tracings of what appears to be the hand of destiny.

That master military mind, the Duke of Wellington, was even then, with the powers of England and Austria and Europe at his back, marshalling its resources for a campaign which should at its termination make one word forever memorable, — Waterloo!

Napoleon's quick ear heard the alarum; his fine nostrils scented the danger. He knew — the imperial, arrogant, domineering Master of War — that with England and Austria in front of him, with disaster written on his Haitian campaign, and with a volunteer army of 80,000 Americans, invincible dare-devils, menacing New Orleans, the power of France in North America was broken. In the twinkling of an eye he called the American Commissioners and offered to sell to the United States the whole vast empire of France in North America!

And the American Commissioners, without the slightest vestige of authority, without the knowledge of a single person in the United States, not even of the President, closed the treaty for the purchase of this territory, agreeing to pay for it $15,000,000, although Congress

had provided only $2,000,000 which could by any possibility be applied to such purpose!

That was enough to make the anti-imperialists howl, and indeed they did howl; but the President, himself the strictest of strict constructionists, heartily approved their action, although he frankly maintained that it was unconstitutional. A wicked and perverse Congress, in special session, had the temerity also to approve in less than a fortnight this monumental usurpation of authority!

It is interesting at this late day to read the speeches which were made in opposition to the treaty. For violence, persistence, ingenuity, spectacular oratory, sophistry, and dead earnestness they have never been surpassed by anything which the Philippines and Porto Rico have called forth.

In spite, however, of the strict constructionists, the orators, the statesmen, the college presidents, the anti-imperialists, and the anti-everything else, the Louisiana territory was purchased, and Louisiana was later made a State.

And thus was established another of the "landmarks of the fathers."

II

The next territory which fell into our hands was Florida. There was no honeyed diplomacy about the rugged, aggressive men who laid deep and broad the foundations of our present greatness and, let us hope, of our future imperishable glory. A modern diplomat with his varnish of etiquette must be rudely shocked at the wanton agressiveness of our pioneer forefathers, who seem never to have learned the art of defending savagery under the pretence of philanthropy.

Florida, which had originally been Spanish territory, but had been ceded to England in 1763 in exchange for Cuba, had been re-ceded to Spain by England in 1783, at the time of the making of the treaty with the colonists. During the English occupancy Florida had been divided into East and West Florida, — the latter extending from the Chattahoochee and Apalachicola rivers to the Mississippi above lakes Pontchartrain and Maurepas. West Florida had been settled chiefly by persons of English descent, and they objected strongly to Spanish control. So in 1810 West Florida declared its independence and organized a government. President Monroe soon after issued a proclamation declaring West Florida under the jurisdiction of the United States, and directed the Governor of Orleans Territory to take possession of it. This he did, hoisting the American flag over it on December 6, 1810, in spite of the most vigorous protests from both England and Spain.

Jefferson had written as early as 1803 that our "claims will be a subject of negotiation with Spain, and if, as soon as she is at war, we

push them strongly with one hand, holding out a price in the other, we shall certainly obtain the Floridas, and all in good time."

On January 15, 1811, the Congress adopted a joint resolution as follows:

> "Taking into view the peculiar situation of Spain and of her American provinces, and considering the influence which the destiny of the territory adjoining the southern border of the United States may have upon their security, tranquillity, and commerce,
>
> "Be it Resolved, That the United States, under the peculiar circumstances of the existing crisis, cannot, without serious inquietude, see any part of the said territory pass into the hands of any foreign power; and that a due regard for their own safety compels them to provide, under certain contingencies, for the temporary occupation of the said territory; they at the same time declaring that the said territory shall, in their hands, remain subject to future negotiations."

At the same time Congress passed a law, authorizing the President to take possession of all or any part of Florida, using the army and navy for that purpose, "in the event of any attempt to occupy the said territory, or any part thereof, by any foreign power."

Florida was the undisputed territory of Spain, but Congress was amply justified in its attitude, nevertheless. Florida had become a rendezvous for thieves and brigands; it was in danger of being made a base for hostile military operations against us, as indeed it was by the English a short time afterwards. Enemies of the United States infested Florida, and incited the savage Indian tribes therein to make attacks on our citizens living on the frontier. It became the abode of intrigues and lawlessness. Besides, it made an inadmissible break in our coast line, shutting the Louisiana purchase off from the original States. Its foreign ownership was a constant menace to us, a thorn in our side, and the clear-headed men of those days saw that there could be no peace until the matter was disposed of. So there was not much sentimentality or waste of words about it.

In the war with England of 1812 British troops did in fact occupy Pensacola, and from there made a movement against Andrew Jackson, then in command of the United States army at Mobile, whereupon Jackson captured Pensacola; so that the fear that Florida might be used as a base against us by a strong power was not without foundation.

Three or four years passed in which smugglers, pirates, slaves-traders, and criminals kept up a constant uproar in Florida, and finally Jackson wrote to President Monroe, December, 1817: "Let it be signified to me that the possession of the Floridas would be desirable to the United States, and in sixty days it will be accomplished."

Nobody seems to know just exactly what was "signified" to him, but Jackson went ahead with his army, seized St. Mark's, Pensacola, and the rest of Florida, so that by the end of 1819 this territory was

being governed by the military power of the United States. As every one knows, Jackson was a terror. He hanged or shot spies, criminals, and traitors, among them some British subjects who had incited war against the United States while their country was at peace with us, and who were therefore, according to Jackson, pirates and outlaws.

Of course all the constitutional lawyers and anti-imperialists vilified and abused Jackson without limit for his acts, but the people of the United States were with him; and the verdict of posterity is much the same as was that of President Monroe, who told Jackson, in effect, that while he had transcended orders it was all right.

Cheek by jowl with the aggressive military policy of Jackson were the diplomatic negotiations with Spain by John Quincy Adams, our great Secretary of State, whose adamantine composure in the face of the Spanish minister's astuteness and cunning suggested Harveyized steel long before the invention of that useful armor-plate. The inevitable happened; Spain transferred to us Florida for $5,000,000, which was not to be paid to Spain herself, but to our own citizens, in indemnification for the damages that had been sustained by them at the hands of that effete monarchy.

At the same time the United States laid down the doctrine that Cuba could never be transferred by Spain to another foreign power; that we should assert the same reversionary title to it that we had asserted with reference to Florida.

And thus was established another of the "landmarks of the fathers."

III

Next came the annexation of Texas, one of the most important events in our history. This vast territory had been vaguely claimed by us in consequence of the Louisiana purchase, but at the time of the acquisition of Florida, and as a part of the general agreement then reached, we renounced our claims, and Texas, together with California and New Mexico, formed a part of Mexico, which was then under Spanish control. But coincident with the vast revolutions against Spanish authority conducted by Miranda and Bolívar in the northern part of South America, and other grave movements elsewhere in the vast Spanish domain, Mexico had determined to throw off the Spanish yoke, and after a long series of struggles, from 1810 to 1822, succeeded, and adopted a republican form of government in 1824.

Texas was now rapidly being settled by Americans, — from the slave States, from the North, from everywhere. People began to realize that a great mistake had been made in ceding Texas to Spain, and a general feeling possessed the people that it was necessary to undo that blunder — by the sword, if necessary.

The problem was unfortunately complicated by the slave question, as the Southern States desired the annexation of Texas in order to

strengthen their own bonds; and it was bitterly opposed by large numbers of the best citizens of the North for the same reason.

In the mean time American citizens poured into Texas in a steady stream. The government of Mexico was hopelessly inefficient, and outrages without number were perpetrated upon the earlier settlers.

The decade of revolt against Spain was followed by serious internal disturbances, and finally anarchy. Santa Anna became Dictator in 1835 after two years of bloodshed and rapine, and succeeded in re-establishing a semblance of order over the country. But he could never re-establish his authority over Texas. The white people there had made up their minds that they had had enough of government by half-breed military Dictators. Even as early as 1830 the Latin-American hostility to white men made itself apparent in the resolution of the Mexican government forbidding the entrance of American colonists into Texas.

So many were the wrongs inflicted on the white citizens who had inhabited Texas that they had no other recourse than declare the independence of the State, which they did on the 2d of March, 1836, and the Lone Star Flag was raised. A few days later, while the alleged statesmen in Washington were debating whether Texas should be recognized or admitted as a State, wrangling over slavery, there came the frightful massacre of the Alamo, in San Antonio, where the American colonists, after a defence as heroic as Thermopylæ, were utterly destroyed to the last person by the overwhelming hordes of Mexican half-breeds.

And still the government at Washington did nothing. But the American people did; they poured into Texas by the thousands to aid the colonists, and after as brave and brilliant fighting as was ever done by men, the Alamo was avenged, and at San Jacinto, on April 27, 1836, Santa Anna was captured, the Mexicans overwhelmingly defeated, and the power of Mexico forever destroyed in that territory.

The people of Texas thereupon established their government, and made overtures to the United States for annexation. Jackson was President, and as he had steadfastly declared his determination to receive Texas into the Union, it was supposed that he would make his words good. But whatever may have been his motive, he did not do it. Van Buren followed, and in 1837 he positively declined to annex Texas. The Harrison-Tyler administration inherited the controversy, and it dragged along its wearying length, until finally, on April 12, 1844, a treaty of annexation was negotiated and signed by the Texan Commissioners and by John C. Calhoun, Secretary of State. On June 8, however, the United States Senate, in a narrow-minded and unpatriotic spirit of poltroonery seldom surpassed, rejected the treaty, and Senator Benton, one of the leaders of the opposition, introduced a resolution providing for the annexation of Texas on condition that the consent of Mexico should first be obtained.

Here we have the genuine forerunner of the spirit of the advocates of the Monroe Doctrine in this year of grace 1906, sixty-two years later. Before protecting an American citizen, before recognizing his right to protect himself, first get the consent of the half-breed bandit government which oppresses him! That is the spirit of Benton, that is the spirit of the Monroe Doctrine to-day; but it is not the spirit of the men who founded the great United States, and made it the peerless giant among nations. Nor is it the spirit of those to whose hands must be confided its banner of glory for the future.

Benton succeeded for the time; but Texas was annexed, notwithstanding. The people of the United States took up the question. The opposition nominated Henry Clay for President, a powerful and popular man, but he went down in defeat before James K. Polk, an unknown man, who stood on an American platform, "the annexation of Texas and Oregon." But just previous to President Polk taking his seat, Tyler got a resolution through Congress, on February 28, 1845, annexing Texas.

IV

Mexico, which could not beat the Texans by themselves, now got an insane idea that it could beat not only Texas, but the United States as well. On the 22d of April, 1846, the Mexican government began its war, and attacked the United States army on the bank of the Rio Grande.

The glorious campaigns of Generals Scott and Taylor followed, scattering the Mexicans before them like chaff before the wind, gaining every battle against overwhelming odds, and finally dictating a treaty of peace at Guadalupe Hidalgo, City of Mexico, on February 2, 1848, less than two years after the war began.

Much sentimentality is indulged in by writers with reference to this war. By many it is still bitterly denounced as a war of aggression and conquest. Even such a distinguished writer as Willis Fletcher Johnson, in "A Century of Expansion," speaks of this war as "conquest, pure and simple; the aggression of a strong nation upon a weak one." It was nothing of the kind. The white people who had settled in Texas in large numbers could not be expected to submit tamely to the tyranny, anarchy, and outrage inseparable from these dictatorships, and very properly declared their independence, and fairly won it. In its beneficent effects the war with Mexico stands equal to that of any war waged in history, with the possible exception of our own War of Independence. It was a blessing to Mexico and to the United States. The vast territory acquired by the Texas annexation and the Mexican cession is now an empire of thrift, peace, and culture. Its progress has been almost without parallel, — an advancement in civilization which would have been wholly and ab-

solutely impossible under Mexican rule. At the same time the war did the Mexicans good. It taught them a lesson of respect for the white man and Western civilization which has been of inestimable value to them, — a lesson which the Cubans have learned by observation, and which the inhabitants of Central and South America must learn before there can be any lasting betterment among them. The Mexican learned his lesson well, and he has not forgotten it. In the almost inaccessible mountain fastnesses of Mexico the peons still say that Mexico could whip the United States — if it were not for Texas!

The argument of force is, finally, the one which all men understand, — white, black, or yellow, pure bloods or half-breeds, Jew or gentile, rich or poor, good, bad, and worse. When that argument has been impressed upon them, and they have learned the lesson thoroughly, they can then appreciate gentleness and kindness, and not mistake them for weakness or cowardice. For the great development of Mexico in recent years, the full measure of credit should be accorded that great ruler, General Porfirio Diaz; but his success may be largely ascribed to the fact that the Mexicans had received in the war with the United States a most wholesome and indispensable lesson.

By this war with Mexico the United States obtained 583,290 square miles of territory, comprising the States of California, Nevada, and Utah, and the Territories of New Mexico and Arizona, paying therefor $15,000,000 to Mexico, and claims of American citizens against Mexico amounting to $3,250,000. This settlement with Mexico was magnanimous in the extreme, in view of the facts. In importance to the welfare and destiny of our country it may be ranked with the Louisiana purchase.

And thus was established another of the "landmarks of the fathers."

V

Concurrently with the annexation of Texas and the Mexican imbroglio, the nation was extending in another direction. Connected with the Territory of Oregon there is likewise a story to tell. As far back as 1803 President Jefferson, the arch-expansionist, the most incurable imperialist of us all, was plotting and scheming to extend the territory of the United States far into the northwest, even to the Pacific Ocean. He sent Lewis and Clark with an expedition up the Missouri River to its very headquarters, and thence across the Rocky Mountains and into Oregon, for the purpose of taking possession of all the vast northwestern territory and circumscribing the French domain, — an expedition of only twenty-seven men, who endured incredible hardships and encountered innumerable adventures and perils.

Then the Louisiana purchase was made, by which we acquired the western part of Minnesota, Iowa, the Dakotas, Wyoming, and Montana — right up to the Oregon territory. Of course there was a boundary dispute — several of them, in fact — which the unfeeling government in Washington always insisted on resolving in our favor. In addition to our other "rights" to the Oregon territory, when the treaty was made by the United States and Spain with reference to Florida, we received from her "full title" to all the territory north of California up to the Russian possessions, that is, from 42° to 54° 40′, west of the Rocky Mountains.

Spain's titles were based upon explorations made by Cabrillo in 1542 and Ferrelo in 1543, both of whom went north to the forty-third parallel. Other explorers and adventurers touched on the coast as far north as the fifty-seventh parallel. In 1741 and 1770 Russia explored this territory, and took possession as far south as 54° 40′, south of which the Spaniards claimed. Captain Cook, the English explorer, visited the country in 1778, and in 1787 the American captains, Captain John Kendrick, ship Columbia, and Captain Robert Gray, sloop Washington, put in at Nootka Sound, at the west of Vancouver Island, and remained until 1789. Kendrick sailed through the Strait of San Juan de Fuca and explored other coast waters, while in 1891 Gray discovered the river Columbia.

But England was also active, and as early as 1789 attempted to form a settlement on Nootka Sound. An agent of the Hudson Bay Company, a British corporation, explored the northwestern territory, and discovered the Great Slave Lake (1769–1772), while Frobisher established an English trading-post on Athabasca Lake in 1778; and Mackenzie, in 1793, crossed the Rocky Mountains to the Pacific in latitude 53° 21′.

The story of the various expeditions into this territory, both from England and the United States, would make a volume of intense and romantic interest Marcus Whitman and H. H. Spaulding went overland in wagons, as missionaries (with their brides, on their wedding-tours) to Oregon in 1838, and they were followed by many other settlers, their investigations later proving of immense value to the government.

And out of all this — the efforts of the English to extend their territory south to California, and of the United States to extend its boundary up to the Russian possessions — grew the famous campaign which elected Polk for President, and whose shibboleth was "Fifty-four forty or fight!"

But Polk was nothing like as brave after election as he was before. He dickered with England, and argued, and finally compromised, making a treaty which was ratified on August 5, 1846, continuing our boundary along the forty-ninth parallel west of the Rocky Mountains until it reached the Strait of San Juan de Fuca, and thence along

that strait, giving England all of Vancouver Island. This has always been regarded as a surrender of our rights, and Polk and his administration stand convicted before the world of moral cowardice.

The Oregon territory comprises the present States of Idaho, Washington, and Oregon, with an area of 245,730 square miles. The population of this territory at the date of its organization was only about 40,000; at the present time it is considerably more than a million.

And thus was established another of the "landmarks of the fathers."

VI

The next addition to the national area was Alaska, comprising nearly 600,000 square miles, purchased from Russia in 1867 for $7,200,000. The acquisition of this territory was due to good fortune as much as to the far-seeing statesmanship of William Henry Seward, our Secretary of State.

Russia's title to Alaska, as far south as 54° 40′, had been based upon discovery and occupation and on numerous treaties with England and the United States. Between 1741, when Behring, a Russian, set out from Kamtchatka on a voyage of discovery under the Russian flag, and the year 1799, more than sixty Russian companies had engaged in the fur trade in that country, and on the latter date they were all consolidated into one great concern, the Russian American Company, under the control of Alexander Baranoff. For many years this great fur trust made fabulous sums, but when the man who created it died, it began to crumble to pieces, and after a time there was a positive loss and an appeal to the government for a subsidy. In 1864 the Russian American Company's charter expired, and it applied for a renewal and a grant from the treasury of the empire in order to pay its debts. Russia by this time was tired of the business and ready to get out. The government had recently passed through the Crimean War (1853–1856), and the Czar, Alexander II, was engaged in the great work of emancipating the serfs. The vast sums of money which had been expended in the defence of Sebastopol were only preliminary to the still vaster sums which would be needed to accomplish the internal reforms. Russia was thus naturally glad of a chance to sell Alaska and turned to the United States. England was the only other possible purchaser, and the traditional enmity between Russia and England made a deal there out of the question. On March 22, 1867, Mr. Seward offered the Russian minister $7,200,000 for the territory, and seven days later the proposition was definitely accepted. The treaty was ratified on May 28, and formal possession given to the United States on October 18, 1867, at Sitka, with simple but appropriate ceremonies.

Seward was much ridiculed by the anti-imperialists for buying an iceberg, and the territory was referred to sarcastically as "Our Arctic Province." But every one concedes to-day the wisdom and far-sighted statesmanship of the purchase. Alaska, the land of gold, has already paid for itself many times, and it is a country of great promise for the future.

And thus was established another of the "landmarks of the fathers."

VII

Men born since the annexation of Alaska are now in active control of nearly all departments of science and commerce; therefore the period of the "fathers" and their work may be regarded as having passed. But we shall find that the United States keeps on growing just the same. This growth, however, seems to be in spite of ourselves rather than because of any act of ours.

We look back at the records of the builders of this mighty empire — at John Jay, John Quincy Adams, Benjamin Franklin, Henry Laurens, James Monroe, Livingston, Thomas Jefferson, Andrew Jackson, William Henry Seward, and many others whose names obtain a conspicuous place in history — and we may well ask, Who is there to take their place to-day? Thomas Jefferson is a man whose name deserves to rank alongside Washington's and Lincoln's, for the energy and indomitable courage with which he threw all precedents, all previous convictions, all personal consistency, to the winds, and indefatigably extended the national domain, so that his name is now indelibly written on more than half our territory; and yet who are the men who pretend to be his chief followers to-day? The anti-imperialists! The party which opposes with malignant bitterness every extension of our domain and every policy which has or will make us great!

With the thunders of Jefferson with reference to New Orleans still ringing in our ears, and the picture before our eyes of 80,000 American volunteers ready to invade Louisiana and take it by force; with the recollection still vivid of Jefferson's splendid audacity in sending Lewis and Clark across the Rockies and into Oregon; with the memory still fresh of Andrew Jackson asking President Monroe to "signify" to him whether he would like Florida taken by armed force, — let us now turn to contrast the policy of Grover Cleveland with reference to Hawaii.

The first American consul was sent to the Hawaiian Islands in 1820, and in 1829 the President of the United States sent a message to the Hawaiian government, formally recognizing its independent existence. From this date up to 1893 the history of the Hawaiian Islands is a checkered one, — of intrigues, of moves and countermoves by England, France, and other powers, to obtain the ascend-

ancy there or to secure the actual control of affairs. On one or two occasions the protectorate of the islands was offered to the United States for the purpose of avoiding European oppression, and oftener than once our government was compelled to land marines in order to protect foreigners from internal disturbances.

In 1874 King Kalakaua ascended the throne, encountering grave opposition, in which it became necessary to land United States troops at Honolulu; and in 1889 American intervention was again required because of a strong revolt against the King. In 1891 Queen Liliuokalani succeeded to the throne, upon the death of her brother Kalakaua. She was the most reactionary ruler which Hawaii had for a century, and began her reign with the avowed object of abolishing the liberal constitution and with the intention, doubtless, of founding an absolutism. The legislative department passed a vote of want of confidence in the Queen's ministry in 1892, but this only led her to more despotic policies. In 1893 she began to prepare a "Constitution" which would make her independent of the legislature and judiciary, meanwhile debauching the public service and outraging public sentiment by chartering lotteries, opium rings, and all kinds of corrupt measures. When the Queen proclaimed her new "Constitution," in January, 1893, the greatest excitement prevailed, the criminal and disorderly element among the natives, the "Kanakas," seizing upon this as a pretext for a reign of savagery and terror, while some of the Queen's Kanaka "Kitchen Cabinet" urged the mob to massacre the whites without regard to age or sex. All the respectable natives saw in these actions a menace to civilization, and they joined with the whites in organizing a Committee of Public Safety, and in offering armed resistance to these extraordinary aggressions. Robbery, arson, murder, and anarchy prevailed, and so great was the reign of terror that the Queen's ministry refused to sustain her, and resigned in favor of the Committee of Public Safety, which made her a prisoner in her palace. The Committee appealed to Mr. Stevens, the United States minister, for aid in maintaining law and order. Mr. Stevens promptly landed three squads of marines and sailors from the Boston, which were sufficient to overawe the mob without having to fire a shot.

The Committee of Public Safety thereupon organized a provisional government, and declared that the monarchy had ceased to exist, deposing the Queen, but voting her a very liberal pension. The military and police forces recognized the provincial government and placed themselves at its order, while it was at once recognized as the *de facto* government by practically every foreign nation which had representatives there. A Commission was sent to Washington to negotiate a treaty of annexation, and at the request of the provincial government United States Minister Stevens proclaimed an American protectorate and raised our flag over Honolulu.

The Hawaiian Commissioners reached Washington on February 3, and on February 15 President Harrison submitted to the Senate a treaty of annexation. The Senate, however, took no action, and on March 4 Grover Cleveland took his seat as President of the United States. One of his first acts was to withdraw the treaty from the consideration of the Senate. Mr. Cleveland's subsequent actions on the Hawaiian question were characterized by the turgid wrong-headedness and perverse narrow-mindedness which seem an inseparable element in the tortuous mental processes of all those who oppose our national growth, and which for marplotting ineptitude were even less defensible than Polk's surrender of our rights in the Oregon boundary dispute or Buchanan's temporizing with secession.

He appointed Mr. James H. Blount, a gentleman of intellectual peculiarities like unto his own, as "paramount Commissioner" to Hawaii, with autocratic powers, as his own personal representative, and therefore with authority to overrule the American minister, the naval commander, and everybody else. Mr. Cleveland declined to submit Mr Blount's appointment to the Senate for confirmation, so that he became personally and peculiarly responsible for the acts of this gentleman, whose chief claim to fame is the fact that he was afterwards almost universally referred to with the contempt which he so richly deserved as "Paramount" Blount.

On March 29 Mr. Blount reached Honolulu, and on March 31 he hauled down the American flag, an act which humiliated us in the eyes of the civilized world. Mr. Blount devoted most of his time for several weeks after that to consultations with the ex-Queen and her partisans, treating with scant courtesy the members of the Committee of Public Safety or the officials of the provisional government, and declining to take their statements or arguments into consideration, on the ground that they had already been fully presented. Of course, Mr. Blount decided in favor of the dusky Queen, and, acting upon his report, President Cleveland, in December, 1893, sent a message to Congress declaring that the lawful government of Hawaii had been overthrown through "the agency of the United States acting through its diplomatic and naval representatives." He criticised the United States Minister Stevens unsparingly, blamed him for unjustifiable methods, and declined to resubmit the treaty of annexation.

Mr. Cleveland desired Mr. Blount to finish the work which with such mental and moral obliquity he had begun to the unqualified satisfaction of the President, but that gentleman declined to go on in unravelling the mare's nest which he had uncovered. Mr. Albert S. Willis was then sent as United States minister to Honolulu. Minister Willis was accredited to the provisional government of Hawaii, of which Sanford B. Dole was head, for it in fact was the only government in existence in Hawaii. Yet Mr. Cleveland instructed him to cultivate friendly relations with Liliuokalani and encourage her to

overthrow Dole's government, — the government to which, in fact, he was accredited! In this Mr. Cleveland showed the inconsistency of Jefferson, but not the latter's patriotism or breadth of statesmanship. Fortunately for all parties, Mr. Willis was a gentleman not nearly so bumptious as "Paramount."

He started in with the ex-Queen by advising her that, in the event the United States should reinstate her in her old job, it would be expected that she would use forbearance and forgive her enemies. But she very frankly told Mr. Willis that she intended to cut their throats, to the last one of them. She proposed to confiscate the property of all white men and drive them out of the country, but she might make an exception in favor of those who had married native women. She was going to abolish the old constitution at all hazards, and promulgate the new one which she had previously decided upon. In short, as she outlined her plans to Minister Willis, she proposed to make a second Haiti out of Hawaii, where no civilized human being could live. Mr. Willis reported all this to the State Department. About this time Secretary of State Gresham recommended to the President that the United States restore the ex-Queen to her throne by force.

Intense excitement was caused by this, not only in Hawaii but in all parts of the United States. A more infamous proposition has seldom been put forth by a civilized government, and if President Cleveland had endeavored to put into execution the recommendation of his Secretary, which evidently reflected his own sentiments, the gravest consequences would have undoubtedly followed. It seems incredible, even now, that such perfidy and dishonor were ever seriously contemplated by the executive department of thc United States government.

On account of this scandalous and outrageous attitude of Mr. Cleveland, the provisional government of Hawaii and the entire decent element of the islands made preparations for the utmost resistance. On December 18 Mr. Willis, having secured from Liliuokalani the promise to modify some parts of her vindictive and savage program, made a formal demand upon the provisional government that it should turn over its authority to the ex-Queen.

This most impudent and unprecedented demand was met by a strong and determined refusal from the provisional government, which told Mr. Willis that this was a purely domestic question and did not concern the United States. The answer of President Dole and his government was dignified and logical in its facts and arguments; it was sublime in its moral heroism.

It now appeared as though a bloody conflict were near. The provisional government was determined to resist to the utmost and made every possible preparation. Then it was that two United States warships drew up in Honolulu harbor, with their decks cleared for action

and their marines drawn up in battle array, in full sight of the provisional army, which was likewise drawn up on the shore, with its cannon trained upon the ship.

If there was ever a United States minister in a delicate situation it was Mr. Willis at this moment. For the United States navy, the United States army, the American people, practically every decent American citizen familiar with the facts in the case, were against Mr. Cleveland's policy. No doubt Minister Willis was more disgusted than any one else at the shameful part he had to play, and it soon became evident that even if he should be compelled to order the war-ships to attack the provisional government, they would refuse to do so. Indeed, the naval officers from the two war-ships went privately to President Dole and told him that they and the men sympathized with his government; that they would not attack him even though they were ordered to do so; and that if their boats with marines should put out from the ships, under orders to attack them, the Hawaiians should fire a volley over their heads, and that they would then turn back and abandon their purpose.

The blind obstinacy of President Cleveland could not carry him much further against the now thoroughly aroused public sentiment of the people of the United States and of the world, and had he actually attempted to replace the ex-Queen by force, with the frightful bloodshed which that would have entailed, the indignation of our people would have been so great that it would have inevitably led to his impeachment. As it was, he acknowledged himself powerless to deal with the situation, and turned it over to Congress, which never attempted to interfere with the government of Sanford B. Dole.

Soon after William McKinley became President, another annexation treaty was submitted to the Senate, which failed to receive the necessary two-thirds vote, although the majority favored it. A joint resolution of Congress was therefore passed, annexing the Hawaiian Islands, in the same manner as was done in the case of Texas. This was passed July 6, 1897, and on August 12 the official transfer was made, the American flag raised over Hawaii a second time. Hawaii became an organized territory of the United States in April, 1900, and is now governed under the Constitution with the other Territories.

VIII

Mr. Whitelaw Reid bears the same relation to the Philippine Islands that John Jay does to the territory west of the Alleghany Mountains in the treaty of Independence. At the end of the Spanish-American War neither President McKinley nor any one else in the administration appeared to have formulated a definite policy with reference to those islands. By the protocol signed August 12, 1898, through the mediation of the French government, providing for an

armistice and the negotiation of a permanent treaty of peace, Spain agreed to relinquish her sovereignty over Cuba, and to cede Porto Rico, all other Spanish West Indies islands, and one of the Ladrones, to the United States. It was further provided that the treaty of peace should "determine the control, disposition, and government of the Philippines."

William R. Day, Cushman K. Davis, William P. Frye, Whitelaw Reid, and George Gray were the five American Commissioners appointed to negotiate a treaty of peace with Spain, the sessions commencing in Paris on October 1, 1898.

These Commissioners received no binding instructions from the President with reference to the Philippines, but he left the matter largely to their judgment. There was a marked division of opinion among the Commissioners themselves, as, indeed, there was among the whole American people, as to the proper policy to pursue. Messrs. Day and Gray were in favor of entire withdrawal from the Philippines, leaving them to Spain or to their fate. Messrs. Frye and Davis were opposed to entire withdrawal, but would have been satisfied with a part of the archipelago, giving the United States ample naval stations and commercial guarantees. But as in every critical period of our history some one man has risen up above all the rest, so at this juncture a patriotic American, with the requisite breadth of vision and intellectual power, stood out unhesitatingly and determinedly in favor of the annexation of the entire archipelago. Whitelaw Reid, editor of the New York "Tribune," is the distinguished publicist whom Americans thank and honor for this piece of far-sighted statesmanship. Mr. Reid had no great difficulty in converting Messrs. Davis and Frye to his views, and they seconded him admirably, but Messrs. Gray and Day were more reluctant. In the end, however, they too loyally supported Mr. Reid, especially after they heard the testimony of General Merritt, of the United States army, who arrived in Paris about that time from the Philippines, and who gave the Commissioners much valuable information as to the great natural wealth of the islands and as to the political and social conditions. The government at Washington approved this decision of the Commissioners, but the Spanish Commissioners protested violently against surrendering the Philippines, declaring that it was not a part of the protocol, and that Spain had never considered giving up her sovereignty over them. By every subterfuge known to diplomacy, and by the offer to submit the interpretation of the protocol to arbitration, they endeavored to hold their grasp on the islands. On November 21 the American Commissioners presented what amounted to an ultimatum to the effect that Spain should cede all the Philippines to the United States, and that the latter should pay $20,000,000 to Spain, and for ten years should give her equal commercial rights in the Philippines with ourselves. After many "Carambas" the Spanish

Commission agreed, and the treaty was signed on December 10. It was ratified by the United States Senate on February 6, and signed by the Queen regent of Spain on March 17. This treaty gave to us Porto Rico and the other islands mentioned in the protocol.

The following table, which I copy from Mr. O. P. Austin's "Steps in the Expansion of our Territory," exhibits this growth in historical order:

ADDITIONS TO THE TERRITORY OF THE UNITED STATES FROM 1800 TO 1900

Territorial Division	Year	Area Added	Purchase Price
		Square Miles	Dollars
Louisiana Purchase	1803	875,025	15,000,000
Florida	1819	70,107	6,489,768
Texas	1845	389,795	....
Oregon Territory	1846	288,689	....
Mexican Cession	1848	523,802	19,250,000
Purchase from Texas	1850	....	10,000,000
Gadsden Purchase	1853	36,211	10,000,000
Alaska	1867	599,446	7,200,000
Hawaiian Islands	1897	6,740	....
Porto Rico	1898	3,600	....
Guam	1898	175	....
Philippine Islands	1899	143,000	20,000,000
Samoan Islands	1899	73	....
Additional Philippines	1901	68	100,000
Total		2,936,731	87,039,768

CHAPTER V

ATTITUDE OF THE UNITED STATES TOWARDS CUBA, THE ISLE OF PINES, AND THE PHILIPPINES

CUBA has been a source of unending uneasiness to us for a century. As far back as 1823 John Quincy Adams had favored the idea of Cuban annexation, and the world had been informed that we could not permit Cuba to become the colony of any other power than Spain; that we claimed a reversionary title to the island, and that should it ever pass out of Spain's possession, it must gravitate to us.

John Quincy Adams' letter, written to the American minister at Madrid, said at a time when war was impending between France and Spain:

"Whatever may be the issue of this war, it may be taken for granted that the dominion of Spain upon the American Continents, North and South, is irrevocably gone. But the islands of Cuba and Porto Rico still remain nominally and so far really dependent upon her that she yet possesses the power of transferring her own dominion over them, together with the possession of them, to others. These islands are natural appendages to the North American Continent, and one of them, almost in sight of our shores, from a multitude of considerations has become an object of transcendent importance to the commercial and political interests of our Union. Its commanding position with reference to the Gulf of Mexico and the West Indian seas; its situation midway between our Southern Coast and the Island of San Domingo; its safe and capacious harbor of the Havana, fronting a long line of our shores destitute of the same advantages; the nature of its productions and of its wants, furnishing the supplies and needing the returns of a commerce immensely profitable and mutually beneficial, — give it an importance in the sum of our national interests with which that of no other foreign territory can be compared, and little inferior to that which binds the different members of this Union together. Such, indeed, are, between the interests of that island and of this country, the geographical, commercial, moral, and political relations formed by nature, gathering in the process of time, and even now verging to maturity, that in looking forward to the probable course of events for the short period of half a century it is scarcely possible to resist the conviction that the annexation of Cuba to our Federal Republic will be indispensable to the continuance of the integrity of the Union itself. . . . There are laws of political as well as of physical gravitation, and if an apple, severed by the tempest from its native tree, cannot choose but to fall to the ground, Cuba,

forcibly disjointed from its own unnatural connection with Spain and incapable of self-support, can gravitate only towards the North American Union, which, by the same law of nature, cannot cast her off from her bosom. The transfer of Cuba to Great Britain would be an event unpropitious to the interests of this Union. . . . The question both of our right and of our power to prevent it, if necessary, by force, already obtrudes itself upon our councils, and the Administration is called upon, in the performance of its duties to the nation, at least to use all the means within its competency to guard against and forefend it."

From 1823 to 1898 there was an almost unbroken succession of scandals, outrages, and disturbances in Cuba, to the great detriment of our interests and of the world. From 1868 to 1878 there was continual war in the islands, and in 1895 another revolution broke out, which in its barbaric atrocity on both sides is almost without parallel. Finally, in April, 1898, President McKinley asked authority from Congress to intervene and put an end to the horrors existing in Cuba, two months after our war-ship Maine, which had been lying in the harbor of Havana, had been treacherously destroyed with a loss of about three hundred officers and men. Congress at once acceded to his request. The joint resolution of Congress recognized the independence of the people of Cuba, demanded that the government of Spain relinquish its authority and withdraw its naval and military forces from the island, and directed the President to use the land and naval forces of the United States for the purpose of carrying the resolutions into effect.

In these resolutions Congress declared: "That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control, over said island, except for the pacification thereof, and asserts its determination, when that is accomplished, to leave the government and control of the island to its people." This resolution has been religiously respected by the United States government.

After the signing of the protocol with Spain the United States continued in military occupation of the Island of Cuba until 1902, General Leonard Wood being Governor. Under the able administration of General Wood order was rapidly brought out of chaos. Excellent sanitary measures were adopted, and Cuba enjoyed peace and prosperity.

Before surrendering control of the island to the local government, which had been elected by the people of Cuba, Mr. T. Estrada Palma being chosen President, the United States Congress passed a law known as the "Platt Amendment," to define our relations to Cuba. This law was incorporated into the Cuban Constitution. It is as follows:

"That in fulfilment of the declaration contained in the joint resolution approved April twentieth, eighteen hundred and ninety-eight, entitled 'For

the recognition of the independence of the people of Cuba, demanding that the Government of Spain relinquish its authority and government in the island of Cuba, and to withdraw its land and naval reserve forces from Cuba and Cuban waters, and directing the President of the United States to use the land and naval forces of the United States to carry these resolutions into effect,' the President is hereby authorized to 'leave the government and control of the island of Cuba to its people' so soon as a government shall have been established in said island under a constitution which, either as a part thereof or in an ordinance appended thereto, shall define the future relations of the United States with Cuba, substantially as follows:

"I. That the government of Cuba shall never enter into any treaty or other compact with any foreign power or powers which will impair or tend to impair the independence of Cuba, nor in any manner authorize or permit any foreign power or powers to obtain by colonization or for military or naval purposes or otherwise, lodgment in or control over any portion of said island.

"II. That said government shall not assume or contract any public debt, to pay the interest upon which, and to make reasonable sinking fund provision for the ultimate discharge of which, the ordinary revenues of the island, after defraying the current expenses of government, shall be inadequate.

"III. That the government of Cuba consents that the United States may exercise the right to intervene for the preservation of Cuban independence, the maintenance of a government adequate for the protection of life, property, and individual liberty, and for discharging the obligations with respect to Cuba imposed by the treaty of Paris on the United States, now to be assumed and undertaken by the government of Cuba.

"IV. That all Acts of the United States in Cuba during its military occupancy thereof are ratified and validated, and all lawful rights acquired thereunder shall be maintained and protected.

"V. That the government of Cuba will execute, and as far as necessary extend, the plans already devised or other plans to be mutually agreed upon, for the sanitation of the cities of the island, to the end that a recurrence of epidemic and infectious diseases may be prevented, thereby assuring protection to the people and commerce of Cuba, as well as to the commerce of the southern ports of the United States and the people residing therein.

"VI. That the Isle of Pines shall be omitted from the proposed constitutional boundaries of Cuba, the title thereto being left to future adjustment by treaty.

"VII. That to enable the United States to maintain the independence of Cuba, and to protect the people thereof, as well as for its own defence, the government of Cuba will sell or lease to the United States lands necessary for coaling or naval stations at certain specified points, to be agreed upon with the President of the United States.

"VIII. That by way of further assurance the government of Cuba will embody the foregoing provisions in a permanent treaty with the United States."

I. Cuban Revolution

After the withdrawal of the American government things went very well in Cuba — until the first presidential election. It was held in November, 1905, and occasioned serious trouble. There were riots

and bloodshed, and finally the Liberals withdrew from the field, with their candidate, General Gomez, leaving the so-called Moderates in undisputed possession of all the offices, and President Palma was declared re-elected.

Revolutionary plots, however, began to form, and local disturbances took place in February, 1906, followed by a general revolution in all parts of the country in August, 1906. An outline of this movement will be found in another chapter of this work.

In explanation of this uprising Colonel Charles M. Aguirre, head of the Cuban Revolutionary Junta, made the following charges against President Palma:

"We charge that President Palma obtained his election to office through fraud and intimidation, and by the denial to the Liberals of their right of suffrage.

"We charge that the government of President Palma was directly responsible for the killing of Colonel Enrique Villuendas, a member of the House of Representatives, at Cienfuegos on September 22, 1905. Colonel Villuendas, a prominent member of the Liberal party, had prepared charges against President Palma on which he expected to have that official impeached.

"The day following the publication of these charges, which was also the day previous to the primary election, Colonel Villuendas was attacked by the chief of police and several of his subordinates, and, without any effort being made to arrest him, was shot down in cold blood.

"We charge that President Palma has usurped the powers and functions of the governing bodies of the municipalities and has annulled, arbitrarity and without warrant in law, the elections of Liberal officials, displacing them with members of his own political party, the Moderates.

"We charge that he has, in like manner, removed from the bench judges who refused to act in their judicial capacity according to his dictates. President Palma also has imprisoned without judicial proceedings members of the Liberal party, because they voiced their protests against his dictatorial conduct.

"We charge that the Palma government has steadfastly refused to investigate or even listen to the charges that Palma's election was obtained by the force of arms, and that the Liberals were, at the point of bayonets, refused the right to cast their votes for their candidates.

"We charge, further, that the assassination of Colonel Villuendas was a government conspiracy to intimidate the Liberal voters. This policy of coercion and intimidation, aided by the armed and uniformed forces of the republic, was continued throughout the campaign, reached its climax on election day, and placed Palma in the Presidential chair for a second term.

"The Liberals have made continued peaceful appeals that this injustice be righted, but to all these the government has turned a deaf ear. Denied the constitutional rights for which the Cubans fought, bled, and died for nearly half a century, we decided that our one recourse was again to take up arms.

"We now ask only one thing, and that is that the illegal and fraudulent election of last December be annulled and a new election held at which every Cuban citizen will be given a fair chance to vote."

By the middle of September the revolution had become exceedingly grave, and on the 14th of that month President Roosevelt sent the following letter to Señor Don Gonzalo de Quesada, the Cuban Minister at Washington, for transmission to the Cuban people:

My dear Señor Quesada, — In this crisis in the affairs of the Republic of Cuba I write you, not merely because you are the Minister of Cuba accredited to this government, but because you and I were intimately drawn together at the time when the United States intervened in the affairs of Cuba, with the result of making her an independent nation. You know how sincere my affection and admiration and regard for Cuba are. You know that I never have done and never shall do anything in reference to Cuba save with such sincere regard for her welfare. You also know the pride I felt because it came to me as President to withdraw the American troops from the Island of Cuba and officially to proclaim her independence and to wish her Godspeed in her career, as a free republic. I desire now, through you, to say a word of solemn warning to your people whose earnest well-wisher I am. For seven years Cuba has been in a condition of profound peace and of steadily growing prosperity. For four years this peace and prosperity have obtained under her own independent government. Her peace, prosperity, and independence are now menaced, for of all possible evils that can befall Cuba the worst is the evil of anarchy into which civil war and revolutionary disturbances will assuredly throw her. Whoever is responsible for armed revolution and outrage, whoever is responsible in any way for the condition of the affairs that now obtain, is an enemy of Cuba, and doubly heavy is the responsibility of the man who, affecting to be the especial champion of Cuban independence, takes any step which will jeopardize that independence. For there is just one way in which Cuban independence can be secured, and that is for the Cuban people to show their ability to continue in their path of peaceful and orderly progress. This nation asks nothing of Cuba, save that it shall continue to develop as it has developed during the last seven years, that it shall know and practise the orderly liberty which will assuredly bring an ever increasing measure of peace and prosperity to the beautiful Queen of the Antilles. Our intervention in Cuban affairs will only come if Cuba herself shows that she has fallen into the insurrectionary habit, that she lacks the self-restraint necessary to peaceful self-government, and that her contending factions have plunged the country into anarchy.

I solemnly adjure all Cuban patriots to band together to sink all differences and personal ambition, and to remember that the only way that they can preserve the independence of the republic is to prevent the necessity of outside interference by rescuing it from the anarchy of civil war. I earnestly hope that this word of adjuration of mine, given in the name of the American people, the stanchest friends and well-wishers of Cuba that there are in all the world, will be taken as it is meant, will be seriously considered and will be acted upon; and if so acted upon, Cuba's permanent independence, her permanent success as a republic, is assured.

Under the treaty with your government I, as President of the United States, have a duty in this matter which I cannot shirk. The third article of that treaty explicitly confers upon the United States the right to intervene for her maintenance in Cuba of a government adequate for the protection of life, property, and individual liberty. The treaty conferring this right is the su-

preme law of the land, and furnishes me with the right and the means of fulfilling the obligation that I am under to protect American interests. The information at hand shows that the social bonds throughout the island have been so relaxed that life, property, and individual liberty are no longer safe. I have received authentic information of injury to, and destruction of, American property. It is in my judgment imperative for the sake of Cuba that there shall be an immediate cessation of hostilities and some arrangement which will secure the permanent pacification of the island.

I am sending to Havana the Secretary of War, Mr. Taft, and the Assistant Secretary of State, Mr. Bacon, as the special representatives of this government, who will render such aid as is possible toward these ends. I had hoped that Mr. Root, the Secretary of State, could have stopped in Havana on his return from South America, but the seeming imminence of the crisis forbids further delay.

Through you I desire in this way to communicate with the Cuban government and with the Cuban people, and accordingly I am sending you a copy of this letter to be presented to President Palma, and have also directed its immediate publication.

Sincerely yours, THEODORE ROOSEVELT.

As affairs in the island continued to grow worse, President Roosevelt sent Secretary of War W. H. Taft and Assistant Secretary of State Robert Bacon to Havana as peace Commissioners. Secretary of State Root had not yet returned from his trip around South America.

The Moderates desired the United States to use its military and naval power to crush the rebellion, but Messrs. Taft and Bacon had no such intention. Finally, on September 26, President Palma tendered his resignation in the following letter:

HONORABLE SIRS, — I have the honor to acknowledge the receipt of your note of yesterday, the 24th, in which you express in a general way your opinions and points of view, according to your own personal investigation, of the cause of the present rebellion in Cuba, its state and the means to finish it, in order to re-establish peace and order and public quiet in the country.

I could raise some objections, and prove them, to your estimate of the numbers of the armed insurgents, and the sympathy to which you consider them entitled. But it is useless now to enter upon discussion of this kind, in view of the course you have adopted and your resolution to make peace by all means.

It is therefore my only purpose, in courteously replying to your note, to repeat here, in brief, what I expressed in the conference you kindly had with me last night, namely, that I consider the conditions you understand to be necessary for the rebels to lay down their arms contrary to my personal dignity and the prestige of the Government over which I preside, and that I have accordingly taken the irrevocable decision to present to Congress my resignation of the office to which I was appointed by the will of the Cuban people at the last Presidential elections.

Thereupon Mr. Taft proclaimed himself Provisional Governor of Cuba, a position which was transferred a short time thereafter to the Hon. Charles E. Magoon.

The Washington administration declared that its occupation of Cuba would only be temporary, and the American press, Republican as well as Democratic, seemed intent on American withdrawal as soon as possible. Indeed, many American newspapers claimed that the revolution was due to American intrigues, — a statement not borne out by a single fact.

II. The Isle of Pines

Americans in the Isle of Pines suffered greatly during this revolution. The case of this island illustrates the fatuous sentimentality which passes for patriotism at Washington. Under the treaty signed December 10, 1898, Spain ceded to the United States Porto Rico and all other Spanish West Indies Islands, except Cuba, with reference to which she relinquished her sovereignty.

Curiously enough, although upon what rational interpretation of language it is difficult to see, the Washington Administration held that the Isle of Pines was a part of Cuba. When General Wood turned the government of Cuba over to Palma, President Roosevelt likewise sought to place the Isle of Pines under his authority. For this purpose a treaty was submitted to the United States Senate, annexing the Isle of Pines to Cuba. Why the Isle of Pines and not the State of Maine should be annexed to Cuba is not clear, because the one is physically no more a part of Cuba than the other. This proposed treaty led to vigorous protests on the part of Americans residing in the Isle of Pines, who claimed it to be unquestionably American territory, in virtue of the treaty with Spain, paid for with our blood and treasure.

The United States Senate happily refused to be swept off its feet by newspaper clamor, or by the importunities of the Washington administration, so that the proposed treaty lay dormant, without action, until after the revolution of 1906.

While the "anti-imperialists" were congratulating the administration of Roosevelt on the attempted secession of American territory, the United States Supreme Court handed down a decision which filled every copperhead's heart with joy. In the case of Edward J. Pearcy against Nevada N. Stranahan, Collector of the Port of New York, the Supreme Court went far beyond the decision of the point at issue, and expressed opinions which are not only illogical but absurd. Pearcy in 1903 had imported some cigars from the Isle of Pines, made there from native tobacco, and he refused to pay duty on the ground that they were of domestic origin. The Collector of the Port of New York seized them, and Pearcy appealed to the United States Circuit Court, and thence to the Supreme Court. On the point at issue the Supreme Court, in an opinion delivered by Chief Justice Fuller, on April 8, 1907, stated:

"The Isle of Pines continues at least *de facto* under the jurisdiction of the government of the Republic of Cuba, and that settles the question before us, because, as the United States have never taken possession of the island as having been ceded by the treaty of peace, and as it has been and is being governed by that Republic, it has remained 'foreign country' within the meaning of the Dingly Act. There has been no change of nationality for revenue purposes, but, on the contrary, the Cuban government has been recognized as rightfully exercising sovereignty as a *de facto* government until otherwise provided."

It is true that, owing to the policy of the Roosevelt administration, the Isle of Pines had been abandoned to the *de facto* control of Cuba. But if the Isle of Pines were actually American territory, that abandonment, however wanton and unpatriotic it may have been, could not operate to suspend the tariff laws, or any other laws passed by the United States Congress for the government of our territory. The real heart of the question at issue then was: "Is the Isle of Pines American territory?"

The learned Chief Justice continued:

"All the world knew that it was an integral part of Cuba, and in view of the joint resolution of April 20, 1898, it seems that the Isle of Pines was not supposed to be one of the 'other islands' ceded by Article II. Those were islands not constituting an integral part of Cuba and adjacent to Porto Rico."

How the Chief Justice discovered that the Isle of Pines is an "integral part of Cuba," as he so felicitously expresses it, was not disclosed by this most extraordinary opinion. He argues that the Isle of Pines had legitimately descended from the control of Spain to that of Cuba, but how or in what manner he utterly fails to state, nor does he cite any treaty, stipulation, or convention of any character between Spain and Cuba touching the Isle of Pines or any other subject. The learned jurist then adds:

"We are justified in assuming that the Isle of Pines was always treated by the President's representative in Cuba as an integral part of Cuba. This was indeed to be expected in view of the fact that it was such at the time of the execution of the treaty and its ratification, and that the treaty did not provide otherwise in terms, to say nothing of general principles of international law applicable to such coasts and shores as those of Florida, the Bahamas, and Cuba."

To state that the Isle of Pines was "an integral part of Cuba — at the time of the execution of the treaty and its ratification" — is utter nonsense, untrue in fact, and wholly at variance with the simple elementary language of our treaty with Spain. Cuba had no national existence prior to the date of the Spanish-American treaty; she was not sovereign over herself, to say nothing of adjacent territory; nor did Cuba ever exercise any authority or control over the Isle of Pines, or even over the lands comprised in the island of Cuba itself, until after

the treaty between the United States and Spain. In this treaty the latter country merely relinquished its sovereignty over Cuba, but it did not convey nor pretend to convey the sovereignty to Cuba over the Isle of Pines or any other territory. Spain did not make any treaty whatever with Cuba with reference to this subject.

The Chief Justice and the majority of the court, however, were perfectly certain that the Isle of Pines is "an integral part of Cuba," and this statement is reiterated, and forms the chief corner-stone of the opinion. If the judges who handed down this opinion should attempt to swim across from the Isle of Pines to the island of Cuba, they would doubtless change their ideas about one being an integral part of the other. An island is defined to be a body of land entirely surrounded by water. The Isle of Pines is an island, — of that there is no doubt; that Cuba is an island is equally certain; and that there is a broad expanse of water between them is a physical fact. How can one portion of land which is entirely surrounded by water be an integral part of another portion of land which likewise is entirely surrounded by water? To state such a proposition as a physical fact is of course the *ne plus ultra* of absurdity.

Article VI of the Platt Amendment, which is a part of the Constitution of Cuba and is likewise a law of the United States, provides:

> "That the Isle of Pines shall be omitted from the proposed constitutional boundaries of Cuba, the title thereto being left to future adjustment by treaty."

It seems very unstatesmanlike to enter into a stipulation of this character with Cuba about an island over which she has not and never did have a scintilla of legitimate authority. The United States ought to have taken complete possession of the island without further discussion at the end of the Spanish War. But having made such a stipulation, and a treaty on the subject being before the United States Senate, the amazing spectacle is presented of the United States Supreme Court undertaking, to all intents and purposes, to usurp the functions and prerogatives of the treaty-making power by attempting to place it beyond the power of the Senate to decide the matter in other than the manner indicated by the Court. It is evident that the United States Senate should pay no attention whatever to this decision.

But a sterner duty rests upon the American people, — an obligation to put an end to the pernicious influence and power of judges and officials who would dismember our territory or prevent our further growth and expansion.

III. A Sane View of Cuba

While the Amercian press, the great majority of which is always against American expansion and the advance of American civilization in the barbarous Latin-American countries, is urging that American

occupation in Cuba shall be only temporary, and falsely insinuating that the revolution was due to American intrigues, it is a relief to find at least one man in high official position who has the requisite insight accurately to comprehend our relations to Cuba.

Senator Beveridge, of Indiana, in a speech at Des Moines, Iowa, on October 3, 1906, said:

"Events are determining the destiny of Cuba. We have already intervened. But we did not intervene until every effort had been exhausted to help the Cubans themselves to restore the order they had shattered and the government they had imperilled. And now that we have intervened, we will try again to make the Cuban government once more a success.

"From Santiago to Havana the Cuban flag still flies, — visible proof to the world of our intention not to raise the American flag and establish American government there until the Cuban people themselves compel us to do so, until events which are the commands of God order us to do so, until the cause of civilization and the cry of despairing liberty force us to do so. For when the American flag is raised over Cuba again, it never must be lowered.

"Our record must be as clear as our intentions are pure. But speaking for myself alone, and for no one else, I believe that in re-establishing the Cuban government all the world knows that we are doing the work of Sisyphus, — rolling the stone to the top of the hill, only to see it roll back again. When another Cuban president is elected by Cuban votes, how long will it be before another Cuban insurrection overthrows him? When we again set another Cuban government on its feet, how long will it be before foolish factions will again lay it prostrate? When we have steadied the falling Cuban flag by the arms of American soldiers and sailors, and then have again withdrawn the American power that saved it, how long will it be until once more anarchy will make it the vain emblem of a powerless government?

"In the end destiny will have her way. We may lay down the task civilization bids us do, but to-morrow that task will reappear and the inevitable will command us to do our deferred duty. But we must not act in haste. Let us exhaust every resource, so that the world, history, and our own conscience will say that we have not trifled with our word on the one hand, and then, having exhausted every resource and failed, let us act so that history, the world, and our consciences will say that we have not trifled with liberty and civilization on the other hand. Let us keep the Cuban flag floating while we may, so that when we raise the American flag only when we must, that flag will be unfurled never to be furled again.

"Hereafter, when the American flag is raised, it must never be hauled down. That flag was never raised but in honor, was never hauled down but in mistake and disgrace. It was a mistake when we hauled it down in Cuba; it was a disgrace when we hauled it down in Hawaii; and now let the circumstances be such that whenever it is raised hereafter it will be an infamy if ever after that flag is lowered again.

"Cuba needs us more than we need Cuba. What Cuba wants is important, what we want is important; but what liberty requires is more important. What civilization demands is the supreme consideration."

IV. Great Development of Cuba from 1898 to 1906

During the American occupation of Cuba from 1898 to 1902, and the first administration of President Palma from 1902 to 1906, the development of Cuba was phenomenal.

Mr. Atherton Brownell, in the "American Monthly Review of Reviews" for October, 1906, gives the following facts, as showing the great development possible in Cuba under a stable administration:

"Previous to the war with Spain the total amount of American capital in the island was estimated at about $50,000,000. During the intervention period and up to 1903 this had increased, according to figures made by Consul-General Steinhardt at Havana, to $100,000,000, but in that estimate he omitted certain very important interests. Taking Mr. Steinhardt's estimate and adding to it well-authenticated estimates, it would appear that to-day the total investment of American capital in Cuba is in the neighborhood of $165,000,000, although certain other estimates place it at lower figures. The following table will indicate the growth:

(Consul-General Steinhardt's Estimate)

	1903	1906
Sugar plantations	$25,000,000	$30,000,000
Tobacco lands and factories	45,000,000	45,000,000
Fruit lands	3,500,000	6,000,000
Mining property	5,000,000	5,000,000
Cuba R. R. Co. and two other railroads	12,000,000	24,000,000
Street railways	8,000,000	15,000,000
Other real estate and commercial investments	1,500,000	5,000,000
Banking	....	45,00,000
Cattle	....	80,000,000
Total	$100,000,000	$164,500,000

"The immense accelerative force of this amount of capital being poured into Cuba, and of operation of the reciprocity treaty, has shown itself in the island's commerce. In 1905 her imports amounted to $94,806,655, and her exports to $110,167,485, which is just about 100 per cent increase since the close of the war. Of these imports nearly one half came from this country, and of her exports $95,330,475 went to the United States. With all the grafting that has been going on, Cuba has been able to pile up a surplus of about $29,000,000, and her material improvement is well indicated by a comparison of the budgets under Spanish rule and under self-government. From 1888 to 1893 the average budget was $24,000,000, of which $11,000,000 went for interest on a public debt, $6,000,000 to the Spanish army, $1,000,000 to the Spanish navy, perhaps $1,000,000 to Spanish graft, and a half million to the Church. The budget for 1905 and 1906 was $25,370,512, — an increase of $20,000,000 actually for Cuba, but out of which there has been plentiful graft.

"Since then there has likewise been a very heavy immigration in Cuba, of which the great bulk has been Spanish, but the figures show about six thousand American settlers. These are scattered widely throughout Cuba, and it has been possible for me to locate twenty-eight colonies, of greater or less size, which may be considered as American. This does not, however,

include the number of non-resident American owners of Cuban land, which probably will reach the number of fifteen thousand, and their holdings will aggregate probably four and a half million acres. The Cuba Company alone owns a matter of a half million acres, and the Chaparra Sugar Company owns or controls, in one tract, about two hundred and twenty-five thousand acres. About 25 per cent of the sugar produced in Cuba is by American corporations, and projected enterprises will increase this largely if not checked by the present disturbance. The greater part of the fruit cultivation of Cuba is American because of the particularly favorable situation of Cuba for the growing and transportation of citrus fruits to our Atlantic coast. Practically all of the railroad transportation east of Santa Clara is American, and this, with its connections with the older lines nearer Havana, forms the trunk line service that has made interior development possible. Negotiations had practically been completed which would make a through service to Havana from Santiago, all American. All of the electric street service in and about Havana is American, and American enterprise has further gone heavily into banking. Kuhn, Loeb & Co., of New York, and the National City Bank, are responsible for the establishment of the new Banco de la Habana, with an authorized capital of $5,000,000, one half of which is already paid in and which is equally divided between the United States, Great Britain, France, and Cuba, and, aside from this, about $4,000,000 of American money are otherwise thus employed. All of the government and municipal bond issues have largely been taken in New York, the $35,000,000 5 per cent bond issue having been taken by Speyers, and these, so good has been Cuba's credit, have been in active demand at $105 up to the present time."

V. The Philippine Islands

The acquisition of the Philippine Islands by the United States has called forth as bitter invective as that issued by Josiah Quincy in regard to the Louisiana purchase. As a matter of fact, the policy of the United States with reference to the Philippine Islands has been in the strictest accordance with the canons of international law. Spain, a civilized power of a rather degenerate character, but nevertheless as such regarded, was rendered impotent to protect civilized foreigners in the Philippine Islands by the naval victory of Commodore (now Admiral) George Dewey's Squadron. These foreigners, with their wives and children, thousands of them, had engaged in business under the protection of this power, which, inadequate though it may have been, could at least be held responsible by their respective governments. The supremacy of Spain having been destroyed by the fortunes of war, the sovereignty of those islands was transferred to the United States strictly in accordance with international law. Upon this country then devolved the legal and moral responsibility, not alone of protecting the civilized foreigners who were by reason of Spain's overthrow left without other protection, but also of maintaining law and order in those territories. Moreover, it is the solemn duty of the United States everywhere and at all times, under all circumstances and

at every risk, to maintain, by all the force at its command, its supreme authority and jurisdiction over all its territory. No question as to local self-government or any other kind of government could be considered until law and order were established, and complete, unquestioned subjugation to the flag acknowledged. That the Philippine Islanders were ready or capable of self-government, no one conversant with the facts believes, but even if they were, to discuss the question while they were in rebellion against the lawful authority of the United States would be inadmissible. That we should not exercise any control over them at all, as the anti-imperialistic propaganda desired, would only be adding one more to the list of monstrosities called Spanish-American Republics. But to place the civilized men, women, and children there at the mercy of the bandits and savages who would control affairs would be a thing too horrible to contemplate. When E. Crosby speaks of the United States "enslaving a brave people," as he does in the "North American Review," December, 1903, he is guilty of a shameless perversion of words. From time immemorial, these islands have been filled with bandits of the worst type. These are described by Mr. W. E. Curtis, staff correspondent of the Chicago "Record-Herald," under date of Manila, April 22, 1904, as follows:

"The ladrones, as these nomadic bands of robbers are called, resemble the dacoits of India, which have given the authorities so much trouble. There is a special law in India for the suppression of dacoity, which means robbing and marauding in bands, and the penalty is much more severe than that imposed upon ordinary robbers. If a man is assaulted and robbed, or a house is raided, or if cattle are stolen by one man or two in India, it is robbery. If there are more than two persons in the party, it is dacoity, and notwithstanding the terrible penalty and the vigilance of the police it still continues and breaks out afresh every now and then, like an epidemic, in different parts of the empire. Organized bands of from five to twenty desperadoes will raid towns and villages, robbing, burning, destroying crops, and driving off cattle, and usually are led by escaped criminals, fugitives from justice, or religious fanatics. The ladrones are similar. Their methods are the same, and there is a religious fanatic named Felipe Salvadore at the head of a band of twenty or thirty men, who believe that he is divine and call him Santa Iglesia. He performs miracles, heals the sick, and cuts the throats of people who deny his divine origin and supernatural powers.

"In the southern part of Luzon another religious fanatic named Pepe Rios formerly had a gang of about a dozen desperadoes. He claimed to be the son of the Virgin Mary and was evidently insane, but was caught by the constabulary and hanged a year or so ago.

"In the province of Cavite two professional highway robbers and escaped convicts named Mantalon and Felizado, who were engaged in the same business in Spanish times, have a band of twelve or fifteen living on plunder and blackmail.

"In the province of Isabella there is a similar band, about thirty strong, called Tumanes, who live in the mountains, have cabins, and little patches

of cultivated ground. Between crops they raid the neighboring towns and plantations and commit highway robbery. A few weeks ago they attacked a village called Nagillian, killed the magistrate's wife, kidnapped his niece, killed one of the constabulary who attempted to defend her, and looted the principal houses of the town.

"In Albay, where the big hemp plantations are, was formerly a desperate and dangerous band of twenty or more robbers, who for fifteen years seriously interfered with the prosperity of the province and have cost the hemp planters several millions of dollars in crops burned, in the destruction of houses and warehouses, by the interference with labor, and by blackmail and looting. Their plan was to seize a rich planter and hold him for ransom. If their demands were not complied with promptly, they would burn the hemp in his fields. If that did not bring the money, they would set fire to the buildings on his plantation, and ultimately destroy the entire property piece by piece, until the victim yielded. Then they would divide the plunder, scatter, and disappear until the police abandoned the search for them. This gang, however, has practically been exterminated. A dozen or more have been sentenced to death and an even larger number to imprisonment for life, and the remainder have subsided and have not been heard from lately. No case of kidnapping has been reported this year thus far.

"In the southern islands are similar bands of cattle thieves, robbers, and highwaymen, but they are not so numerous as in the more thickly settled portions of the country.

"None of these bands is political, although they frequently represent themselves to be 'insurrectos,' and often utter the war-cry of Aguinaldo's army when they raid a town. Colonel Scott, chief of the constabulary, tells me that altogether the ladrones can muster about one hundred guns; that half of them are the descendants of criminals who were engaged in the same business in Spanish times, and the remainder are fugitives from justice and adventurers who served with Aguinaldo's army, and became so demoralized that they have never been able to settle down to peaceful occupations."

VI. Movements towards Philippine Independence

In the case of the Philippines, as we have seen elsewhere, it is the murdering, revolutionary, bandit aggregation of criminals, adventurers, and vagabonds who are shouting for independence. The responsible men, the decent people, those who are civilized and law-abiding, would fear independence worse than a pestilence, for they know it would mean a reign of pillage, anarchy, and terror.

It must not be supposed, however, that the so-called anti-imperialists are wanting in men of influence and high character to back up their absurd notions. Much may be amusing in this propaganda, but there is another side to it. Petitions were circulated all over the United States, for instance, asking the respective political parties to place declarations in their platforms pledging ourselves to give the same independence to the Filipinos that we have given to Cuba. The committee circulating these petitions, calling itself the

Philippine Independence Committee, was composed of the following named gentlemen:

Charles F. Adams, Massachusetts.
Dr. Felix Adler, New York.
President Edwin A. Alderman, Louisiana.
James M. Allen, California.
W. H. Baldwin, Jr., New York.
Gen. R. Brinkerhoff, Ohio.
George Burnham, Jr., Pennsylvania.
Andrew Carnegie, New York.
President George C. Chase, Maine.
R. Fulton Cutting, New York.
President Charles W. Eliot, Massachusetts.
Philip C. Garrett, Pennsylvania.
Judge George Gray, Delaware.
President G. Stanley Hall, Massachusetts.
Chancellor Walter B. Hill, Georgia.
W. D. Howells, New York.
The Rev. W. R. Huntington, New York.
President William De W. Hyde, Maine.
Prof. William James, Massachusetts.
President David Starr Jordan, California.
President Henry Churchill King, Ohio.
Prof. J. Lawrence Laughlin, Illinois.
Charles F. Lummis, California.
The Hon. Samuel W. McCall, Massachusetts.
Wayne MacVeagh, Washington, D. C.
Bishop W. N. McVickar, Rhode Island.
The Rev. C. H. Parkhurst, New York.
Gen. William J. Palmer, Colorado.
George Foster Peabody, New York.
Bliss Perry, Massachusetts.
Bishop Henry C. Potter, New York.
The Hon. U. M. Rose, Arkansas.
President J. G. Schurman, New York.
Prof. Edwin R. A. Seligman, New York.
President Isaac Sharpless, Pennsylvania.
The Hon. Hoke Smith, Georgia.
Judge Rufus B. Smith, Ohio.
Bishop J. L. Spalding, Illinois.
Prof. W. G. Sumner, Connecticut.
Robert Ellis Thompson, Pennsylvania.
Prof. Henry Van Dyke, New Jersey.
Horace White, New York.

The high standing of these gentlemen and their manifest desire to do good are unquestioned. They undoubtedly desire to do good to the Filipino and to all other men. But here we are confronted with the facts: men of unquestioned purity of heart, and of great practical experience in the world, advocating policies which the veriest school

boy ought to know would be absolutely destructive and perversive of the very objects which they seek to attain.

In order to be able to appreciate these petitions in all their bearings, it is important to analyze the facts in the case. What does Mr. Adams, Mr. Howells, or Mr. Carnegie know about the Filipinos? What do the other gentlemen know about them? Have they ever been in the Philippine Islands and studied the nature and character of these people? If Mr. Carnegie will express an opinion on finance or on the art of making steel, or if Mr. Howell will write a review of current literature, I will listen to him with great respect. Have these gentlemen ever studied the peculiar anthropology of the Filipinos? Do they realize what a jumbled up mixture the half-breed Spanish-Indian-Negro type is all over the world? Take the several provinces of Spain, each differing from the other more than the German differs from the English type, then mix these up in infinite variety and proportion with unnumbered Turanian tribes, each differing from the other as much as any two types of civilized men can differ, and then talk about self-government for this ignorant, emotional, cunning, cruel, irresponsible, savage conglomerate — is there any other folly which could be comparable with this?

Even Mr. Taft, who so ably combated the views of the Committee, as yet only has a faint appreciation of the real character of the Filipinos. Years of intimate study are required, and multifarious dealings with these people in their own language, and a wide observation of their habits of thought and action, are indispensable to the formation of an opinion which is of any value whatever.

But if you know nothing of the nature of a people, how can you decide as to the character of government which they should have? Does any man believe that the same kind of government is equally well adapted to all classes of people? No greater heresy can be conceived.

The English, who are in fact as free as ourselves, would deny with a thousand tongues every assertion one might make looking to the downfall of the British monarchy. If these people, who embody the very highest aspirations of men so far as absolute justice and personal liberty are concerned, deny *in toto* our deductions as to the individual right of self-government in all respects corresponding to our own system, then how can we assume such an air of infallibility in our attempt to apply these theories to peoples like the Filipinos, who have neither the habits of order nor the enlightenment of the English — nay, who are in fact semi-barbarians, and who will remain such until many years of civilization and education have worked their influence upon them.

The people of the United States ought to have learned something in their dealing with the negro. Every thinking man in the North realizes that the granting of the elective franchise to the negro in the

manner in which it was done was a mistake. It did him no earthly good. It made him feel that his uplifting was to come about through politics, — the most dangerous idea that any people can entertain. The attempt to force him into social and political equality with the whites naturally and properly raised the gravest feelings of resentment and alarm on the part of the latter, and a determination to resist it to the uttermost. And what was the cause of this attitude and action of the North? It was due to the absolute ignorance of the people of the North as to the true character of the negro, — their blind and wholly mistaken belief that the Declaration of Independence can be applied to all conditions and relations of men. That it is due to ignorance there can be no question, because in actual practice the people of the South are much more patient and kind to the negro than are the people of the North under similar conditions. A well behaved negro is unquestionably safer in Georgia than he is in Ohio, Illinois, or New York, because in the former there is less danger of a race war springing up on some trivial pretext. And yet, curiously, the people of the South, who ought to realize these facts more clearly than any one else, form the heart, the brains, and the backbone of the Democratic party, and it is this curious aggregation which is now chiefly spilling the contents of its lachrymal glands over the refusal of the United States government to place civilized foreigners — and Americans — at the mercy of the murderous bandit half-breeds who would inevitably control affairs should our government for a moment relax its grip on the Philippines.

And now to return to our Committee. Is it possible that these gentlemen realize what they are doing? Charity and their previous good records compel us to believe that they do not. Beneficent as are their intentions, they should reflect that great harm has frequently been caused in this world by well-meaning people meddling in affairs of which they were ignorant. This world is just as it is, not as it ought to be or as we might like it. And until it improves very materially, it is advisable to keep a strong police department in Chicago and New York and a good standing army in the Philippines. It is wiser to educate the Filipinos and make good citizens out of them before imposing upon them the responsibilities of citizenship.

The United States has already accomplished miracles in dealing with the Philippines. The islands have been organized into some forty provinces, each with its own local government under the general government. A large degree of self-government has already been granted in all these provinces, and representatives chosen in the popular legislative body, known as the Philippine Assembly, which, in conjunction with the Philippine Commission, constitutes the legislative branch of the government. The Philippine Commission consists of several distinguished Filipinos as well as Americans, and likewise the Supreme Court and the courts of inferior jurisdiction

are made up to a large extent of natives of education and high standing.

The American system of public schools is being extended throughout the archipelago with wonderful rapidity. Education, industry, ambition, cleanliness, decency, are imbuing the masses with a hope never before known in the islands. Disorder is being reduced to a minimum, peace and happiness have taken the place of savagery and terrorism, and in no other part of the world has civilization made such wonderful strides in such a brief period. It seems incredible that Americans of respectability could be found at this late date to criticise or try to hamper our government in this extremely beneficent work.

CHAPTER VI

OUR INTERNATIONAL RELATIONS MAKE THE RETENTION OF THE PHILIPPINES AN IMPERATIVE NECESSITY

WHEN war broke out with Spain, Commodore (now Admiral) Dewey was in Hong Kong. Under the laws of neutrality he was compelled to leave there at once. In all that part of the world the United States had not a single port where he could go for coal or provisions. There was only one of two policies before him, — to sail back to the United States or to attack the Spaniards in their own harbor.

The first plan would have left all our commerce with the far East at the complete mercy of Spanish cruisers. Our trade with China, Japan, Australia, and India would soon have been driven from off the face of the ocean, hundreds of millions of dollars of American property would have been destroyed, and our prestige ruined for a generation to come.

The second plan, the one bravely adopted by Dewey, involved enormous risks. To sail into a harbor filled with torpedoes and submarine mines, to face forts as well as war-ships, knowing well that defeat meant irretrievable disaster, that there was no friendly port nearer than thousands of miles, that reinforcements were not to be thought of, — these were all serious matters. Had Dewey met defeat, not only would our immense commerce with the Orient have been placed at the mercy of the enemy, but our entire western coast line would have been liable to bombardment. We had nothing else in the Pacific capable of resisting the enemy's battle-ships.

Suppose it had been the war-ships of England, Germany, France, or Japan defending Manila instead of the pots and kettles of Spain, and Dewey faced the alternative which then confronted him, is it not clear that the history of the world might have been changed?

Dewey's victory at Manila entailed certain consequences. Before we pay too much heed to the radical anti-imperialists, who want to grant immediate Philippine independence, or to the more conservative secessionists, who hold out the expectation of autonomy for the islands in the future, more or less remote, it is worth while to consider this subject in all its bearings and relations.

To have given the Philippines "independence" as soon as they were securely wrested from Spain, and placed the civilized foreigners there at the mercy of the native bandits and military Jefes, with their hordes of ignorant peons back of them, would have been an act of perfidy unparalleled in history. Happily that phase of the case need not now be discussed, for the American people have rendered their verdict upon the party of national dishonor which advocated the proposition. There remains to be discussed the advantages of the retention of the Philippine Islands, (*a*) to the Filipinos; (*b*) to ourselves.

If civilization is a blessing, and this whole volume is an argument in the affirmative; if education, freedom, security, the right to own property, and the countless blessings which flow from good government are valuable privileges to be prized by intelligent men, then the administration of the government of the Philippine Islands by the United States is a good thing for the Filipinos. But without spending time on this phase of the case, let us inquire into the benefits, if any, which will accrue to ourselves by holding the Philippines permanently as a part of our territory.

These benefits may be divided into two classes: 1st, Commercial; 2d, Military.

No intelligent man should underestimate the importance of extending our foreign commerce. As Secretary of the Treasury Shaw justly remarked, when we export a million dollars of American products to foreign countries, that means at least eight hundred thousand dollars have been paid for labor in this country. Following this simple principle has made England inconceivably great; and so it will make us. For us to sell shoes or calicoes or other products is a blessing to both parties to the deal. It does the Filipinos good to wear our shoes; it does our workingmen and business men good to manufacture them and sell them. That nation will be secure in its foreign commerce for the next century which has its own colonial possessions to supply. England and France are secure on that point; Germany is in a worse fix, and we are scarcely as yet to be considered.

On the military, or rather the naval, side of this question every fact and argument urges us to hold on to the Philippines and acquire as many other naval bases as we can in other parts of the world.

In the broad theatre of international relations we have not yet risen much above the stage of peanut politics. John Hay seems to have been almost our first Secretary who had a grasp on world affairs. He merely made a start on the right road, for no one man, however great, can do more than merely direct the forces bound up in this republican empire of ours. If those forces are wanting in directive impulse, even a John Hay is as helpless among them as a canoe in a cataract.

The American people make our government, and up to the present

time the international relations of this Republic have been almost entirely disregarded for the more engrossing pastime of local politics. The great question before our "statesmen" has been, How many votes can lodging-house Jim control in the 'steenth assembly district? A man who has not been orthodox on this proposition could not be expected to have any standing with the local boss, at least not sufficient to get "recognition"; his opinions may safely be disregarded.

But to-day we must face new problems. Are we seriously looking into the future? To talk of isolation for the United States is idle, because we are not isolated, and never will be. We may become mean and cowardly, but never isolated. Are our officials laying foundations for the future, or are they merely serving the present? Who is there in the United States that is contemplating the destiny of this Republic, or even forecasting its development for the next fifty years? Let us see.

We have an enormous commerce with Europe; suppose we had war with some great European nation, — not a nation like Russia or Spain, with no navies, but a real power, — where are our coaling-stations on the coast of Europe, or in the vicinity, which would enable our cruisers to protect our commerce with the neutral powers? Suppose this war were not with a single power, but with practically all of them combined, such as our Monroe Doctrine fanatics would apparently like to precipitate us into; where then would we find naval bases for fuel and supplies? If our commerce with India, with the east coast of Africa, with the Western Australasian Islands, were menaced by a hostile power, where would our war-ships make their headquarters?

Our commerce with the east coast of South America is not worth considering, but such as it is, we ought to be able to defend it. Where would our war-ships make their base, if that should become necessary? Take the west coast of South America; are we any better off there? Even the eastern coast of Asia is but inadequately protected, because, although the Philippine Islands would be of incalculable service to us in case of an emergency, they are so far from the upper portions of China and Japan that by the time a war-ship steamed up there and got ready to fight it would need to steam back for more coal. In the event of war with a first-class naval power we ought to have half a dozen more coaling-stations along the coast of Asia.

Ask a statesman in Washington how we would proceed in the contingencies mentioned, and he will answer that our people are against imperialism. The strange thing is that the people who are so strongly opposed to imperialism that they do not want us to acquire any more coaling-stations, and want us to surrender what few we have, are the very people who seem most anxious to provoke a naval conflict by pushing the Monroe Doctrine to the front, and always with the threat that the mailed fist is back of it.

Suppose we turn from Washington to London, and ask an English statesman how they would defend English commerce with other parts of the world in event of hostilities with some naval power, would he have to shrug his shoulders and answer that they were placing their reliance on a Hague peace convention? Rather, he would tell us that they were putting their trust in God and the best battle-ships that money and brains could build.

And then, as naval bases for those battle-ships, he would put his finger on islands and ports almost innumerable, in every part of this earth. Every strategic point on the map of either hemisphere is flanked by British coaling-stations. Not only have they the mightiest navy on the planet, but they have the means for making that navy effective. In the event of war there is not a point reached by English commerce but that is flanked by British naval bases. I admire the English — I am perfectly frank about it. I admire a nation which gets there, which does things. But what are we doing?

If we should go ahead and build a great navy, and if the time ever comes when we shall get into a real war, what will we do with our warships? Keep them around within reach of our present coaling-stations? If so, then I can see the end of American commerce on the high seas, at least while the war continues.

The very spirit and policy of our government must be changed. Our statesmen should be looking ahead to the requirements and necessities of this nation in the next generation, in the next century. In every ocean and sea of this earth there should be found American harbors, defended and commanded by American forts; and in those harbors there should be American battle-ships and cruisers, manned by American officers and crews.

I. The Philippine Islands are an Integral Part of the Territory of the United States, and no Administration has any Power to promise or propose the Dismemberment of this Union

The administration of Theodore Roosevelt never, so far as I am aware, unreservedly committed itself to the absolute and perpetual retention of the Philippine Islands. Distinguished members of the cabinet, however, used vague expressions, which lead to the inference that when the Filipinos are capable of self-government they will be given "independence." Secretary of War William H. Taft on more than one occasion made use of expressions calculated to mollify the anti-imperialists by intimating that in the future territorial independence would be granted the archipelago. Of course, Secretary Taft has not, and never has had, any more authority than any other citizen to bind the American people on such a proposition. But the attitude of Congress and of the Supreme Court towards the Philippine

Islands has been distinctly incorrect and illogical from the moment of their acquisition up to the present time. They have ignored the vital and incontestable fact that the Philippine Islands are just as much and as truly a part of the territory of the United States as is New York or Texas. President Roosevelt has also been misled by the clamor concerning our Asiatic possessions. In his message to the Fifty-eighth Congress, third session, in December, 1904, he discussed the Philippine Islands, making a powerful argument, full of wisdom for Americans residing in the States and for the Americans residing in the Philippines, whether of native origin or born on the continent of North America. But in this message, with reference to the Philippines there was one discordant note. The President said: "I earnestly hope that in the end they will be able to stand, if not entirely alone, yet in some such relation to the United States as Cuba now stands." Only a sentence and yet sufficient to show that the President's mental attitude towards the Philippine Islands is entirely wrong.

Mr. Roosevelt enjoys the unique distinction of being the only Republican President who has ever expressed a hope that any portion of the territory of the United States should become so intellectual as to justify or make desirable its alienation or secession, or to place it for all practical purposes outside the jurisdiction of the government of the United States.

Most Republican Presidents, on the contrary, have risked their lives to prevent that very thing, even when the people in the territory desiring to secede were unquestionably prepared for territorial independence and self-government. It is to be feared that if Roosevelt really takes Lincoln for his model, he seriously misinterprets the spirit of that great patriot, for it was Lincoln's stern determination to hold and maintain inviolate all the territory of the United States, and transmit it to his successors in the face of all hazards and in spite of all blandishments, seductions, and sophisms.

President Roosevelt's "hope" that the Filipinos may eventually obtain autonomy, similar to Cuba, is unhappily expressed, both as regards time and phraseology. In common with Judge Parker, Mr. Carnegie, and other distinguished anti-imperialists, the President seems to lose sight of the absolutely vital fact that the Philippine Islands are a part of the territory of the United States, just as truly and as surely as is the State of New York, while Cuba is not and never has been United States territory. It would seem that a man does not need to be a great logician in order to appreciate at its just value this incontestable difference in the relations of Cuba and the Philippines. Then why continue to talk of them as though they were in the same class?

Mr. H. W. Seymour, a prominent Democrat, hit the nail on the head when he said, in a recent magazine article, in effect, that such freedom as we Americans have the Filipinos are entitled to under like

conditions, — no more, no less; that is all there is to it. What does this mean?

It means that the Philippine Islands and Porto Rico should be organized as territories and placed definitely under the Constitution of the United States. They should be governed precisely as other territories, with all the constitutional rights, privileges, and immunities vouchsafed to the inhabitants of territories so organized.

I know that the Supreme Court has decided that the Constitution does not follow the flag, or, in the language of Mr. Dooley, that "the Constitution is only applicable to those cases to which it is applied by reason of its applicability"; but for one, I do not regard that and similar decisions as sound in either logic or law. The American people have been compelled on at least one prior occasion to reverse the decision of the Supreme Court of the United States, and they should overrule these decisions, for they are absolutely wrong.

According to my reasoning, the Philippine Islands and Porto Rico are territory of the United States, and there is no authority conferred by the Constitution upon any department of the government, or all of them combined, to alienate our territory. If secession is contemplated, it could only be accomplished by the treaty-making power at the end of a war, technically at least, in accordance with the precepts of international law. It would be an act extra-constitutional in its nature, — the very kind of an act in which the strict constructionists of our "Constitutional Clubs" seem to take most delight.

If my argument be sound, then I must carry it to its logical conclusion. It follows that commerce between the main portion of the United States and that portion designated Porto Rico and the Philippine Islands is not foreign commerce, but interstate commerce; therefore all tariffs as between these several portions of our common territory are wholly wrong, are against public policy, and are in violation of the Constitution of the United States. I know that the Supreme Court has ruled quite differently on substantially this proposition, but the Supreme Court is wrong. We should hasten to repair this mistake by repealing all such tariffs and by placing the Filipinos and Porto Ricans on a territorial organization, precisely the same as other American Territories. The Constitution of the United States contains ample authority, if its provisions are respected, to govern this and all other territory which is now, or may hereafter be, comprised in our national domain, and a man who is protected by its ample and just powers is not a proper subject for sympathy from the anti-imperialists or any one else. This the Filipinos, the Porto Ricans, and all other human beings residing anywhere within the territory of the United States, are fully and unequivocally entitled to; more than this it is absurd to ask, and no man has a right to expect.

It follows, as day follows the night, that when Porto Rico, the Philippines, and any other of our territory develop themselves so that

they are on the same intellectual, moral, and material plane as our other States, they should likewise be admitted as States into our Union.

No timid soul need have any qualms at this suggestion. It would be a blessing to us if the whole Pacific Ocean were filled with islands as rich, educated, moral, and happy as England, for instance, and if every one of them formed a State in our own Commonwealth. It is to be presumed that we will not admit any other States into the Union unless they are worthy of admission, and the mutual advantage is obvious; but when that time comes, if it ever does, I would be willing to meet it in the spirit which our forefathers have exhibited in making successive additions to the membership of our Union, with such marvellous benefit to ourselves and the world at large.

I must therefore regard the President's reference to possible Philippine autonomy in the distant future as an unfortunate *obiter dictum*, unnecessary because he has no constitutional authority in the premises, harmful because likely to inspire unnecessary illusions among the Filipino agitators, and generally futile because opposed to the traditions of the American government, and, as I believe, to the profoundest sentiments of our whole people.

It is worth while in this connection to call attention to the extraordinary doctrine laid down by the Supreme Court in the Porto Rican cases, to the effect that Congress has power to govern distant territories outside of the Constitution of the United States and in disregard of its principles. This is a dangerous doctrine, and unsound in both law and logic. Both Congress and Supreme Court owe their origin and very existence to the Constitution of the United States. Abolish that document and both of them cease to exist instantly. They do not owe their existence to international law, but to the Constitution; and they have no power to administer international law, or any other law, except in conformity with the Constitution of the United States.

This Constitution of the United States prescribes how each department of the government shall function, in times of war and of peace. If Congress or the Supreme Court thinks the provisions of the Constitution are old-fashioned, or not adapted to the situation confronting us, then it is "up to" the American people to amend the Constitution. To disregard its provisions, however, or to declare that Congress has power to rule outside of its provisions, savors too much of the methods of the Latin-American Dictator.

Section 8 of Article I of the Constitution of the United States provides:

"The Congress shall have power —

"1. To lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare, of the United States; but all duties, imports, and excises shall be uniform throughout the United States."

Section 2 of Article VI says:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land."

Our treaty with Spain made Porto Rico and the Philippines part of the United States; it is the supreme law of the land; duties, imposts, and excises shall be uniform throughout the United States; therefore the custom rates in Manila Harbor should be exactly what they are in New York Harbor.

Clause 5, section 9, Article I, says:

"No tax or duty shall be laid on articles exported from any State. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear or pay duties, in another."

Section 10 of the same Article says:

"No State shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws," etc.

The precise issue is as to whether Congress has the power to levy duties on products coming from Porto Rico and the Philippines into the United States, and *vice versa*.

Has Congress the power to levy duties on products passing between the territory of Alaska and the remainder of the United States? As regards commerce between the States, Congress has no such power, that is certain; nor have the States themselves such a power, for that is prohibited.

Congress is not specifically given the power to levy duties on products passing between territory of the United States and the several States; and the whole spirit of the instrument would seem to be against such power. In truth, duties levied at Manila on products coming from California amount exactly to the same thing as levying export duties on California products. Congress has only such power as is delegated to it by the Constitution, and the levying of duties on inter-territorial commerce is not among the powers delegated. If it is not directly prohibited, it is at least prohibited by inference, and it is unquestionably against sound public policy. However, it is for practical purposes unnecessary to discuss the power of Congress in the premises, as the Supreme Court has decided that it has such power.

It is very clear that if Congress has such power, it ought not to exercise it. Trade between all portions of our territory should be absolutely free.

PART II — A RATIONAL POLICY FOR THE UNITED STATES

CHAPTER VII

INEPTITUDE OF AMERICAN DIPLOMACY IN DEALING WITH LATIN-AMERICAN AFFAIRS

How, in the name of soldiership and sense,
Should England prosper, when such things, as smooth
And tender as a girl, all essenced o'er
With odors, and as profligate as sweet,
Who sell their laurels for a myrtle wreath,
And love when they should fight, — when such as these
Presume to lay their hand upon the ark
Or her magnificent and awful cause?
Time was when it was praise and boast enough
In every clime, and travel where we might,
That we were born her children. Praise enough
To fill the ambition of a private man,
That Chatham's language was his mother tongue,
And Wolfe's great name compatriot with his own.

WILLIAM COWPER.

DIPLOMACY may be defined as the art and science of "How not to do it!" A friend in the diplomatic service once said rather testily, "You don't understand this question of diplomacy." I replied that I did not, and was rather glad of it, but supposed it was related in some manner to that allied subject known in South America as *Mañana!*

American diplomats in South America may be divided into two classes, — those who have their wives with them and those who have not. The *prima facie* presumption is that the former are gentlemen, and that they represent their country with dignity and in a decent manner. Unfortunately as much cannot in all cases be said for the latter. It is a country where *la querida* is universal, where a man's rank is largely determined by the number of them that he keeps. Much has been seen and heard of the peculiar doings of American consuls whose wives had remained in the States. It must be evident that if an American consul becomes compromised with one, or, as it often happens, a dozen of these South American women, his usefulness as an agent of the United States is to that extent undermined. It gives the local authorities a club over his head the force and power of which can well be understood by men who know the world.

Apart from this, no man can represent the United States with character and dignity unless he himself is a man of character and

dignity. To the extent that he mixes with them, he lowers the standard of his manhood. The amount of drunkenness and libertinage among our consular representatives in South America would create a national sensation if it were accurately known. American consuls have been known to pawn the flag in order to get rum, and enough half-breed children with a suspicion of American blood in them of not very good quality may be seen in the vicinity of many consulates, to indicate that there is something "rotten in the State of Denmark."

Consuls of this latter class will usually be found trading in concessions, or helping the local authorities to devise schemes for extorting money from any foreigner who happens to be within their reach. The consular reports published by the State Department are full of puffs of this, that, and the other railway, canal, mineral, or other "concessions," with the brilliant prospects which it possesses. The reception, classification, and publication of these reports is detail work, and the State Department does it as a matter of course, believing them to be genuine; but many of them are but "wild-cat" schemes of the consuls themselves. These concessions will of course be taken in the name of a native, but it is understood that they are for the benefit of "El Señor Consul Americano." Naturally they are given to the consul in exchange for friendly services which he has performed for the "government" in the numerous ways which will suggest themselves.

Many consuls are excellent men, alert and active in behalf of the interests of their country, dignified and worthy representatives of the United States. Unfortunately, there is a large number of the other class, many of which are downright rascals.

I. The very Best Ministers and Consuls can do Little or Nothing

I do not complain against bad or inefficient consuls, however, so much as against the fact that the very best consul is utterly impotent to obtain any measure of redress for one of his countrymen, however grievous may be his wrong. Let us not mistake or lose sight of the fact that the hands of our diplomatic and consular service in South America are tied behind them. They can protest, and even that they must do in a very mild manner. Mere protests, couched in the super-exquisite conventionalities of diplomacy, have no more effect on these thick-skinned savages than would a bombardment of Gibraltar with soap bubbles. Such a consul soon learns his utter powerlessness, and, like other Americans in these countries, he retires to solitude, and cries out from the bitterness of his soul, "How long will the Great American People remain deaf and blind, and the government at Washington dumb?"

The career of a representative of the United States in South

America is by no means a path of roses. To begin with, his salary is not one third what it should be. He may receive $2500 or $3000 a year; and most people in the United States think that is quite enough, for there is a superstition among us, almost as old and absurd as the Monroe Doctrine, that living is cheap in South America, and that a dollar there will go as far as two dollars in the States. The facts are exactly the reverse. As will be seen by reference to our chapter on "Living in South America," expenses there are enormous, at least two or three times what they are in the United States.

No corporation would expect to employ competent men for the petty salaries given our diplomatic servants. Our great government should have the very best men as its representatives that money could hire. You cannot hire a ten thousand dollar a year man for two thousand dollars a year. A United States consul in Spanish America should receive at least $10,000 a year, and have his house rent, servants, secretary, and office expenses free. The position should be made one of influence and responsibility. Needless to say, the ministers should receive correspondingly liberal treatment. By every possible method the United States should strengthen its diplomatic service, — by making the tenure of office secure, and by demanding the highest intellectual and moral qualifications, and by paying for them. If a business man did not use sounder methods in managing his affairs than the State Department does in its diplomatic service, it would not be long before the sheriff would visit him, — for more incoherent, slipshod methods would be hard to find.

The consuls are "up against" all kinds of propositions. Frequently stranded Americans apply to them for aid, or for transportation to the States, or for money to pay doctors' bills. Uncle Sam makes no appropriation for such purposes, and the consul must pay for it out of his own pocket, take up a collection, or refuse to aid the unfortunate. Any event seems to be a hardship, and many a poor fellow has gone away from the consulate down-hearted, feeling that our representative had not aided him as he should, when in fact the consul had no more power than a private citizen.

Likewise, when Americans are thrown into jail or robbed or otherwise maltreated, the consul is appealed to, on the supposition that he can do something. But he cannot, and nobody knows it better than the people with whom he is dealing.

It is actually and absolutely true beyond all doubt that an American in one of those countries is better off to rely wholly upon his own resources and not go near the consulates, — to pay what amount is levied upon him and wriggle out of his difficulties in the best manner possible without appealing to Uncle Sam. Of all the thousands of protests which have been filed in the State Department at Washington, of all the millions of dollars in American enterprises which have been destroyed by South American governments, of all the army of Ameri-

cans who have been shut up in jail or waylaid or murdered in these countries, particularly Venezuela and Colombia, I do not know of one single case in which the United States government has ever secured satisfactory indemnity to the person aggrieved. The State Department has often talked rather firmly, but talk does not count. One might as well go out and swear at Pike's Peak as to talk to these people. There has been much correspondence, much newspaper discussion, over the questions, — only that and nothing more.

A consul who stands up for the rights of Americans will naturally offend the military chiefs, which means that he is at once *persona non grata* and is in danger of having his exequatur cancelled. There has never been a case where these indignities have met an adequate rebuke from the State Department. There is no question but that the State Department knows the facts. To what, then, shall we attribute the inertia of our State Department?

The answer is very simple, — to the apathy of the American people and their ignorance of the facts. Our government depends upon the will of the people to an extent not found in any other country. Our State Department officials may be statesmen, but they must likewise be politicians. They know to what extent they may lead public opinion, but they know that they dare not contravene it. The American people have hugged to their hearts the Monroe Doctrine, and the newspapers have shouted, "All is well!" When any trouble has arisen in South America, our newspapers have "roasted" the Germans and let it go at that.

The blame for the false and anomalous policy of our government with reference to South America must be placed exactly where it belongs, — that is, on the Great American Voter. To awake the conscience of eighty millions of people; to convince them that they are dead wrong in every opinion which they hold with reference to South America; to show them that a complete and radical reversal of the policy which we have pursued for eighty years has now become supremely necessary; to show to them that a government is not worthy the name which refuses or fails to protect completely and adequately American citizens in these countries, — in other words, to disclose the unvarnished truth in all its aspects is not the function of our State Department, but rather of that vitalizing and energetic exponent of public opinion, the press.

If our newspapers remain supine, if they continue in that frame of mind often mistaken for "judicial fairness," if they continue to ignore or minimize the disorders of South America and defend these governments as against the civilized powers, then will the American People, probably from ignorance of the true facts, permit American interests to remain paralyzed, and civilization in these countries to be the shadow of a dream. When the great American Citizen stands up and decrees that there shall be order and decency

in South America, that circumlocution office known as the State Department, with its red tape and stereotyped formulas explaining "How it should not be done," will probably obey the mandate.

It must also be admitted that our State Department has often been headed by men whose inefficiency was a disgrace to the government. Many of their letters and decisions are absurd and inexcusable.

II. American Consuls asking Permission to go aboard an American Vessel

Many of the Latin countries in the littoral of the Caribbean Sea are not alone overbearing and discourteous to American representatives, but they assume an authority and jurisdiction over the persons and official conduct of our consuls which would not be tolerated by a State Department with any regard for its own dignity. In many of these countries a consul is not allowed to go on board an American ship until he obtains a permit from the local "authorities." The Prefecto, or Jefe, can give to the consul the permission, or withhold it, as he chooses. The State Department not alone tolerates this, but it has given its consuls positive instructions not to attempt to go on board a vessel without such permit. Under international law and civilized procedure, the consul has legal jurisdiction on board the vessel, for the purposes specified by the law; yet he is placed in the humiliating position of being compelled to abide the whim of a swarthy military chief, as to whether or not he may exercise the functions imposed upon him by the United States statutes. This ruling of the State Department simply weakens the United States in the eyes of these countries. A conscientious United States consul in them is eternally in trouble, and he can never rely upon the support of his own government. It is hard for a self-respecting man to represent the United States in South America.

III. American Representatives frequently hampered by Undigested Instructions from Washington

The United States ministers and consuls in Latin America not only have local trouble to contend with, but they receive some of the most amazing orders from the State Department. Occasionally a man of the type of Richard Olney becomes Secretary of State, and there is music all along the line, from England to Patagonia. A man who reads the dignified, scholarly, firm, and often very positive despatches of John Hay, replete with common sense, and then turns to the fussing, scolding, hectoring letters of Richard Olney, narrow and stupid, can hardly believe that these two gentlemen had ever occupied the same portfolio.

Take the following incident: An American named Hugo O. Lowei

was expelled in a very arbitrary manner from Haiti in March, 1896. American Minister Henry M. Smythe went with Lowei to the steamship, a Dutch vessel, where the officer started to put Mr. Lowei aboard. Mr. Lowei stated that he had no money for his passage, and demanded that the officer procure the ticket; but this individual, having no funds, disembarked Mr. Lowei, taking him prisoner to the post-office. Minister Smythe, seeing no other course open to him, suggested that Mr. Lowei be brought to the legation to await the next ship, the Artus, which would leave in a day or two for New York. This was done. "The Secretary informed me," Mr. Smythe reported, "that the money for his passage would be sent to my legation . . . the deputy consul will procure Mr. Lowei's ticket, and accompany him on board." Now Mr. Richard Olney writes:

WASHINGTON, April 21, 1896.

SIR, — The circumstances narrated by you under which Mr. Lowei was temporarily accommodated at your residence pending the sailing of a steamer bound for New York are appreciated, and your course in so doing was excusable. It is assumed, however, that you took upon yourself no responsibility for his safe-keeping in the interval. It is not the function of the legation to act in any way for the local government in carrying out an arbitrary edict of banishment against a citizen of the United States. That is necessarily an act of force in the assertion of a claimed prerogative and is to be effected by the sovereign power. In this view of the principle involved, it is regretted that you intervened so far as to receive from the Haitian government the price of Mr. Lowei's passage and to buy his ticket and put him on the steamer, unless in so doing you were careful to make it clear to the Haitian foreign minister that your only purpose was to assure yourself that he had in fact departed under actual duress applied by the Haitian authorities.

It must be encouraging to represent a government which has a Secretary of State of this kind. What was Mr. Olney's idea, — to let the Haitian authorities lock the man up, or put him as a stowaway in some cattle-ship and send him to Australia or China?

Mr. Olney's letter of February 18, 1896, to Mr. Smythe is another good sample of the hectoring tyro, who knows little more about the inhabitants of Latin America than he does about those of the moons of Jupiter, if they have any:

"I have received your No. 180 of the 3d instant, reporting that on the previous day one Dahlgren Lindor, a political refugee, had resorted to your legation for protection, that you had notified the Haitian foreign office, and requested the 'usual courtesy' to be allowed to place him on an outgoing vessel. In reply I have to say that this government's uniform and emphatic discouragement of the practice of political asylum has been made known to your legation by repeated instructions. No right to protect such persons, by harboring them, or withdrawing them from the territorial jurisdiction of their sovereign, is or can be claimed on behalf of the diplomatic agencies of this government. It was proper for you to notify the foreign office of the fact

of Mr. Dahlgren Lindor's uninvited resort to your legation, but your request for the 'usual courtesy' to permit you to place him on board some outgoing vessel is not understood. If the departure of this or any other Haitian subject is voluntarily permitted by his government, no propriety in your intervention to put him on board an outgoing vessel is discernible. If the Haitian government should exercise its evident right to refuse you such permission, you would be placed in a wholly indefensible position. The 'usual courtesy' of which you speak appears to be only another name for the practice of that form of alien protection of the citizens or subjects of the State which this government condemns. Whatever the result of your request, you should at once notify Mr. Dahlgren Lindor that you can no longer extend to him your personal hospitality. You can most certainly, under your standing instructions, accord him nothing more."

Without commenting on the unnecessarily discourteous character of Mr. Olney's language, the instructions themselves are absurd and nonsensical when applied to a country like Haiti. A man is pursued because of suspected enmity to the government; if caught, he is shot on the spot; his only hope of saving his life is to seek refuge in some foreign legation, and Mr. Olney comes along and shouts, "Turn him out." A man who has brains enough to be Secretary of State ought to know that our legation in a country like Haiti must conform in some measure to the practices of other legations; that thousands of lives have been saved that otherwise would have been sacrificed in a barbarous manner by merely affording temporary asylum in the legations; that men seek asylum to-day who are to-morrow running the government; that, again, other men who have been in power and who are now overthrown escape a murderous mob by flying to the legations of France, Germany, England, or the United States. Usually, when passions have time to cool, the avengers find that, after all, they really did not want to kill the persons they were pursuing. A few days in the legation helps to make things quiet.

Mr. Powell, for instance, in reporting a forcible entry of his legation made by the Haitian authorities on August 2, 1899, which he promptly and sternly rebuked, demanding the instantaneous return of the fugitive arrested, said: "Arrests have been made by the wholesale to-day; each legation has several that have fled to it for protection; many of the leading citizens are in prison, and no one feels safe."

On such occasions wholesale slaughters are not infrequent. Under such trying circumstances, when the American minister does his best to prevent useless scenes of bloodshed, perhaps exposing his own life to grave danger, it must be galling to have some Secretary of the calibre of Richard Olney dictate him instructions in the language above quoted.

IV. Guatemala establishes a Dictatorship, and Secretary Bayard is Happy

The following letter to Franco Lainfiesta, Guatemalan Minister in Washington, explains itself:

Department of State, Washington, November 9, 1887.

Sir, — I have the honor to acknowledge receipt of your note of the 22d ultimo, announcing that the National Assembly of Guatemala, convoked the 26th of June last, has approved, by acclamation, the course of His Excellency Manuel Lisandro Barillas in proclaiming himself Dictator. The sympathy of the people of Guatemala, thus expressed through their chosen representatives, so largely in favor of General Barillas, affords a gratifying assurance that those forms of stable administration which are essential to the peace, happiness, and prosperity of any self-governed people, and which the United States government hopes that of Guatemala may abundantly enjoy, will be conserved through the agency of the present Executive of that Republic.

(Signed) Bayard.

Great and immortal is humbug! Sad, indeed, would be the straits of diplomacy if there were no language of hypocrisy and subterfuge and deceit! Or was the Secretary of State honest and sincere in his statements? Did he really believe that the violent act by which an unprincipled and dangerous military adventurer, Barillas, overthrew all constitutional forms and seized supreme power through a debauched and brutal army composed mostly of unpunished assassins, through which Barillas placed the life and property of every man in Guatemala at the mercy of his own will without redress, — did the Honorable Secretary of State really believe that that act, approved by a military rabble appointed by Barillas himself, "affords a gratifying assurance that those forms of stable administration which are essential to the peace, happiness, and prosperity of any self-governing people, and which the United States hopes that Guatemala may abundantly enjoy, will be conserved through the agency of the present Executive of that Republic"?

V. Argentina's Strange Views as to its Authority to interfere with the Official Duties of Foreign Representatives

In the latter part of 1899 the bubonic plague broke out in Argentina. An attempt made at that time by the Argentine government to impose local restrictions on the representatives of foreign governments in the matter of their official reports to their own governments and the issuance of bills of health to vessels bound for their ports is worthy of note, as showing the peculiar mental obliquity of Latin-American statesmen, even of the most advanced countries.

The Argentine authorities on January 24, 1900, issued a decree

relating to quarantine regulations in which some very extraordinary provisions were found. The fifth article of the decree said:

"Until an official declaration has been made of the existence of an exotic disease in Argentine territory, no national or provincial functionary, nor any foreign agent accredited to the national government, may affirm in any document the existence of such disease, whatever may be the data or reports which are thought to justify the assertion."

American Minister Francis S. Jones, under date of February 3, 1900, from Buenos Ayres, called our government's attention to the decree, which further provided:

"According to the sixth article, the office of prefect general of ports is to advise all subordinate offices that no vessel is to be allowed to leave an Argentine port bearing on its bill of health any statement of the existence of exotic disease in the republic until the National Executive shall have declared the same by decree."

The seventh article forbids the Board of Health from supplying any information about investigations carried out for the purpose of diagnosis without permission from the ministry of the interior.

The eighth article provides for the dismissal of any national official who, before declaration of the existence of exotic disease has been made by the President, shall affirm its existence in the press or in any official document, and says that

"the functionaries or agents of foreign nations who commit a similar transgression against the sanitary dispositions of the country will be denounced to the government in whose service they are in the manner prescribed by international law."

Here, then, is a country, professing to stand at the head of South American civilization, which proposes to dictate the kind of reports which foreign ministers and consuls may send to their governments; which proposes to override the laws of those countries prescribing the duties of consuls, by endeavoring to compel such consuls to give clean bills of health, falsely and fraudulently, and even though the consul knew the plague to exist, provided the "President" had not decreed it to exist.

Secretary of the Treasury Lyman J. Gage, in commenting on this, April 28, 1900, says:

"I am advised by the Surgeon-General of the Marine Hospital Service that the enforcement of the provisions of the Act of February 15, 1893, requiring that vessels at any foreign port clearing for any port or place in the United States shall be required to obtain from the consular officer of the United States at the port of departure a bill of health, is very necessary. This law further provides that the said consular or medical officer is required, before granting such duplicate bill of health, to be satisfied that the matters and things therein stated are true. Therefore a United States consul, being reasonably well satisfied in his own mind that an epidemic disease exists at

the port to which he is accredited, although not so notified by the local authorities, cannot, either legally or conscientiously, state that such disease does not exist, and sign the bill of health to that effect. Hence he must refuse to issue a bill of health, and leave the vessel subject to the penalty of $5000 on arrival at a port of the United States without a bill of health."

The Diplomatic Corps of Buenos Ayres was called by Mr. Barrington, its dean, the British minister, at the instance of the French minister, to draw up a joint note of protest.

The American minister, Francis S. Jones, did not join, "not wishing in any way to lessen or impair the friendly attitude of the officials of the Argentine government, toward the legation on the one hand, and toward me personally on the other." In plain English, Mr. Jones had a good "soft" job, and he liked it, and did not want to run any chance of losing it on account of a question of this nature. The fact that the quarantine law of the United States made it the duty of the consuls and consular agents of the United States to report, every week, the sanitary condition of the port or place where they were stationed, was not sufficient to justify Mr. Jones, in his own opinion, in joining the protest.

Mr. Barrington, English Minister, and Mr. Cavalcanti, Brazilian Minister, called on Dr. Yofre, Argentine Minister of the Interior, who was very profuse in his expressions of politeness, said several things about several subjects, but maintained that the decree could not be changed. On March 12, 1900, the American minister in a despatch announced the appearance of the plague in Buenos Ayres, and the entire government of Argentina was quarantined against, so that the pretensions of Argentina to control the official reports of foreign ministers and consuls to their own governments were never directly combated.

VI. Withdrawing the Exequatur of a Consular Agent

The following letter to the Secretary of State explains itself:

No. 148. Legation of the United States, Guatemala, and Honduras.
Guatemala, July 31, 1897.

Sir, — I beg leave to report to you that I received a note yesterday from the minister of foreign affairs, informing me that the President had seen fit to withdraw the exequatur of Mr. Florentin Souza, United States Consular Agent at Champerico.

I confess that I was somewhat surprised. I think that a more courteous way of getting rid of a consular officer might have been employed. As to what the charges against him are, up to the present time, I have not the slightest idea.

I will authorize Mr. S. F. Lord to act as consular agent for the present.

I wired Mr. Souza, asking him if he knew why the action had been taken. In his reply, which I received this morning, he states positively that he knows no cause for such action, and requests that I will investigate the matter.

D. Lynch Pringle, Chargé d'Affaires.

Mr. Pringle addressed a letter to Jorge Muñoz, Secretary of State under Barrios, saying that he was surprised at the removal of Mr. Souza, as he was unaware of any cause, and added: "Will your Excellency kindly furnish me with the reason for this action on the part of his Excellency the President?" Secretary of State John Sherman disapproved of this request by Mr. Pringle, in a note dated August 18, 1897, saying that a government has a right to withdraw a consular exequatur without assigning any cause.

VII. United States Consuls in Nicaragua

Press despatches of the following character are frequent; they show how our "Sister Republics" treat our consuls:

"Washington, Aug. 16, 1905. — When all the facts are received at the State Department, it is possible that the United States government will not accept, without protest, the action of the Nicaraguan government in cancelling the exequatur of Consul Donaldson at Managua. The information at hand is to the effect that Donaldson was acting in behalf of an American company, the Albers Brothers, of which L. C. Croger, of Philadelphia, is president. It is said that valuable property of this company was in danger of destruction at the hands of citizens of Nicaragua, and the consul was endeavoring to secure protection for it when he is alleged to have offended the President. This property is said to be ten days' journey by any means of communication from the Nicaraguan capital. Minister Merry is sending a full report by mail."

What would happen if the United States did protest? What does a Dictator care for a protest?

VIII. How San Salvador treats United States Consuls

Henry R. Meyers, United States Consul at San Salvador, on August 2, 1890, attempted to send the following telegram to Secretary Blaine:

"General Ezeta's troops commenced assault on San Salvador, without notice, on the 30th; on 31st broke open consulate, pulled down and carried away flag. I escaped through holes made in brick wall, running for life through heavy firing two miles; consulate and residence totally destroyed. Consider my life unsafe here; leave for Washington on 5th."

The authorities of San Salvador would not permit Consul Meyers' despatch to be sent. They preferred to write the cable despatch themselves. Benjamine Molino Guirola, Secretary General, dictated the following:

"Secretary Blaine, Washington.

"With regard to the hordes of Indians, commanded by the revolutionary General Rivas, that had taken the military quarters here, and by an assault

which lasted two days, troops of the government retook them. In so doing they took possession of the consulate, and during the fight everything in the office and private residence was lost, including flag which was then hoisted. Order has been re-established; the constituted authorities offer me security and regards, but I fear farther on I may not be entirely satisfied, and have resolved to leave."

Mr. Consul Meyers declined to allow Ezeta's alleged government to write his messages to the State Department. He was entirely cut off from all communication, even with the minister, and was not allowed to leave the country without a pass, "which, if requested, would be granted and my exequatur would be withdrawn." He returned to the United States broken in health by the hardships he had endured.

IX. How our "Sister Republic" Venezuela treats American Consuls and their Wives

Many a luckless American who has been left to rot in a Latin-American dungeon has felt bitter against the American consul who did not help him out. The fact is, the American consul in those countries is not able to protect himself and his own family from outrage. Let him attempt to extend any reasonable aid to his countrymen in trouble, even under direct instructions from Washington, and his exequatur is cancelled by the reigning Dictator and he is ordered out of the country.

One case of this kind, by no means exceptional, was that of United States Consul Luis Goldschmidt, at La Guaira, Venezuela — a gentleman of the highest standing, and rightfully regarded as one of the very best consuls we have ever had in Latin America.

On January 19, 1900, Mr. Goldschmidt wrote Mr. Francis B. Loomis, American Minister at Caracas:

"On January 1, 1900, at about 6 o'clock P. M., while walking up the 'Calle de Leon' to my residence with my wife, one of the soldier police met us, and when within four or five yards from us, he fired his carbine without cause or reason. This was sufficient cause to frighten any woman, and my wife immediately said to me that she felt a pain in her chest, as though something had struck her. I replied that probably she only imagined this, as I thought the man had fired toward the ground. However, when we reached our home, my wife opened her dress, and showed me a bleeding scar, left by something which had struck her, and also showed me that whatever it was cut through the dress and the underdress, cutting the skin."

Another incident reported by Mr. Goldschmidt was the following:

"Yesterday, January 18, 1900, at about 9 o'clock P. M., after a walk down town in company with my wife, I returned home, and when I reached the Church Del Carmen, which is very near my residence and directly in front of the house of Mr. Aristides Bello, 'perfecto de policia,' I was stopped by

a soldier or policeman, who asked me if I carried any arms, as he had orders to search everybody for arms. I told him that I was the American consul, that I lived close by, and that I should not allow him to search me, protesting at the outrage. He, however, insisted, and tore open my coat in spite of my protest, and did not permit me to proceed for some time."

On May 12, 1900, Mr. Goldschmidt requested the State Department to transfer him from that consulate to some civilized country. He said:

"I owe it to my self-respect, I owe it to my wife, to take her out of a place where daily insults are offered without the authorities showing the slightest disposition to protect the representative of a friendly nation or his family, and where, if you protest against such treatment, they only laugh and connive at the doings of the transgressors. . . . I now know that I cannot expect protection to life for myself and wife, and that insults and annoyances are only encouraged by the authorities."

Mr. Goldschmidt here narrated two incidents:

"On Friday evening, May 4, at about 6.30 P. M., while returning to my residence, accompanied by Mrs. Goldschmidt, we reached a point near the Carmen Church where the street is only about six feet wide. Right at that point four young men were loitering, talking and completely occupying the passage, with the exception of a few inches on either side of them, which we had to choose to pass through. We succeeded in passing, when one of the four loudly asked why I had pushed against a boy who was standing with them. I replied that if they were gentlemen, they would have allowed a lady to pass without so much trouble, and added that I had not pushed the boy. Thereupon my interlocutor began to abuse foreigners in general and ourselves in particular. After a few words from me, I started to push him aside and go on, when the same fellow jumped with a motion to his hips as if to draw a revolver. I did not give him time to draw, but struck him with my cane, and he desisted, and troubled us no more. . . . I did not know my aggressor, but found out the next day that he was a son of a Mr. Golding, and a nephew of the former vice-consul at this place, and that he was a leper, although he showed no outward sign of it."

The next incident reported was as follows:

"On May 9, 1900, while taking a walk along the sea-wall at about 5.30 P. M., accompanied by my wife, Mrs. R. Schunck, and two children, a young man alighted from a bicycle directly in front of us all, and at a distance of about ten yards drew his revolver from his belt, which he carried in plain sight, and amid curses said he was going to shoot me. Continuing brandishing his revolver, he frightened the ladies accompanying me to such a degree as almost to completely prostrate them from nervous excitement, when a man stepped up from behind and took his arm, and, with another man who arrived later, succeeded in starting him away from the scene without disarming him. This fellow turned out to be another son of the same Golding, under the influence of liquor, and a noted rough."

Mr. Goldschmidt protested to the Venezuelan authorities, and they promised at once to arrest the assailant, and finally reported that they had arrested and expelled him from the city, — a palpable falsehood, for Mr. Goldschmidt saw him a few days afterwards enjoying full liberty. After reciting the humbug and double-dealing of the Venezuelan authorities, Mr. Goldschmidt adds:

"You cannot wonder at my decision when such farces are enacted with the American consul, and when neither his life nor that of his family can for one moment be considered safe; and if the authorities laugh at such proceedings, what can be expected from the ordinary Venezuelan citizen whose hatred for any foreigner is very marked, and who take particular pains to show their hatred upon every occasion in La Guaira?"

Secretary Hay, under date of June 7, 1900, wrote to Mr. Loomis:

"I deem it unnecessary to review the several statements found in the correspondence accompanying your despatches, but I cannot refrain from saying that they have been read with surprise and regret, because of the apparent indifference of the local authorities at La Guaira . . . to afford Mr. Goldschmidt that measure of personal protection which is his due. It is difficult to comprehend how such acts as those complained of are permitted. The threatening of the life of a peaceable citizen, and that man a consular representative of a friendly power, cannot be treated with indifference or lightly pushed aside, and the government of the United States will hold that of Venezuela to a strict accountability for any harm or insult that may be wantonly inflicted on Mr. Goldschmidt."

Secretary Hay's letter was, of course, sound, but dignified epistles will not cure the evil of La Guaira. It is an ulcer at the base of the mountains, a cancer on the continent of South America. "Without the shedding of blood there can be no remission"; and if there is ever to be a regeneration of La Guaira, it will be effected only through the shedding of blood, and a great deal of it. Secretary Hay did not want Mr. Goldschmidt to leave La Guaira, and he kept him there three years longer; but at last the State Department either had to transfer him or accept his resignation. He was sent to Nantes, France; and certain it is that no poor suffering sinner who had just been redeemed from purgatory ever appreciated a change with greater rejoicing and thanksgiving.

X. Asylum in American Legations

On April 10, 1893, Mr. Patrick Egan, United States Minister, Santiago, Chili, wrote to Secretary Gresham, referring to despatches of Mr. F. R. McCreery, Chargé d'affaires ad interim, in which he informed the department of an unsuccessful attempt at an uprising on December 11, and of a suspension for nine months of the law of individual guaranty.

"Since that time there have been constant rumors of conspiracies, and preparations on the part of the Balmacedistas, or, as they call themselves, the Democracia, with the object of overturning the present government; and the preparations culminated on the 8th instant in a serious attempt at revolution, directed by ex-Colonel Fuentes and Señor Blanlot-Holley. The plan was to capture several of the barracks, including the barracks of the artillery, in which there are stored some 14,000 or 15,000 rifles, with corresponding ammunition and other arms, and also the *comandancia de armes*, or headquarters, then to move upon and capture the *moneda* and make prisoners of the President of the Republic, the ministers, and other officials, after which operations would be extended to other cities and throughout the country. This plan was to be carried into operation by various groups of Balmacedistas, under regular captains, scattering themselves around the places to be assaulted, and insinuating themselves into the public offices, all ready to act in accord on receiving a preconcerted signal. The government, which had information of the proposed attempt, was prepared, and when the several groups made their appearance, captured a large number and dispersed the rest, without bloodshed, with the exception of one policeman killed and one or two wounded.

"Four of the provinces — Santiago, Valparaiso, Aconcagua, and O'Higgins — were immediately declared in a state of siege for thirty days, and a large number of arrests made throughout the city and also in Valparaiso.

"On the night of the 8th instant a gentleman called at the legation to say that it was known that the leaders, Messrs. Fuentes and Holley, against whom the public prosecutor had already demanded the sentence of death for their participation in the attempted uprising of the 11th of December, would not submit to arrest without making resistance; positive instructions had been given to the police to shoot them, and under the circumstances, and in the name of humanity, he asked that I might afford them asylum in the legation. I considered that, in the circumstances stated, it was my duty to comply with the request, and I received the two gentlemen in the legation, where they now are."

On April 15, 1893, Mr. Gresham telegraphed to Mr. Egan:

"Mr. Gresham declares that Mr. Egan is not authorized to protect Chilians against police officers whose duty it is to arrest them for violation of the laws of their country. . . . He instructs him to cease sheltering them if the Chilian government demands the refugees on a criminal charge."

On April 16 Mr. Egan telegraphed, explaining —

"that the excitement and passion were intense when the Chilians now in the legation sought refuge on the night of the 8th, when the attempted insurrection occurred, and that from the information he had, and his personal belief, he gave them protection, not against arrest on a previous charge, which was not then in question, but against almost certain death."

On April 17, 1893, by cable,

"Mr. Egan transmits the substance of a petition received of the refugees by him on this day, in which they pray that he ask for authority to continue protection until an impartial trial may be had after a subsidence of public feeling."

April 18, 1893, Mr. Gresham, by cable,

"instructs Mr. Egan to require the refugees to leave the legation immediately, but to give timely notice to the Chilian government that protection is expected to be afforded as promised before withdrawing the shelter theretofore accorded."

One of the refugees, Mr. Blanlot-Holley, managed to make good his escape; the other was captured and lodged in jail.

Obviously Mr. Egan acted humanely and wisely in preventing the murder of these men by affording them shelter. Secretary Gresham's instructions to deliver them over on suitable guaranties was also correct, but his despatch of April 15 is neither couched in gracious language nor conceived in a broad spirit.

This case is cited as one of many which illustrate the difficult situations which will confront the minister of a civilized power in the Latin-American countries who endeavors to make the precepts of common humanity harmonize with the dogmas of international law.

XI. Difficulties of making an Investigation in Honduras

On June 7, 1894, Secretary W. Q. Gresham wrote United States Minister P. M. B. Young, Guatemala, saying:

"In its No. 11 of June 8, 1893, bringing to your attention the memorial of Mrs. Luella A. Oteri, by which she desired this government to prefer a claim against Honduras for the alleged seizure of her vessel, the Joseph Oteri, Jr., by Honduran insurgents in the port of Ceiba, the department instructed you to investigate the circumstances of the seizure, and also those attending the subsequent exclusion of the vessel from Honduran ports, and to report the facts to the department."

To this letter Mr. Young replied, on June 28, 1894:

"The investigation has not been made for the reason that it was practically impossible to do it under the circumstances up to this time. There have not been ten days of peace and tranquillity in the Republic of Honduras for fifteen months. On the 3d of June, 1893, when I arrived in Guatemala, I found Honduras under the government of General Vasquez, as Provisional President. The country had just emerged from a revolution. In the election held in September Vasquez was elected President, and almost immediately war was declared against Nicaragua. Then followed the Bonilla revolution and an invasion by the Nicaraguan army. Vasquez's government was overthrown, and Bonilla proclaimed himself Provisional President. He is now Provisional President and Dictator. . . . I am ready to make the visit to Honduras, . . . but I advise against it until peace is restored and a permanent government shall be established. It is hardly necessary for me to say that not one of the foreign ministers to Central America has visited Honduras at any time during the last fifteen months."

XII. Disgracing the American Flag

To the poor, simple-minded people of South America, outraged and oppressed by one bandit government after another, the American flag is a kind of emblem of safety. They have seen all sorts of people in dire extremity rush beneath its folds, as in Biblical times they ran to the "cities of refuge," and although they do not know exactly how or why, they instinctively feel that it is a good flag, and that there are peace and safety where it flies. They look upon the American flag as a token from another world — a sort of invisible world — and in a kind of mysterious way they respect it and reverence it. Taking advantage of this feeling among the people, Castro, the Dictator of Venezuela, in September, 1903, used the American flag to accomplish his own ends in the bombardment of Ciudad Bolívar. The following Associated Press despatch explains the main facts:

"Port of Spain, Island of Trinidad, Sept. 24. — A leading German merchant who recently escaped from Ciudad Bolívar, on the Orinoco River, Venezuela, arrived here yesterday and made a statement under oath before the officials here, setting forth that on August 20 the Venezuelan war-ship Restaurador, formerly George J. Gould's yacht Atlanta, when steaming up the Orinoco River for the second time in order to bombard again Ciudad Bolívar, hoisted the American flag in order to be able to reach that city without arousing the suspicions of the inhabitants as to her identity, and that by this stratagem the Restaurador reached the custom house at Ciudad Bolívar and immediately opened fire on the centre of the city, causing loss of life and damage to property in the quarters inhabited by foreigners. The merchant also stated that the foreign consuls and all the population of Ciudad Bolívar protested against the actions of the Restaurador.

"Washington, Sept. 24. — The singular circumstance reported by the German merchant in the above cable despatch was explained by the reception of two cable despatches from United States Minister Bowen at Caracas, at the State Department this afternoon. The first despatch stated that the Venezuelan gunboat Restaurador had approached Ciudad Bolívar flying the American flag. She did not lower the flag until she was very close to the shore, when she opened fire upon the insurgents from her position there, creating great consternation. When the Restaurador returned to La Guaira, the fact was reported to Minister Bowen, who indignantly demanded a complete apology from the Venezuelan government, and also that the flag of the United States be saluted by the offending ship.

"The second cable despatch from Mr. Bowen reports that the Venezuelan government promptly acceded to these terms, made a suitable apology, and the commander of the Restaurador hoisted the American flag and fired a national salute."

Now the facts are that when the Restaurador steamed up the river flying the American flag, the people went out by the hundreds to greet it — men, women, and children. These people had suffered from the revolutionists, who were then in control of the city. They hoped,

not exactly that the American flag would do them any good, but at least it might relieve them to some extent from the oppression of the brigands who were in control. But alas! they were doomed to disappointment. Suddenly the Restaurador hauled down the American flag, and without an instant's warning opened fire on the plaza filled with men, women, and children. Several hundred of these helpless and innocent people, non-combatants all of them, were killed, almost in the twinkling of an eye. The city was greatly damaged, and the flag which the people had come out to greet had proved to be their death-trap.

Apologies! How can any one discuss such outrages as these with patience? Bowen went through with some heroics, did some stage playing, got his name in the papers, and one would have thought he was bringing the strength of Hercules to support the dignity and honor of the United States, to hear him tell it. Who cares for apologies? What do they amount to? Any Dictator of South America would give the United States a bushel basket full of apologies if that will suffice to let him go ahead in his work of butchery and murder without molestation. And up to the present time it has sufficed.

XIII. Neither Arbitration nor Diplomacy is adequate to civilize these Countries

We have heretofore shown that international arbitration is of but little use in furthering civilization in semi-barbarous communities. We now see that diplomacy is equally impotent. The foregoing discussion and relation of a few of many incidents sufficiently makes it clear that most of these communities are not amenable to diplomatic representations. If they were, there would be greater reason to hope for the future. But the typical military Jefe has a contempt for diplomatic procedure, and therefore our State Department has not been able to exercise any important influence over him.

I began this chapter with a quotation from Cowper's majestic poem in which he holds up to scorn the statesmen of England for their timid foreign policy. I wonder what Cowper would say, were he an American, about the policy of Bayard or Olney, of Gresham or Root?

CHAPTER VIII

ELEMENTS OF DISORGANIZATION IN THE AMERICAN GOVERNMENT

AS a nation advances in civilization the problems confronting it increase in complexity. The problems confronting a savage race are very simple; to the savage they are as difficult as our more complex problems are to us. As savage tribes progress the problems take on a new character. How to plant a little corn, construct a rude hut, make the simplest clothing; such problems are joined with the more rudimentary problems of self-preservation. Further advancement introduces new and more complex questions for consideration and decision, and brain development comes about in precisely this way. In proportion as the problems of production and distribution, of ethics and government, of science and invention, are solved and practically applied, a people flourishes and becomes civilized. There is little reason to doubt that if a nation should advance as far ahead of the United States as the latter is of Venezuela, there would be proportionally as great a number of new and complicated problems confronting it as there are now confronting us in comparison with those facing Venezuela.

The problems of civilization are necessarily complicated. How to make one hundred persons of good character live in comfort on the land upon which only one savage existed in squalor, that is the heart of the aim of civilization, and the resultant problems growing out of this central object increase in complexity the farther we travel on the road to a realization of the ideal.

But because grave problems confront us that is no reason why we should grow faint-hearted. Rather they should make us stronger and more hopeful. Every force which plays upon us now, hostile as well as friendly, tends to our intellectual development. It will do no harm, however, to consider some of the dangers which threaten the American people, if for no other purpose than to see what, if any, effect they should have on our policy towards Latin America.

I. Failure of the American Judiciary System

"In order to establish justice" — so says the Constitution of the United States, "promote the general welfare" — here we have justice again; for there can be no general welfare without justice — "and

secure the blessings of liberty to ourselves and our posterity," — that means justice once more, for there can be no liberty without justice.

The State Constitutions are no less explicit in regard to the necessity of establishing and maintaining justice. That of Illinois, as typical of the rest, says:

> "Every person ought to find a certain remedy in the laws for all injuries and wrongs which he may receive in his person, property, or reputation; he ought to obtain by law, right and justice freely, and without being obliged to purchase it, completely and without denial, promptly and without delay."

These words sound well; they show that the fathers, at least, were men of high ideals. How far short their offspring have come from "making good," in establishing our judiciary system, is a matter of common notoriety; for it is not too much to say that in no State of this Union can justice be obtained at all, within any time or at any price, not alone "completely and without denial, promptly and without delay."

The administration of justice is confessedly a complicated subject. It is the most difficult department of the government, and the one most neglected by the people at large. The American citizens, including the Constitution makers, have devoted profound thought to the executive department of the government. There has always been among us an acute aversion to executive usurption, a disposition to criticise unsparingly every chief magistrate, or other executive officer, to limit his powers by all sorts of constitutional prohibitions, and to hold him to the strictest accountability to the people by frequent elections. This has come about because the tyrannies from which our forefathers escaped proceeded mainly from the executive branch of the government, and it was not deemed probable that the legislative or the judiciary department might become an even greater tyrant than any Emperor or Czar.

This intense scrutiny exercised by the American people with reference to the executive department has resulted, as might have been expected, in a high degree of excellence; and it may safely be asserted that the executive department, not only of the national government, but also of the several States and municipalities, has no equal, certainly no superior, in any nation of ancient or modern times. No country has ever had a line of kings or emperors which would compare with the American presidents, from Washington to Roosevelt; while examples of insolence, usurpation, corruption, or depravity among our inferior executive officers are rare indeed. It is the executive department which has chiefly made the reputation of this Republic as a land of liberty.

Our legislative department is on the average bad — the people pay less attention to it than to the executive; a representative is considered of less importance than a governor; an alderman than a mayor; so that while the latter are usually good men, the former are frequently

bad. The almost universal pollution of our legislative bodies, the vast number of "freak" and blackmailing laws, and the general odor of "graft" connected with practically all legislative proceedings, are bringing this department of the government into disrepute. A discovery of mild corruption in the agricultural or post-office department causes an instantaneous sensation, while corrupt bills by the hundred are passed in the State legislature with but little or no comment from the public. But public interest is at least to some extent directed towards the legislature.

It is in the judiciary department, however, where the American system of free government shows its gravest defects. The normal American attitude towards the judiciary is that of blind support and unthinking adherence. Unnumbered outrages are committed by the courts every day to which nobody pays any attention. If a tithe of the crimes committed in the name of the law, by the judges who are appointed as its ministers and the juries which are ordained as its organs, were done by the Executive, there would be an instantaneous revolution. But committed by the judiciary department, nothing is said, for we give the same unquestioned worship to the judiciary that the heathen do to their clay gods. As long as this spirit prevails among our people there will be inefficiency and corruption in our courts, and they will continue to be, as many of them are at present, a menace to the property and lives of honest men and a joy to criminals and blackmailers.

It was not Choate who was so severely criticised, I take it, as it was the judiciary itself, by Phillips, when he said:

"Suppose we stood in that lofty temple of jurisprudence — on either side of us the statues of the great lawyers of every age and clime — and let us see what part New England — Puritan, educated, free New England — would bear in the pageant. Rome points to a colossal figure and says, 'That is Papinian, who, when the Emperor Caracella murdered his own brother, and ordered the lawyer to defend the deed, went cheerfully to death rather than sully his lips with the atrocious plea.' And France stretches forth her grateful hands, crying, 'That is D'Agnesseau, worthy, when he went to face an enraged King, of the farewell his wife addressed him — "Go! forget that you have a wife and children to ruin, and remember only that you have France to save."' England says, 'That is Coke, who flung the laurels of eighty years in the face of the first Stuart, in the defence of the people.'

"This is Selden, on every book of whose library you saw written the motto of which he lived worthy, 'Before everything Liberty!' That is Mansfield, silver-tongued, who proclaimed, 'Slaves cannot breathe in England.' — This is Romilly, who spent life trying to make law synonymous with justice, and succeeded in making life and property safer in every city of the Empire. — That is Erskine, whose eloquence, in spite of Lord Eldon and George III, made it safe to speak and print.

"Then New England shouts, 'This is Choate, who made it safe to murder; and of whose health thieves asked before they began to steal.'"

Mr. Phillips, while merely criticising Choate, was, in fact, uttering a most sweeping condemnation of the whole judiciary system of New England. If the courts of New England had been efficient, what difference would it have made whether Choate's health were good or bad?

The law, the administration of the law, touches every man and woman at every point of their existence. Every commercial transaction is based on the law; do I live to do a day's work, the law governs; do I undertake to float a syndicate, again the law controls. My titles to my estate depend upon the law and its honest administration. Turn which way I will, in no relation of life can I move without touching the law. Nay, now that I have been freed, by patriotic forefathers, from executive tyranny, my liberty, my life itself, depends upon the law — upon just law, justly enforced, which implies a decent judiciary department. And if the law be maladministered, the outrages from which I may suffer under its name may be greater than any Nero or Lopez would have dared to perpetrate.

Now, what are the facts with reference to the administration of law in the United States?

The facts are that the administration of justice has fallen into disrepute; that our courts, instead of being the bulwarks of justice, have in many instances become the mechanism for the levying of blackmail; that the most sacred functions of justice have been prostituted to technicality; that the very pretence of obtaining justice in the courts of the United States, whether State or federal, is a delusion and a snare, and the proceedings of those courts are mostly a farce. The maladministration of our courts has added a new terror to life, for no man, however innocent he may be, can positively affirm that his estate will not be confiscated on some trivial pretext, at the instance of a blackmailing suitor, or even his liberty or his life forfeited on trumped-up, perjured, or wholly circumstantial and frivolous evidence.

The maladministration of our courts has added a new terror to death, for every man realizes that the moment he dies his estate is liable to be squandered through the machinations of unscrupulous lawyers and the connivance of the judges; so that while he has devoted a life of arduous endeavor to provide something for his wife and children, as against the final summons, they nevertheless, through and because of the iniquitous proceedings of our courts, stand, as he knows, in danger of losing all if the slightest hook or quibble of the law can once place their inheritance at the mercy of our tribunals. The courts upon which inexperienced widows and helpless orphans ought to be able to rely with complacency become engines of extortion, co-operating with cunning and unprincipled lawyers in despoiling them of their only sustenance. The record of broken wills and looted estates, of properties consumed in litigation which should have gone to the support of the heirs of the deceased, constitutes an indictment

against our judiciary system which no amount of palliation can cover up or excuse.

In the same category with the maladministration of the civil law we may place the scandalous maladministration of the criminal law. It is a matter of common knowledge that criminals of all types and classes are set free and turned loose upon the community upon the slightest and most ridiculous technicalities. So grave has this evil become that it is a public scandal.

But a still graver public scandal is the fact that many innocent men are imprisoned or executed by these same brutally incompetent courts. We see the same prisoner condemned to death by one judge and jury, and set free by another judge and jury, upon the same statement of facts, with the same identical witnesses and the same lawyers. I personally know of many innocent men condemned to death or to life imprisonment, and the records are full of such cases. One friend of mine in particular died at a good old age — through no fault of the law. When a young man, he was arrested for murder and sentenced to death on circumstantial evidence of the most conclusive character; the Supreme Court of the State confirmed the sentence, and the Governor refused to interfere. The gallows were erected, but during the night preceding the projected hanging he escaped from jail. He fled to a foreign country, disguised himself, changed his name, engaged in the mercantile business, became very wealthy and a useful citizen in the community, married and had a large and attractive family. A year or two before his death the real murderer died, making a confession on his deathbed; but my friend would never set foot again on the soil of the United States. He said he abhorred a country where it was possible for an ignorant and brutal court to commit the murderous outrage of condemning an innocent man to death, where such a crime against a son could send a gray-haired mother in sorrow to the grave.

His case is only one of thousands; it cries aloud to high Heaven for redress.

II. General Causes of the Inefficiency and Corruption of our Judiciary

There are several primary and several secondary causes of the general condition of inefficiency, not to say corruption and anarchy, into which our judiciary system has fallen. Briefly, I would classify them as follows:

1st. The sublime confidence which the American people exhibit towards their judiciary, resulting in a complete acquiescence in its acts, however wrong they may be.

2d. The practical impossibility, under existing conditions, of punishing corrupt, vindictive, ignorant, or criminal judges.

3d. The jury system — a national fetish, which is unscientific, unphilosophical, and, in fact, an excrescence on our legal system.

4th. The multiplicity of laws, projected without rhyme or reason, without regard to any system, and oftentimes in disregard of common sense.

5th. The excessive labor required of appellate and supreme courts, leading to undigested and illogical decisions, often contradicting other opinions of the same court.

6th. The personelle of the judiciary and its close relation to the salaries paid — insufficient number of judges.

7th. The inadequate funds appropriated for sustaining this department of the government.

8th. The relatively low moral standard of the legal profession in its relation to the administration of justice.

III. Trial by Jury

Orators go into hysterics about the "right of trial by jury," as though that were a God-given heritage, the very foundation-stone of liberty. Men follow each other like sheep a bell-wether. The constitutional and inalienable "right of trial by jury" was handed down by our forefathers, and now it seems almost profane to doubt its wisdom or question its infallibility. Our people accept the system without thought, because it is an Anglo-Saxon institution and supposed to be a bulwark of freedom and popular government.

"Constitutional right of trial by jury"! How magnificent it sounds! Despotism confounded, absolutism wiped off the slate, tyranny ashamed to show its face, freedom, glorious liberty, "right of trial by jury," fire-crackers, orations, and the band playing!

But suppose some cold-blooded iconoclast came along and should turn the sacred "right of trial by jury" upside down and examine its foundation and dissect its insides. Suppose he should, with the contempt which this national fetish merits, exclaim: "Right of trial by jury! What you mean is, 'The Privilege of Being Robbed or Murdered by an Idiot.'" All Anglo-Saxondum would rise in its wrath; and yet the iconoclast would be right, and his critic, the Anglo-Saxon, mistaken.

Does any one pretend that an American jury is composed of average, representative men? If so, he is mistaken; for the average jury is composed of the rag-tag and bobtail of society, men whom we would dread to meet in a dark alley at night unless a policeman were near. But suppose the jury were composed of average, representative men, does anybody believe that the average, representative man has the intellectual power, the systematic training in mathematics, logic, and the law, the capacity of prolonged and sustained attention, the keenness required to form wide generalizations and duly balance con-

flicting evidence, the profound knowledge of motives which control men, and that intellectual astuteness which is necessary not alone to take a comprehensive survey of a whole series of complicated propositions, but also to winnow the grain of truth from the chaff of error?

Who can tell in advance what a jury will decide? If there is uncertainty in the law, there is doubt and confusion worse than confounded when it comes to the jury. Does anybody believe that a jury ever reasons out its case logically, calmly, dispassionately, patiently, and founds its verdict in reason and law? A verdict is always the result of emotion, of passion, of hypnotism, of prejudice, of sympathy, of impression, never of logic or reason. Before a jury, it is the lawyer who yells, and bellows the longest and loudest, who gets the favorable verdict.

Take a long, complicated case, which has taken a week to try, where there have been thirty or forty documents, long, difficult contracts, and transactions interlaced one with another; a case which ought to take a full bench of judges at least a month of study to decide. The lawyers are yelling and howling; the judge is bellowing and scolding, hot and cold by turns, — a supposed umpire who in seven cases out of ten is trying to bolster up the flagging fortunes of one side and harrow the other with his unseemly hectoring, so that *his side* may win, — and after a duel of howls and lies the case goes to the jury, which in perhaps twenty minutes' time comes back with a verdict which may jeopardize a man's life or his fortune.

How could that jury form its decision so quickly? Reason? Logic? Analysis? By following the lines of inductive thought until they reached the grand principles of equity and law governing the case? Weighing and balancing evidence, reasoning from fact to fact, binding them in a chain of unbreakable conviction? Nonsense!

The law regards a jury as a legal *non compos mentis*, and to prevent its alleged mind from being unduly biassed one way or another the law has devised a whole system of objections to evidence, a vast scheme of things which can or cannot, may or may not, ought or ought not, to be brought before the jury, so that its intellect — what there is of it — may not be unduly perturbed, thrown off its balance, or prejudiced.

To try a case before a court and jury in the United States becomes a work of scheme and intrigue.

"I object, yer honner," shouts the leather-lunged lawyer.

"'Jection overruled," howls the judge.

"I 'xcept," yells the disciple of Blackstone.

"What's it all about?" asks "Peer" No. 2.

"Why, I object to the testimony of the witness on the ground that it is incompetent, immaterial, and irrelevant," squawks the lawyer.

"Ah, I see," exclaims the judge. "Now that I understand the ground of your objection I will sustain it; strike the answer out."

"Now I want to ask the witness," continues the examining lawyer, "whether at the time of this occurrence, when the event of which you have testified took place — "

"I object," yells the other lawyer.

"'Jection overruled," says the court; "the witness will answer the question — proceed — answer — get right down to the point."

"I don't exactly understand," timidly ventures the witness, "what is the —"

"Don't waste time in useless explanations; say what you've got to say and go on with the next question," commands "his honor."

"But I did n't finish my question; the witness did n't understand," urges the examining lawyer; "I want to ask the witness —"

"I object," howls the opposing lawyer, "to the other side making statements like that in the presence of the jury, and I hope I'll be sustained by the court!"

"Objection sustained," declares the judge; "strike it from the record and confine yourself to the case at bar."

Does the reader think this is a caricature of the judicial procedure before our courts? Not at all.

Day after day, week after week, in one unending, wearying round such drivel as this is poured through our courts, and at the end of the hideous farce a jury of twelve blockheads brings in a verdict forfeiting the property, liberty, or life of some unfortunate.

If a man sue you or if you sue a man, it is impossible to get your case before a court and jury. That bellowing of "object," "objection sustained," "objection overruled," "strike the answer out," makes the whole proceeding a sort of catch as catch can affair.

Is there any common sense in it? None whatever. Any reason or justice? No. It is a scheme of torture and deviltry, devised by rascals and submitted to by fools. Talk about dignity, about deliberation, about justice, and learning in the law, when nearly every session of court degenerates into a bear garden where it is impossible for a litigant to get his case fairly before the court or impartially or deliberately considered by it!

IV. The Jury System as a Palladium

The jury system is defended by many distinguished gentlemen on the ground that it is a palladium of liberty and affords the only opportunity for the populace to take part in the administration of justice. My reply is that if the populace wants to take part in the administration of justice, let it qualify itself to do so; in the mean time let the shoemaker stick to his last. To turn over the decision of complicated questions to a gang of ignorant, untrained men, to put life or property at the mercy of men who are often "hoodlums" or worse, is an outrage on decency and a travesty on justice. To say nothing of the

bribery of juries, — a practice which is scandalously prevalent in all parts of the United States, — the very methods of jury practice and procedure, even when there is a jury of the ablest men in the community, makes it impossible to expect a rational verdict.

The decision of a jury is always a general verdict and never goes to the merits of the case. Bear in mind that a juror is not allowed to make a note of the evidence as the case proceeds. The reporter's stenographic notes of the evidence are not for the jury. Even the documentary exhibits in the case are thrown into a bunch, and if examined at all by the jury, are glanced at in the most cursory, careless manner. It often happens that the written documents alone in a case ought to require a week's time for their careful scrutiny and consideration by a full bench of the ablest jurists; but this great American jury of twelve ignoramuses will dispose of them all with a wave of the hand and bring in a verdict on the spot.

If some juror attempt to think for himself, — a rare thing, — he is marked for general execration. The jury is locked up until it agrees, submitted to personal inconvenience, and deprived of liberty until the recalcitrant submits. This agreement is brought about often more to avoid further physical discomfort than because of any valid arguments on the merits of the case.

What a ridiculous travesty on justice all this is!

The lawyer who yells and bellows the loudest in the closing arguments is sure to have the majority of the jury, and if there is a minority, it must be "bulldozed" or starved into submission in the jury room. A case which should require a week or a month to decide; a case demanding calm reflection and a conscientious study of all the written documents in evidence; a case where the entire written evidence should be laid before the jury, to the end that it might be carefully restudied and reconsidered, far from the maddening din of bellowing lawyers and scolding judges with their endless objections and trickery; a case where patience and time and intelligence are necessary in order to detect perjury and deceit of all kinds; a case requiring thought and logical reasoning and calm reflection — is decided in a moment. What sense is there in it all? None! The Anglo-Saxon race has built splendid bridges and magnificent railways; it has constructed fine buildings and invented wonderful machinery; it has controlled and reduced executive tyranny to a minimum; it has made advance in science and established some relatively good constitutions; but the Anglo-Saxon race has not yet established a system of justice which actually administers and promotes justice even to a reasonable extent. The judiciary system, including the jury, established by the Anglo-Saxon race is a stupid and illogical farce; and our courts on the whole are an outrage on the civilization of this age.

The jury system a palladium indeed! Every idiocy and infamy

on the earth has had some palladium back of it. The upward march of civilization has been over the dead bodies of palladiums from the beginning of time. Absolutism was the palladium of divine right; slavery the palladium of white supremacy; persecutions the palladium of religious intolerance; and every particular kind of deviltry known to man has had some peculiar palladium which it was sacrilegious to attack.

In the simple and primitive conditions in which it originated the jury system may have been all right. As an arbiter of the petty quarrels in a village community or country district, where the disputes are of a simple character and such as any man of common sense can readily understand, a jury of the neighbors may have been competent to pass on the question. But in the development of modern commerce and the complicated questions which are evolved by our business relations a jury has become an abomination.

Under our system of court procedure every witness is compelled to be a liar, whether or not. When he swears to tell the truth, the whole truth, and nothing but the truth, it may be that he conscientiously intends to do so. But he is not on the witness stand two minutes until the badgering of the "shysters" and pettifoggers begins. He is asked a question; he starts to answer; a fusillade of objections commences; the judge joins in the game, and in a short time the witness is hopelessly confused. When the verdict is brought in, one chapter in this judicial debauchery has been written. We have all been taught from childhood to bow in meek submission to this finding of fact. But men who have brains know that by no possibility can a jury's verdict be just; that at the very best it is an approximation; that evidence cannot possibly be weighed in the haphazard manner of the jury; that truth can only be obtained by long research and patient thought.

After the jury has rendered its verdict, the case comes up for review before an appellate court. The matter as it comes up before the appellate court is not as to the rights or wrongs of the case or as to the justice or law of the matter. The issue here is as to whether the objection was properly or improperly sustained, as to whether the alleged mind of the jury had been unduly influenced by some part of the performance in the court below. It is to this sort of blind and crazy mechanism that we entrust the lives and property of the people of the United States.

We must have law, and courts for its administration. In proportion as the law is sane and equitable and the administration of it is certain and effective is advance in civilization possible. Law is the supreme fact in human society and advancement. One would think that a people who had common sense would exert themselves to prescribe just and rational laws and to enforce them honestly and efficiently; but the American people do neither the one nor the

other. The administration of justice in the United States is a disgrace to the American people; it is a reflection on the intelligence of the Anglo-Saxon race.

V. Procuring Convictions by Perjury and Bribery of Witnesses

In olden times they tortured men to make them confess the commission of crime. When physical endurance was no longer possible, the victim of the rack and thumbscrew would, to avoid further pain and torment, admit that he had committed a crime of which in all probability he was wholly innocent, and then he would be decapitated or thrown into a dungeon to suffer further years of oppression. The moral conscience of mankind slowly became aroused to the wrongfulness of this method of convicting men of crimes which they might or might not have committed, and successive declarations of rights have been made looking to the protection of innocent persons from such blind and wicked procedure. The founders of the American Constitution went a step further than had ever been gone by promoters of human liberty, and the safeguards they established to prevent outrages of this character upon prisoners may be regarded as the most important advances made in the administration of justice in the history of the world. It was provided that a prisoner could not be compelled to testify against himself; that the right of habeas corpus should not be suspended except in time of war; that the accused should have the right to be represented by counsel and to compel the attendance of witnesses in his behalf; that no cruel or unusual punishments should be inflicted; that a trial should be had before an impartial court and jury; that excessive bail should not be required; that no *ex post facto* law or bill of attainder should be passed; that no attainder of treason should work forfeiture or corruption of blood, etc.

How extremely necessary these safeguards are is made evident every day in the trial of criminal cases, and actual experience shows that even these provisions are not sufficient to secure fair trials in many instances to persons accused. That our judiciary system is wofully defective, that under its practice great criminals are all too frequently turned loose upon the community, upon what appears to be absurd technicalities, or the imbecile findings of juries, while other men who are unquestionably innocent, and still others of whose guilt there is grave doubt, are sentenced to death or to years of imprisonment, is widely known and self-evident to observing men. To-day, instead of torturing prisoners to obtain their confessions, our detectives and police put them through the "Third Degree," the very refinement of torture; and the pretended confessions thus obtained are admitted by our courts as evidence.

A still more flagrant violation of the most rudimentary princi-

ples of justice consists in the condemning of men to death upon circumstantial evidence, — an outrage which is perpetrated in almost all parts of the United States. Any man may be the victim of circumstances; an able prosecutor, especially one of great personal force of character and cunning mind, may weave a chain of circumstantial proof about almost any man, while judges and juries stand all too willing to lend an ear to suspicion. Hundreds of innocent men have been executed in the United States upon circumstantial evidence which appeared upon its face to be irrefutable.

In the trial of modern criminal cases great reliance is often placed by prosecutor, judge, and jury upon the testimony of so-called experts. This sort of evidence takes a wide range from the self-confident handwriting expert to the solemn-browed chemist. Each of these individuals takes the witness stand at so much per day and large contingent fees, and other substantial sums for retainers, and swears as may be necessary to satisfy his employer. These alleged experts customarily swear to things which are beyond the possibility of certain human knowledge. We find a group of so-called handwriting experts, for instance, swearing that a man wrote certain letters, although it was admitted that these letters were in a chirography entirely different from any of the man's penmanship which they had ever seen. This circumstance, however, did not disturb the "experts"; they got around it by alleging that the writing was "disguised," although it was not claimed that they had ever seen any "disguised" writing by the prisoner, of any character whatever, much less of the type of the sample referred to; yet on this debauched testimony, which was clearly bought and paid for, a judge and jury sentenced a man to death!

Other men have been hanged upon perjured evidence, the chief witness for the prosecution himself often being the real culprit. But the most untrustworthy, not to say atrocious, of all classes of testimony is that of alleged accomplices, who, to save themselves from prosecution or in virtue of promised immunity from punishment, give evidence against their alleged former co-workers in crime.

If it were clear to the American people that witnesses had been bribed to testify against a prisoner, that their testimony was only given because of a corrupt bargain made with the prosecuting attorney, would not the conscience of the nation be shocked at such a revelation? Would not that prosecuting attorney be held up to public execration, the judge who sentenced the prisoner to death on that evidence be reversed, and the jury which brought in the verdict be detested by all men? Right-thinking men will agree that the legal execution of a man by bribing witnesses is repellent to all notions of justice and savors of the barbarous ages. And yet what greater bribe can a man receive than the promise of his own life — immunity for a crime which he himself committed — on condition that he fasten the blame on some one else? Is not this the greatest of all bribes?

I have in mind a notable case in which the prisoner was sentenced to death. It is not pretended that he himself physically committed the murder; it is admitted that that crime, if in fact any crime was committed at all (for there is some reason for believing that the alleged victim died a natural death), was perpetrated by the chief witness for the prosecution. It was claimed that this chief witness had been induced to murder the man by the defendant prisoner, and that the two alleged accomplices were to share in the products of a will to which the signature of the victim had been forged. Now, on this state of facts it is proposed to electrocute one of these men and turn the other loose, — the one who states under oath that he himself committed the crime being given his freedom on condition that he turn state's evidence, that is, by his testimony aid the State in procuring the execution of the other alleged party to the crime!

Strange as it may seem, in a country where all sorts of constitutional guaranties are supposed to be thrown around us, a man is sentenced to death on this kind of debauched and perjured testimony. What is this but a bribe to the chief witness — the greatest bribe which could be given him, a bribe greater than money — life itself? If the prosecuting attorney had hired witnesses outright to send a man to the electric chair, there would be but few to approve his conduct; yet he bribes the chief witness with an incomparably greater bribe, and there are none to condemn!

To my mind it is clear that the power of life and death is too great a power to be entrusted to a fallible judge and an ignorant, emotional, irresponsible jury — which includes all juries as at present constituted. Too many men have been executed on trivial and puerile evidence, or on no evidence at all, but which was nevertheless "proof strong as holy writ" to the intellects enthroned in the jury box. To be given the power to deprive a fellow being of life should imply a degree of infallibility which the American judiciary is far from having attained. I do not wish to discuss the merits, ethics, utility, or advisability of capital punishment, for in my own heart I feel that no thoroughly civilized people would be guilty of such a heinous crime as that of killing a human being by judicial process. I want but to point out the incongruity of hanging one man, not because of any crime committed by him, but because the education and reasoning powers of a judge and jury are defective.

VI. The Judiciary under the Civil Law

The judiciary system of the Romans was probably more effective than is that of the United States to-day in the actual administration of justice. The civil law remains the basis of the judicial systems in all Latin countries, and from its workings our legislators and judges might learn principles of profound application. There are many

intolerable defects in common law procedure which are so deep-seated that nothing but complete eradication will remedy them, and for principles to guide us we can with great profit turn to the civil law. I do not now wish to institute any general comparison between the civil law and the common law, but rather to indicate some of the respects in which the one is superior to the other, particularly in the organization of the courts.

In the matter of relying upon precedents, the English and American courts go to the most absurd lengths. Because some judge of doubtful scholarship wrote an opinion stating that the law was thus and so, upon a given statement of facts then before him, the judge in the case at bar will decide that the same alleged principle of law is applicable to the statement of facts before him, although it is quite different from the statement of facts set forth by the preceding judge — unless, of course, there should be a number of authorities, as is quite probable, cited on the other side.

A marked superiority in civil law procedure is found in its criminal practice. Under the common law the accused must be confronted by the prosecuting witnesses before the judge and jury. This means that there can be no evidence taken in the case (except dying statements) until it comes to trial. If the trial is postponed for three or four years, or there are reversals and new trials, as is so often the case, it frequently occurs that witnesses die, or leave the country, or forget, so that in the end the criminal goes free. To obviate this to some extent, an atrocious custom has grown up among us of imprisoning persons who were so unfortunate as to witness the crime and holding them under heavy bail to appear at the trial. If they are unable to give bond, they remain in jail indefinitely. A more indefensible outrage cannot well be conceived of; yet it is only one of numerous barbarisms incident to our legal practice which grow out of and are inseparable from our jury system.

Under the civil law every witness would be taken before a judge at once, and there, in the presence of the accused, give his testimony, which would be written down, and signed by him. The attorney of the accused would have every opportunity to cross-examine him, and if he committed perjury, would be given ample time to show that fact. In this manner the written record would be made up by the successive depositions of the witnesses on each side. Weeks or months might thus be consumed in making up the record of the case, which when completed would go before the full bench of judges for their decision.

A typical organization of a tribunal under the civil law would resolve the court into three divisions called "Instances." The first "Instance" would consist of a single judge, or examining magistrate, who would preside at the taking of the testimony above described; this judge and four other judges of equal grade would constitute the second "Instance," whose duty it would be to digest the case and

write an opinion; but before final decision the record would go to the third "Instance," consisting of a full bench of nine judges. Any judgment granted in the first or second "Instance" would only be provisional; it could not be executed except by the plaintiff giving an indemnification bond; while all sentences in criminal cases must be approved by the third "Instance," or the majority of the full bench, before being carried into effect.

Under this system perjury is reduced to a minimum. With us, if a lawyer can get a jury to believe a lying witness, his case is practically won. Perjury is almost never punished among us, and it now constitutes the most serious menace to the integrity of our legal system. An honest lawyer and his witnesses, expecting that the other side will swear to the truth when the trial comes on before the jury, are swept off their feet by perjury; it is then too late to rebut the testimony; the jury from inherited predilection believes the smoothest liar; and the verdict of the jury decides as to the "preponderance of evidence," and cures the crime. Glaring absurdities like this are impossible under civil law procedure, because if perjury is committed, there is always ample time and opportunity for rebutting it. Where the proceedings are rapid, and conducted with violence, as with us, false testimony is incorporated into the confused mass of verbiage presented to the jury, which is purposely misled by the harangues of the lawyers, and to sift it out and arrive at the truth is far beyond its powers. But when a false witness must encounter a severe cross-examination, his answers having no immediate effect, but being put into cold type for future inspection, he knows that any discrepancy in his answers will be placed, as it were, in parallel columns, and exhibited to the scrutiny of a dispassionate bench.

VII. Tyrannical Powers used by our Courts

Courts in the United States habitually use extraordinary powers in a tyrannical manner. They commit abuses of discretion which are nothing short of scandalous. The power to grant injunctions and mandamuses and to punish for contempt of court have become such a dangerous infraction of personal liberty in the hands of irresponsible men that the strange thing is that the people of the United States will permit its unrestrained exercise. The bare order of a judge is sufficient to send a man to jail on alleged "contempt of court," and the American people, who never cease deriding that mediæval, barbaric power exercised in Germany, the power to imprison for *lèse majesté,* tolerate in our own free country a more wicked abuse of power — punishment upon the order of a single judge for "contempt of court." It would be better that this power were entirely taken away from the courts than that it should be used and abused as it is at present. By the exercise of this power things are accomplished which

were never contemplated either by the law or by our constitutions. The law, for instance, abolished imprisonment for debt, unless the debt was contracted fraudulently, and becomes what is known as a tort. Our judges, particularly those of the United States courts, override this plain mandate of the law with impunity. By the operation of this scheme of imprisonment for "contempt of court" the United States judges are in the habit of sending men to jail for debt. The scheme is worked in this manner. The judgment debtor — and in these days of blackmailing lawsuits, subornation of perjury, and "objections" to evidence, it frequently happens that the judgment debtor does not really owe the amount — is seized in supplementary proceedings and forced into involuntary bankruptcy. The judge will order him to turn his property over to the judgment creditor, who may be or may not be a *bona fide* creditor. If the judgment debtor fails or refuses to turn over the property in question, or if the judge for any reason whatever is opposed to the man, or thinks he is concealing property, or wants to lock him up in jail on general principles, he will declare the man in "contempt of court" and send him to jail instanter, without trial, and for as long a period as he wishes.

Is not this a dangerous power? We have simply transferred the power to tyrannize over others from the feudal lords and petty despots to the United States judges.

VIII. Unwarranted Usurpation of Power by the Courts

American courts habitually declare laws "unconstitutional" on the flimsiest of pretexts, and set them aside as invalid. This dangerous power has been abused in a manner and to a degree which may well challenge the most serious attention. A law which perhaps has received the widest general discussion, anterior to its passage, and has been carefully dissected by the legislature and the governor, or possibly by Congress and the President, is wiped out of existence by a court with a stroke of the pen. Indeed, this power is not alone exercised by the courts of last resort, but frequently a justice of the peace assumes the same high prerogative. It is evident that no court of inferior jurisdiction should be permitted to pass upon the constitutionality of any statute. But the abuse does not end here. The supreme courts, or courts of final jurisdiction, are in the habit of making most amazing rulings in this respect, apparently after only a superficial investigation of the question involved. If these courts only set aside laws which were oppressive or wrong or inequitable. or which were in fact in violation of the Constitution, the power thus exercised, if used with moderation and wisdom, would be wholesome; but unfortunately, with cynical disregard for the welfare of the community, they destroy many beneficial laws on pretexts which are often so preposterous that they suggest interested motives in the background. Moreover, the

courts are continually usurping the functions of the legislature by making laws themselves, and it must be said that some of the worst laws in the United States are judge-made. American writers are fond of asserting that the law is "the perfection of human reason," notwithstanding the contradictions which are being daily handed down by ignorant and illogical minds on the bench. Much of the heterogeneous mass of "judicial decisions" has never been expressed in the form of statute or otherwise by any legislative authority, but is confessedly the product of the judge or judges in the case. Moreover, our Constitution is being changed in a startling manner by judicial interpretation, without consent or protest on the part of the American people. The plain language of the American Constitution has been distorted out of all semblance of its original signification, and far-fetched meanings imported into its phrases. Many guaranties of the Constitution have been wholly disregarded by the courts, and the document itself as construed by the Supreme Court is wholly unlike in plan or purpose the Constitution bequeathed us by the forefathers.

The perverse inefficiency of the American judiciary constitutes the real menace to our national growth and development. It raises the vital question as to whether we are capable of governing colonies and dependencies and maintaining a semblance of law and order among them. Indeed, a still more important question is thrust upon us concerning our own national existence: Is not the inefficiency and debauchery of the American judiciary, in fostering perjury and in encouraging speculative lawsuits, mainly responsible for the widespread laxity of the public conscience? The fact that justice cannot be obtained in our courts, — is not that in large measure responsible for the dishonesty so glaring in our political, social, and business life?

CHAPTER IX

IS THE UNITED STATES EQUAL TO THE TASK OF GOVERNING AND CIVILIZING LATIN AMERICA?

IN a discussion of the evanescent character of all things Latin-American it were well to devote some thought to the relatively temporary nature of our own works.

On the material side many of our great improvements will surely stand for generations. Such a work as the Chicago Drainage Canal will doubtless endure as long as the great Chinese Wall, which has already seen twenty-five centuries come and go. But how few such works there are! The pyramids date back surely more than four thousand years, and perhaps double that time. Is it reasonably probable that there is a building in the United States which will endure a similar period? Splendid as are our engineering accomplishments, how few are our really substantial works!

But why talk of even hundreds of years when any one familiar with construction work can see at a moment's glance that nearly everything in the way of architecture in the United States is doomed to destruction even before the end of a century. If one cross and re-cross the United States a hundred times in every direction, and keep his eyes open, he will inevitably become burdened with the thought that the larger portion of our material progress is ephemeral. By far the large majority of our buildings are of flimsy pine lumber, or some other perishable material, which will become dilapidated in twenty-five years, and rotten in fifty; while the needless losses from fires are counted by the millions yearly.

Why do not people build houses that will stand? Simply because the element of permanency has not yet become our predominating national characteristic. We are building for to-day, — as though we were merely sojourning here, and it were not expected that our descendants will permanently occupy the land.

Suppose that the farmer and his sons should come to value solidity more than present appearance; suppose that instead of the cheap but easily constructed frame buildings they should resolutely set out to build family mansions, not only for themselves but as a heritage for future generations, — would not the whole country be completely changed in a few years? Such a farmer and his sons could, unaided,

working at odd intervals, with but little extra expense, build in the course of fifteen or twenty years substantial permanent mansions of brick or stone. With succeeding generations contributing their mite to the permanent improvements of the world, our wealth and greatness would become inconceivable and our civilization a glory. But no such spirit prevails, — at least, not generally. Our work is nearly all slipshod. Our country roads are a disgrace, for which there is neither excuse nor apology, and our citizens and officials, instead of occupying themselves with practical affairs of this nature, waste their time in unprofitable harangues about political theories and demagoguery.

On the intellectual side, particularly in the domain of science and invention, much has been accomplished of lasting value. In truth we may believe that civilization has taken a greater stride forward during the past century than in all the preceding ages. In just what manner these discoveries and inventions will be preserved for the generations of the future is not so clear.

How do we know but that civilizations fully as high as our own, and as advanced scientifically and materially, have not arisen and passed into the night of oblivion tens of thousands or even hundreds of thousands of years ago? There is at least no evidence to the contrary. Have we a book, an instrument, a picture, a statue, a machine, that we can safely affirm will be intact ten thousand years from now?

The British Museum, the Congressional Library, the vast chain of libraries founded by Mr. Carnegie, — is there a single thing in one of them that will last one hundred centuries?

Plato, four hundred years before Christ, complained that the pictures and statues in the temples were no better than those made "ten thousand years" before; will any one arise in ten thousand years from now to make a similar comparison with our work? Have we any work that will be in existence then, so that any comparison at all can be made?

Shakespeare's writings are immortal, but the paper on which they are printed will rot. May it not be that other immortal works have disappeared in a similar manner in the past? It is known that Che Hwang-te, the Chinese despot two thousand years ago, destroyed vast quantities of the historical and literary works of that ancient monarchy, and no doubt Father Time has done equal violence to invaluable productions of other peoples.

Much work has been done in all the civilized nations, especially in science and invention, which should be preserved against destroying agents and handed down to future generations. The United States has issued some hundreds of thousands of patents; England, Germany, France, and other countries, many more. Inestimable as are the benefits conferred upon civilization by these inventions, the descriptions and records of them are printed on material almost as perishable as the leaves of the forest. Think of the incalculable amount

of research expended in chemistry, medicine, mineralogy, and particularly in astronomy, and then reflect how fragile are the records of these marvellous accumulations of intellectual energy. Thousands of the keenest observers have watched the heavens for hundreds of years with a minuteness and accuracy inconceivable to ordinary men; their observations are scattered through thousands of pamphlets, reports, manuscripts, and books; they embrace hundreds of thousands of photographs, measurements, spectra, mathematical calculations; they comprise the accumulated wisdom and researches of the ablest intellects to which the human family has ever given birth, constituting altogether a mass of knowledge, unique and unparalleled, which, if preserved, will be of untold value to men in ten thousand years or in a hundred thousand years from now, and yet all these priceless records are contained on paper, which moths eat, fire destroys, and the elements rot.

The spirit of this age is too ephemeral. We are like butterflies; we live in the present and are willing to discount the future for a momentary benefit. Solid character implies stability, permanency, enduring strength. Not as the reeds of the valley, but as the mountains of granite, should our work stand; and when we plan, we should design for all time.

A man's character is displayed by his workmanship. Temporary, makeshift work, whether mental or material, implies a shallow, frivolous character. A great engineer will design his building to stand till Doomsday. A great statesman will be even more solicitous in laying the foundations of national greatness.

I. Corruption in American Politics

Have we taken all the elements into consideration for the solution of the vast problem under discussion? When we ventured the suggestion that an American is as good as an Englishman, and competent to govern the same alien area and population that he can govern, did we state all the truth? Mature reflection forces us to the conclusion that there is one fact, the most vital of all facts, yet to be considered.

That fact is involved in the paramount question as to whether we are competent to govern ourselves — whether this thing called Democracy is not a relative failure, and in grave danger of becoming an absolute failure, even among ourselves. Let no man who loves the United States, who believes in real human liberty, who hates injustice, wrong, oppression, but who loves truth, righteousness, justice, and prosperity, dismiss this question as trivial or unworthy of his best thought.

Babylon, Greece, Rome, present a long history of one word, — a word which stands for the same thing under a thousand thousand different forms, — a word which stands for disorder, bloodshed, igno-

rance, crime, drunkenness, anarchy, profligacy, irreligion, immorality, which stands for evil in every known form and disguise — a word which when applied to nations spells death; and that sum of all evils is corruption. Spain, a tottering and dishonored wreck of its former greatness, is the most frightful example of national decay, due to the corruption, to the unspeakable venality and insincerity of its government.

Is the same cancer eating at our vitals? Are we likewise overshadowed by this terrible curse?

No American conversant with the facts can answer "No," — at any rate, not without some qualifying clause. Certain it is — of this fact there can be no shadow of doubt — that the corruption, not only socially but politically, in our great cities is something appalling. In some of these cities there is a fighting chance for decency; in some others it would appear that the battle is almost hopeless. This corruption does not know any such thing as party lines. The rottenest municipal administration ever witnessed in the United States — worse than anything known in Tweed's days — was the rule of Van Wyck in New York under the dictatorship of Croker. That whole administration was one vast organization of graft, of boodle, of robbery, thievery, and plunder, from the lowest sidewalk or street pavement inspector up to the highest official of the city government. Yet not a single one of them was ever sent to the penitentiary. And this gang of thieves called themselves Democrats. The people of New York had the power to throw them out of office, but they did not have the sense to sustain a good administration once they had it. Shameless and indefensible as is the municipal history of New York, there is yet hope for it, for there is a powerful minority, reasonably awake, who stand for decency and honesty in city affairs, and who can be relied upon to prevent the corruptionists from becoming too bold.

Philadelphia was worse. Here the thieves called themselves Republicans, and there was no body of decent citizens present to dispute with them the title. For placid, unconcerned, contented municipal rottenness Philadelphia probably stood as the most shameless city of its size on the earth. So far as an observer could discern, there was no considerable dissatisfaction among its people at the depravity of its officials. There was for years no effort at betterment, and it seemed vain to hope for improvement. In this rotten borough every contractor "paid up," and no one was allowed to "come in" unless he was "in the combine." The gas works "deal" has nothing to compare with it in the history of American cities; franchises were only as merchandise; brothels paid for protection as a legitimate business would pay rent to a landlord; and venality was written on every deed and act of this most rotten of municipal governments. And as the Tammany Hall organization in New York are in a position to barter with the National Democratic party, so the equally malodorous Philadelphia

combine had power in the National Republican Convention, and perhaps even in the councils of the United States government.

Chicago is not so bad, not half so bad, notwithstanding all that has been said about it. Individual "boodlers" among the Chicago aldermen and in the city and county governments have been numerous, but there has never been anything resembling the Philadelphia "combine" or the Tammany Hall crowd. Dirty as is Chicago, filled full as it is of agitators, demagogues, rum-soaked statesmen, tramps, and criminals, there is an element in Chicago virile and fearless, honest and determined, which, although perhaps it does not control a majority of the votes, is a righteous force of such magnitude that we may confidently expect it finally to establish and maintain permanently good government in this metropolis of the West.

The future of St. Louis is more uncertain. There is no large portion of its population imbued with that unflinching determination to punish municipal crookedness at all cost. The reforms accomplished up to the present are the work of individuals like Mr. J. W. Folk, rather than of any real, healthy public opinion. When a community depends upon one man for its salvation, its future is dark. It is to be hoped that other powerful and honest men will be found to sustain the hands and carry on the work of the splendid lawyer who performed such signal service for decency.

New Orleans is still worse, — shameful streets of mud and filth, sewage running on the streets; thousands of young men loafing on the street corners, gambling, playing the horse races, drinking, carousing, — a saturnalia of crime, idleness, and corruption.

If we turn from the municipal governments of the large cities to the legislatures of the several States, a condition of things even more disheartening confronts us. When I was twenty-one years of age, I firmly believed that the legislatures were composed of dignified, scholarly, and honest men, who pondered, studied, and reflected over the laws needed by their constituents, investigated precedents, and then with their best wisdom decided in accordance with the dictates of patriotism. Would that were indeed the fact!

But when we see the blackmailing bills brought into each session of the several State legislatures, there to be exploited and expounded until such time as the corporations yield to the thieving demands of "the combine," or when we observe the equally infamous measures jammed through successive legislatures by "boodle," for the benefit of corporations or speculators who have paid for them, we must stand aghast with faint heart, and shudder at the thought of what the future may bring forth.

And yet, terrible as are the facts, infamous as is the conduct of vast numbers of local officials, a careful analysis of the situation does not leave us wholly dismayed.

In every boodle legislature, in every thieving combine of politicians,

we are almost certain to find that the predominating element hails from the great cities. The criminals, agitators, loafers, and all the elements of disorder seem to congregate there. The professional demagogues find the slum wards, or districts, their legitimate territory. It is there where anarchy and social dissolution are threatened, where plague spots are represented by arrant knaves and demagogues in the councils of the government.

But in a very large number of the cities and towns of the United States, even in places of two or three hundred thousand inhabitants, conditions are different, and in thousands of the smaller villages and towns there is at least relative, if not absolute, honesty in the conduct of municipal affairs. Many of these village and town officers are ignorant, many of their acts are ridiculous; but they at least act in good faith.

But behind all, over all, under all, surrounding all, and dominating all, is the great farmer vote of the United States; and this vote, whether in the North or the South, in the East or the West, whether Republican, Democratic, or Populistic, is an honest vote. This is the mighty Voice of the American Nation. The slums count their hundreds of thousands, but the farmers are there by the millions — an impregnable bulwark which cannot be bought. The farmer vote may often be misled; there is a good deal of ignorance, much partisanship, and some downright foolishness on the farm, but it is nevertheless a fortress against anarchy and crime.

This army of men, hard-working, honest, patriotic, of reasonably sound judgment, of fair and constantly increasing intelligence, makes and unmakes national governments. No government can stand against the farmer vote. And where there is an unquestioned moral issue presented to this vote no one can doubt its verdict. A higher degree of learning and an almost equal degree of honesty are found in the smaller villages and towns. Also in every great city in the United States there are alert, virile, powerful forces at work, — often in the minority, but still at work, with admirable heroism, for the regeneration of society and the purification of the government.

And the sum total of all this is that in spite of the glaring wrongs of conspicuous cities municipal government in the United States is, as a rule, comparatively pure; corruption is the exception and not the rule, and the forces of disorder, blatant and arrogant though they be, are, when measured alongside the other mighty influences for good, of much less magnitude than one would suspcet. Even the demoralizing work of "boodle" legislatures, of which the States of New York, Illinois, Missouri, and Pennsylvania form examples rather more conspicuous than the rest, are held in restraint, or rendered less harmful, by the courts, the executive, and the corrective influence of public opinion.

That the sum total of all the forces at work is good is clearly seen

in our national government, which, it may safely be asserted, is the crown of democracy, and an indisputable proof of the soundness of a republican government in fact as well as in form.

We have had Presidents of marked and diverse personal traits and susceptibilities. They have been vacillating, as Buchanan; sympathetic, as Lincoln; obstinate, as Johnson; taciturn, as Grant; genial, as Garfield; reserved, as Harrison; mild, as Hayes; painstaking, as Cleveland; prudent, as McKinley; fearless, as Roosevelt. But in one quality they have all been beyond question, and that is rugged honesty. It would be impossible to elect any man for President of the United States against whose personal integrity there was a reasonable ground for suspicion. A party which would nominate such a man would not have a ghost of a chance to win. Take the entire list of Presidents of the United States, from George Washington to Theodore Roosevelt, and in point of comprehensive ability, genuine patriotism, and honesty, and of all the elements which go to constitute greatness, never in the annals of history has there been a similar body of men as rulers of any nation. Every American can point to them with admiration as ample proof of the verity contained in the form of democratic self-government.

As to Congress, I am not so positive or so enthusiastic. That dignified and scholarly body, the United States Senate, although still entitled to respect, does not inspire the veneration which once attached to it. The majority — the absolute majority — is still composed of statesmen of the highest order. But some dangerous demagogues, some inflated money-bags, and some plain blackguards have forced their way into this body.

The lower House of Congress is composed of a different type of men — a practical, hard-headed type, who often have worse reputations than they deserve, and sometimes better. The membership of the House is of a higher class than it was twenty or thirty years ago, while that of the Senate is probably lower.

But take it all together, the Congress of the United States can be relied upon to stand for the best interests of the country, — at least what it conceives to be such, — and to be of as high a grade of personal integrity as can be found in any similar body of men.

II. Corruption in American Social Life

As corruption constitutes the principal problem in American politics, so it does also in social life. The problem of labor and capital is only one form of this more general disease.

The desire to get something for nothing, to obtain money without work, to enjoy wealth indifferent as to how it is acquired, — that is the fundamental problem which confronts democracy.

Out of one hundred men, taken at random, in New York or Lou-

isiana or California, how many would be strictly, rigidly honest? That is the supreme question. It goes deeper than the form of government, deeper than the surface of society, deeper than any single social problem. These latter are only phases of the general question.

It might be answered offhand that most men are honest. But is it so? In the United States are there fifty-one men in a hundred who are really honest? If so, and if in addition they are intelligent, alert, and fearless, then we and our institutions are safe.

Let the reader reflect for one moment. How many men does he know, and of them all to how many would he trust without bond and without limit the administration of his estate, where his wife and children would be placed at their complete mercy, with no power to review their acts? Of say one thousand he knows, would he trust unreservedly in this manner five hundred and ten out of that number? Would he trust fifty-one of them? The truth is that the man would not trust implicitly perhaps more than five men out of the entire thousand. To say this is not to say that there is only that proportion of absolutely honest men; but it is in effect saying that the larger number of men probably have their limitations, — that they are relatively honest, comparatively free from corruption, generally desirous of doing what is right, but that for some reason, possibly in some cases temperamental, in others defective education or inherited incapacity, they do not come up to the high standard connoted by the term "absolute honesty."

In proportion as the number of dishonest men increases, social and political problems are increased in magnitude and complication. In a country where the overwhelming number of men are scoundrels, there can be nothing but anarchy or despotism. With a strong, honest majority, nearly every problem will solve itself, and justice will finally obtain, while if every man were thoroughly honest, there would be no social or governmental problems at all. The entire physical and intellectual energy of mankind would be centred on productive enterprises and the higher arts of civilization.

One of the serious phases of this problem of honesty is that which relates to capital and labor — each desiring to obtain from the other something for nothing, or for an inadequate equivalent. As anarchy permeated every artery of France during the Revolution, and its poison is yet absorbed in the very vitals of South America, so shall we find dishonesty stealing into the political and social life of the United States to an extent little dreamed of by a superficial observer. And dishonesty is only a milder form of anarchy. They are both disorganizing forces, elements of dissolution. Intelligence, integrity, industry, enterprise, are all forces of organization. On these elements must rest the governmental and social organism which is in fact civilization, and which is essential to the maintenance of large populations in anything like decency and comfort.

III. The Political Machine

In an analysis of American social and political institutions the political machine cannot be overlooked. Most Americans would doubtless say that if anything threatens our free institutions, it is the system of political bosses with their "organizations," which are so well known among us. Foreign observers of great wisdom entertain similar opinions. The ability to deal with these "machines" will, it is supposed, determine the ultimate success or failure of democracy.

Mr. Bryce, in "The American Commonwealth," devotes only three chapters to our courts, and they are merely descriptive of their workings; while on the subject of political machines and allied topics he devotes between thirty and forty chapters. Many of his criticisms of the political rings are very severe. Agreeing as I do with substantially all that Mr. Bryce says in detail on these subjects, I contend that the corruption of ring politics is local, not general; that it is an ulcer on the body politic, but not a constitutional disease.

The traditional attitude of the American mind towards political machines is one of hostility, and with local exceptions a political leader, unless he is very discreet, gets the name of "boss" when he is far from exercising the prerogatives. New York, Philadelphia, Cincinnati, and St. Louis have been in the past the worst ring-ridden cities in the United States, and yet in these cities the political "bosses" have had to fight for their existence.

In most of the other parts of the United States the political organization is a blessing and not a curse. These organizations are mainly instrumental in making a campaign of education out of each election period. The great public meetings and the discussion of the issues of the day, both on the public platform and in the press, constitute an educative feature of our system of political economy the importance of which cannot be overestimated. The great mass of the people are taught to think along political lines; citizens become acquainted with their officials, and the latter learn to keep in close touch with the public sentiment; practice in the art of oratory is given to thousands of young men; a healthy public spirit is fostered, and in these ways genuine Democratic government made possible.

While there is corruption in many political machines in the United States, every such organization contains the elements within itself which must inevitably destroy corruption. Even the Tammany organization contains thousands of the best men of America, and the peculations of its leaders, though scandalous, are not so bad now as they were a decade ago. I would therefore liken the corrupt political machine to a local ulcer, of the surface rather than constitutional. The judiciary, on the other hand, is the heart of the body politic. If the heart be diseased or rotten, death is inevitable.

While the wrongs of the political combines are on the surface, apparent to everybody and relatively easily remedied, those of our system of courts are deep-seated, constitutional, and almost impossible to eradicate. A man with a boil frets at the pain, but the physician is not worried, for he knows that a boil is seldom fatal. But if the man, however well he may look, have the symptoms of organic heart trouble, the diagnostician will look grave.

While the inefficiency of our judiciary and the maladministration of justice in our courts have not yet led to the universal debauchery of the public conscience exhibited in the profligate days of the Roman Empire or to the anarchy of the French Revolution, there is among us a deep-seated discontent at the conditions of inequality and injustice which exist. Our people as yet scarcely know where to put the blame. Some believe the fault to lie with the big corporations, others that the political machines are to blame. But the social philosopher knows that the latter troubles are only skin deep; he must look into the heart of things, and once there, he finds the nerves of justice paralyzed.

If I did not believe that the American people have brains and conscience finally to remedy and reform our abominable courts, I would never have written this work. I desire to see justice and a square deal for all men established on this earth. I do not want to be a party to the oppression of any man, whatever his color or nationality. I want the United States to take possession of Venezuela, not for the purpose of wronging or humiliating the people of Venezuela, but for the purpose of conferring upon them the greatest blessing possible — the benefits of civilization. If they can be rid of their blustering, murdering military Jefes, well and good, but I do not wish to thrust a greater tyranny upon them in the shape of a judiciary which works injustice.

I am satisfied, however, that the American people are fully equal to every task that can be placed upon them. I know the social life of practically every State in this Union, and I know that in intelligence and morality our people have never been surpassed in the annals of time.

The supreme problems now confronting us are the establishment and maintenance of an efficient judiciary in our own country and the control of the Latin-American despotisms of which I speak. All other problems confronting us are simple and unimportant in comparison.

IV. Our National Government

The national government is the concrete expression of all the forces at play in the American national life, and it is good, remarkably good. The encouraging thing about it is that it is getting better

and not worse. The average American does not realize what an incomparably good government we have. The national government of the United States, pre-eminent in virtue, prudence, wisdom, enterprise, among all the governments of history, rules our colonies and shapes their destiny. It gives these colonies, in the solution of their problems, the benefit of the best brains and conscience of America. Is there another city in the world which is governed as admirably as Washington? Are there any places on earth where civilization has made such rapid strides in the past five years as it has in Puerto Rico and the Philippines? Cuba was one vast hole of filth and yellow fever, poverty and crime, before the occupation of the American army. What has become of it all? To-day there are order and comparative cleanliness and decency in Cuba. Havana, formerly the abode of filth, is to-day comparatively clean, with the prospect of still further betterment; and I have often thought what a great blessing it would be if New Orleans and Chicago were placed under the rule of Uncle Sam and his army for a while, so that similar beneficent changes might be effected in their sanitation.

Any territory which the national government of the United States rules is certain to be well governed. The national government represents, and must represent, the heart and brains of the whole people of the United States, and it is good. And so it will remain, getting better, not worse, for the American people are growing in grace, and they are continuing to grow. For semi-barbarous countries to have the benefit of the wisdom and the practical and scientific experience as well as the co-operation and protection of this nation would be to them a blessing. The United States government will not oppress anybody. It has protected the weak and innocent, carried hope and prosperity to the poor, and established security and learning where before were only ignorance and crime. Almost every civilized man, black, yellow, and white, in Spanish America would be glad to see the United States take possession of them all. The characters of the men who would object form one of the strongest arguments why it should be done.

CHAPTER X

THE UNITED STATES NEEDS MORE TERRITORY

THE Hay-Herran treaty, which failed in Bogotá, was a convention relating to the construction of the Panama Canal, and it would appear that its terms should have been confined to the business in hand. But it was not; and one of its sections illustrates a prevailing phase of American statesmanship, which may well call forth a protest, on the ground, if upon no other, that it was entirely foreign to the question at issue. The section to which reference is made is that which declared it to be the policy of the United States not to acquire more territory, its somewhat ostentatious profession of friendship for Latin-American countries, and its declaration to the effect that least of all would we think of extending our domains in their direction.

To insert a clause of this nature in a treaty to which it could have no proper relation was careless. What authority had President Roosevelt or Secretary Hay to declare that the United States will not extend its territory into Latin America, or elsewhere in the world? That may be, and doubtless is, the policy of the administration of President Roosevelt, and at the time that treaty was drafted it voiced the opinion of the majority of the American people; but who among us is wise enough to predict that such a policy will meet with the approval of the people and government ten years from that date? Without any reference to our desires in the premises, it may be that we shall have to take these countries, for the purpose of suppressing the eternal anarchy in them, or turn them over to some responsible European power, or face the alternative of fighting all civilization; and if so, of what use would be the *obiter dictum* in the Hay-Herran treaty?

But this matter of territory should be looked at in another light. I maintain that the United States does want more territory. It may not know that it wants it; but it wants it just the same, and it is going to find out its wants very quickly. For a nation to say that it does not want more land seems as absurd as it would be for a man to say that he did not want any more gold. He should want it, if only for the good he could do with it.

Were the whole domain of the United States to be divided up among its inhabitants, there would be only about thirty acres for each. If a farmer holding only thirty acres of land, urged to increase

his holdings, were to reply that he did not believe in these vast estates, of say eighty or a hundred and sixty acres; if, when he was told that the additional holdings would give his sons elbow room, a chance to raise independent families of their own, he should retort by railing against the commercial imperialistic spirit of the age, — rational men would consider him a fool; and yet his arguments are no less absurd than those of the people who are opposed to any further extension of our territory.

There is no fallacy greater than the belief that we have enough territory. The one thing in the world which is not increasing, in which no increase is apparently possible, is land. The population of the world is increasing, — in some nations, particularly ours, at a great rate. But land is essential to support this increase of population. Shall the immense uncultivated tracts of land remain forever waste and unavailable for civilized habitation, because of some technical interpretation of international law or the vague illusions of benevolent theorists?

If the United States possessed all the land now occupied by Spanish-American countries, there would be only about sixty acres for each individual. To a man in Texas or in Minnesota this will not seem a large amount; nor is it. If the population of the United States keeps on increasing at the present rate for fifty years longer, what will the people do, how will the sons of the succeeding generations acquire homesteads?

If the United States is wise, it will want more land, and want it while there is a chance to get it. We want more land so that our manufacturers can sell their goods to the populations of those lands; to induce those people to use our soap; to get them to throw away their breech-clouts and wear pants of our manufacture; to induce them to use our steel rails, our machinery, our products. Moreover, our people are now wanting more land to establish homesteads for their children; they want this land under the American flag if they can get it, but at all events they want it under a civilized flag. They do not care to settle in Spanish America under the present governments; therefore they go elsewhere. That large numbers of our people are already seeking cheaper homes for their children will be seen from the following article on American immigration into the Northwest of Canada.

I. American Immigration into the Canadian Northwest

In the October number of the "Colonizer," for 1903, a monthly publication of London, England, is reproduced quite a lengthy article written by the Canadian correspondent of the "Times," on the subject of American immigration into the Canadian Northwest. Among other things the writer says:

"Not the least among the many factors that are contributing to the quite unprecedented prosperity now enjoyed by Canada is the steady flow of immigration which is pouring into her western provinces from the United States. There is not the slightest doubt but that it forms one of the most substantial assets that Canada has received within recent memory, and that its high-water mark has in all probability not been reached. In the past year as many immigrants have gone into the Northwest from the United States as from Great Britain, to wit, nearly 40,000 in each case. These Americans of the second, third, or fourth generations are, for reasons tolerably obvious, the very best immigrants that Canada has ever received. As to this I have heard but one opinion, and, with my own knowledge of the States and Canada, never for a moment expected to hear any other. The curious thing is that, while all former immigration into this great Northwest has come in timidly in isolated and ill-organized fashion, these shrewd Americans come in boldly, confidently, and in large companies. Now that they have made up their minds the country is a fine one — and of judges in such a matter there can be none better on earth — there is no halting, no half-hearted measures; they come by thousands, and from the very best classes in the Western and Northwestern States.

"The subject, I am aware, is not wholly new in England; but let us recall once more the conditions which cause the movement. The first lies in the simple fact that all the free or cheap lands of really good quality in the States and worthy of a skilful farmer's labor have been occupied. Furthermore, the Canadian Northwest has now proved itself beyond any question a much better wheat country not merely than the Northwestern States are to-day, but than they ever were. These immigrants come mainly from Minnesota, the Dakotas, and Iowa, and in a less degree from Nebraska, Illinois, Kansas, and even Missouri. Every Canadian I have seen — and they are many — who has had to do with them speaks of them with unqualified praise. The mass of these men own farms in one or another of the States above mentioned, which were bought at prairie value or homesteaded in the seventies or early eighties, and are now worth $40 to $75 an acre — improved, well-cultivated farms, accessible to towns and railroads. It is a notorious fact that American immigration westward has leaped forward during periods of prosperity and each successive frontier remained comparatively stationary during the intervening periods of depression. Just now prosperity is rolling its tide westward. Buyers from the East and Middle West are stirring among the improved farms of the belt beyond them, which twenty to thirty years ago was the frontier. Prosperity, too, in America produces a certain demand for farms among the newly enriched business men of the newer towns and cities. Still, it may fairly be asked why the owner of a fine improved farm of 300 acres in Iowa should wish to leave it, even though he gets a good price, and move on to the cheap lands of remoter prairies. The answer is simple enough as regards a certain number of such people — namely, those who have sons — in that the old farm provides only for one, while for the rest of the family there is no local opening on the land whatever, except in the purchase, at a high price, of a neighboring farm which has presumably approached or reached its limit of value; but the Iowa or Dakota farmer, blessed with sons and looking prudently into the future, reflects that with the money derived from the sale of his farm he can acquire enough virgin land to settle all his family in life and have abundant capital left to build and to buy stock with.

"I have talked with scores of these American immigrants, both on trains and in hotels, and with many of those who have been here a year or two on their own farms. Most of them seem to have from $10,000 to $15,000, some much more. Two car-loads, for instance, of these people with stock, furniture, and effects went up the Edmonton line one day in the past season, representing a cash capital, so one of their number told me, of $300,000. Nor is it only the money these Americans bring in, but quite as much the men behind the money. Anything more widely different than these men from the $10,000 or $15,000 amateurs from the old country could hardly be imagined.

"Perhaps the most curious thing about this immigration is the methods by which it is worked. For nearly all of it is controlled and moved by land companies founded for purposes of profit by American capitalists. A big company is formed in the first instance and purchases a block of several hundred thousand acres. Small companies then buy smaller blocks from the former and retail it in farms, through real estate agents, who go among the farmers in the various districts of Iowa, Dakota, or wherever the field is most promising. As stated above, these American companies buy immense blocks of land wherever they can secure it of good quality and within easy reach of railroads. In all these tracts, however, every alternate section (640 acres) is the property of the government, available only as a free grant on the homestead conditions. Some of these may be already occupied, but as a rule there is very little settlement where the American companies have purchased. They acquire their land at, say, $3 an acre, and either directly or through subcompanies bring in their settlers in wholesale fashion from south of the line. These last buy at, say, $7, but, settling thus in communities, by the very force of their own numbers they make the land at once worth that much or more. Many, if not most of them, take up the alternate section or part of a section if available, according as the numerical strength of their family admits of a homestead or free grant. The retention of this involves at the end of three years' probation an oath of allegiance to the British Crown, and there does not seem to be the least reluctance on the part of the Americans to assume this rôle of British subject.

"In conclusion, I will indicate roughly the districts of the Northwest to which these American immigrants are chiefly proceeding. Manitoba, which is still mainly a wheat-growing Province, has attracted comparatively few. Probably there are not sufficiently large blocks of cheap land any longer available for the American companies. Assiniboia has been largely patronized. In the southeast over thirty townships have been acquired by the Americans. All along the line running from the American border to Moose Jaw, near Regina, the capital of the Territories, the new-comers are settling thickly. Up the Prince Albert line from Regina, through northern Assiniboia and Saskatchewan, are three great blocks of land — one of them, I believe, a million acres — acquired by Americans for actual settlement, not to speak of smaller colonies. Alberta, however, seems upon the whole the favorite "stamping ground" — that belt of country within 100 miles of the Rockies and in sight of them, where ranching, small and great, is the main industry and grain a supplement. Edmonton, at the terminus of the branch line, some 200 miles long, running north from Calgary, on the Pacific Railroad, is a popular centre with its grain-growing facilities. And, again, south of Calgary, in the direction and in the neighborhood of Fort McLeod, there has been considerable American investment. Several thousand Mormons, too, are to

be found nearer the border, the best of settlers. In another place 5000 acres are being prepared by an American syndicate for the cultivation of the sugar beet, a totally new experiment."

It is clear that these citizens are lost to the United States, so far as citizenship is concerned. Their labor from now on will go to increase the wealth and power of Canada. They will be absorbed into the institutions of Canada; and the laws, customs, and the very government itself are so nearly like our own that these immigrants will scarcely notice the difference.

Nor can it be assumed that we will get these citizens back in a possible future annexation of Canada. No event is more improbable than this. Canada is a highly civilized country with a good government, at least as good as it would be if it were a part of the United States. Canada may be relied upon to remain a stable integer of the British Empire, if reliance can be placed upon anything in this world. Certain it is that we could never seriously entertain the question of Canadian annexation unless she herself should ask for it and England give her consent, — things so improbable as to render their discussion inutile. Those of our own citizens who overflow into Canada are aiding in building up a great, rival, and let us hope friendly, nation to the north of us.

But the people of the United States must have more territory in which to exercise their boundless energy. The pressure is being felt to-day; in a short time it will burst all bounds. Spanish America is the great field of opportunity, lying all uncultivated before us. We should go into Spanish America for the purpose of developing it as we have developed Ohio and Illinois, Texas and Minnesota. We cannot go at all while there are anarchy, revolution, and bandit governments in those countries, defended, aided, and abetted by the United States. We cannot go unless we have there the protection of law and the guaranties of civilization; and these things will not come while the class to which the military Jefes belong controls affairs.

But if we do go — and we will — a dozen Monroe Doctrines, and a thousand *obiter dicta* of the Hay-Herran kind will only put off the day — then will education, civilization, decency, law, order, prosperity, justice, and scholarship take the place of the assassinations, intrigues, despair, and disease which now curse that most unhappy of all continents.

CHAPTER XI

THE UNITED STATES SHOULD ADOPT A SANE AND PRACTICAL POLICY

There are kinds of peace which are highly undesirable, which are in the long run as destructive as any war. Tyrants and oppressors have many times made a wilderness and called it peace. Many times peoples who were slothful or timid or short-sighted, who had been enervated by ease or by luxury, or misled by false teachings, have shrunk in unmanly fashion from doing duty that was stern and that needed self-sacrifice, and have sought to hide from their own minds their shortcomings, their ignoble motives, by calling them love of peace. The peace of tyrannous terror, the peace of craven weakness, the peace of injustice, all those should be shunned as we shun unrighteous war. — THEODORE ROOSEVELT.

IT is clear that the Monroe Doctrine has fulfilled its destiny and accomplished its mission. It has afforded the South American countries ample time and opportunity to establish decent governments. It has protected them from outside molestation, and given them the fullest opportunity to work out their salvation. The Monroe Doctrine was promulgated to aid the cause of free government in the world, to restrain the growth of monarchy and promote genuine liberty. In view of the facts confronting it, the United States should abandon its traditional policy absolutely and unreservedly.

A policy whereby we refuse to maintain law and order in South America, decline to protect civilized men there, and refuse to permit their own governments to protect them; a policy whereby we become *particeps criminis* to every mercenary scheme practised by the governments of these countries, either upon their own people or upon foreigners; a policy whereby we assert that these are civilized governments when we know they are not; a policy whereby we become parties to numberless outrages; a policy whereby we are always liable to become, causelessly and criminally, involved in war with civilized powers, — a policy, in short, which has become intolerable, indefensible, and immoral can no longer be sustained or defended by reputable citizens who know the facts. Nor will the American government, which is actuated by right motives, longer permit itself to be placed in the humiliating and anomalous position of being used as a cat's paw to pull the chestnuts of these South American dictators out of the fire.

What, then, shall the United States do? Shall it abolish the Monroe Doctrine?

I unhesitatingly say that it should frankly and completely abandon it, and relegate it to the limbo of discarded theories; and then it should honestly, fearlessly, and unflinchingly assume full and absolute responsibility for all its consequences to date, and endeavor from now on to retrieve the losses and atone for the wrongs which have grown out of it.

I. Probable Results of Abandonment of the Monroe Doctrine

If the Monroe Doctrine be abandoned, we must frankly face the possibility of the European nations taking possession of South America and dividing it up among themselves. Those who cling to the doctrine because of this possibility have their views ably voiced in an editorial of the New York "Sun," April 28, 1904, criticising the argument in Professor Muensterberg's "The Americans" which favors the abandonment of the doctrine. The "Sun" says:

"There is just truth enough in Prof. Muensterberg's heterodox assertion to make it, at the first glance, plausible. It would be, as he says, ridiculous to compare the mockery of parliamentary institutions which is exhibited in Colombia, Venezuela, Ecuador, and the Central American republics with the systems of representative government the orderly working of which in Great Britain, France, Italy, Norway, and Sweden may well be admired. It is also true that if the whole of Latin America were to be partitioned to-morrow, as Africa was but yesterday, among European Powers, not one of those Powers, nor all of them put together, would seriously contemplate the overthrow of the independence of the United States. We will go further and admit the probability that the natural resources of Latin America would be turned to account more quickly and more fruitfully in the hands of Englishmen, Germans, Frenchmen, or Italians than they seem likely to be in the hands of the present occupants.

"It is, nevertheless, indispensable for us to continue to uphold the Monroe Doctrine, first, from motives of common humanity; and, secondly, from the view-point of our own national interests. Can Prof. Muensterberg deliberately advocate a reversion to the state of things which existed in the eighteenth century, when the Caribbean was the cockpit of the British, French, and Spanish? Must he not foresee, if he will suffer the past to interpret the future, that, if Latin America were partitioned among the European Powers, their respective allotments would always be looked upon thereafter as the prizes of intrigue and war? It is true enough, as we have said, that, economically and politically, the average Latin-American republic presents but a sorry spectacle, compared with the United States; but we must remember that it entered under grave disabilities on the experiment of self-government. The Monroe Doctrine, however, has at least assured to it the opportunity of trying to lift itself in the social scale by safeguarding it from foreign invasion and conquest. On the whole, for the last three-quarters of a century that doctrine has made for peace in Latin America, whereas partition would prove a sword.

"As for our actual and prospective traffic with Latin America, experience should have taught us that from all that part of it which should fall into German, French, or Italian hands our manufacturers and merchants would be barred.

"Then again, for strategic reasons too obvious to need emphasis, we, as owners of the Panama Canal, could not permit a European Power to occupy any part of the coasts of Central America, or of Colombia, Venezuela, and Ecuador. We have no wish to see ourselves placed in a position where, for the defence of our transmarine possessions, if not of our own shores, we should have to tax ourselves to maintain an army as large as Germany's, and a navy as large as that of Great Britain."

Of course there is a very small basis of reason in the "Sun's" argument, but we must recognize American public sentiment, even though it have no substantial foundation in fact; and the probabilities are that the majority of the American people would agree with the "Sun" on this point.

To speak of upholding the Monroe Doctrine from "motives of common humanity" is such balderdash that one despairs of ever inducing men to look at this question from the standpoint of sanity or common sense. It would be ten thousand thousand times better for us, for the Latin Americans themselves, and for the world, if England, Germany, or almost any other civilized power had unlimited control over the whole of South America, Central America, and Santo Domingo.

So far as the Caribbean becoming an eighteenth century cockpit is concerned, that is merely a bugaboo with which to scare old women and children. Nor need any importance be attached to the "Sun's" theory of strategics with reference to the Panama Canal. European powers already own numerous and strongly positioned islands in the Caribbean Sea, and their strategic relation to the isthmus is as advantageous as it could possibly become, unless they actually occupied Colon or Panama. A mere reference to the British possessions in the West Indies, the Bahamas, Barbadoes, Jamaica, with Turk's Islands, Leeward Islands, Trinidad and Tobago, Windward Islands, and British Honduras, to say nothing of the islands owned by the other powers, shows the absurdity of the "Sun's" argument.

The "Sun's" further superstition that our trade would in some manner be interfered with if Europe had control of South America is effectually answered in our chapter "The Logic of Trade," to which the reader is referred.

But although we have thus summarily disposed of the "Sun's" argument, we have not converted the editor of the "Sun," nor the great body of American people who share his views. There is in the American people a sentiment which, right or wrong, cannot be reached by argument, and that feeling amounts to a deep-rooted national

opposition to the extension of the power of European monarchies on this hemisphere, and in this feeling I must confess to share. We may call this sentiment a superstition; still it exists. To talk of permitting European countries to take possession of South America and partition it among themselves is a waste of words, for it would contravene the well-nigh unanimous public sentiment of the people of the United States.

If the Monroe Doctrine be sustained, we stand for barbarism, anarchy, pillage, murder, revolution, crime, dishonor, and infamy before the world. If we abandon it, we are morally certain that the civilized powers would speedily intervene to put an end to the present intolerable conditions, an intervention which would inevitably augment greatly their power on this hemisphere.

There is one way out of it, and only one which is consistent with our honor and dignity, our own interests, and with our duty to the rest of the world: that is for the United States itself to take possession of certain of these Spanish-American countries, establish law and order, and exercise such a supervision as will forever prevent a recurrence of the scenes of disorder we have described.

II. Protection of Civilized Men in Latin America

The United States is in honor bound to maintain law and order in South America, and we may just as well take complete control of several of the countries, and establish decent governments while we are about it. Peru, Chili, and Argentina are already fairly responsible governments. We ought not to interfere with them so long as they conduct themselves in a reasonably satisfactory manner. Mexico is an excellent government, and worthy of our best friendship. A stricter surveillance should be exercised over Costa Rica, Brazil, Uruguay, and Paraguay. These governments are not as advanced or as worthy of recognition as those named, but they are not wholly bad. There are evidences of genuine efforts at improvement, and some regard for the amenities of civilization and international rights, and a rather more decent spirit towards foreigners. Whether they will ever amount to anything or not, time alone will tell. They should be kept under the strictest friendly supervision by the United States. No marked internal or external policy should be permitted without our consent. They should be held under a quasi-protectorate, yet with such a minimum of interference with their affairs as would secure perfect security for life and property, and a reasonable measure of material and intellectual progress.

The Congress of the United States ought to pass an act for the protection of American citizens in these countries. This law should provide:

1st. That every United States consul and consular agent, or

diplomatic representative, shall have the right to go aboard any American vessel in any of the ports of these countries, whenever he may desire, and return without molestation, without obtaining the consent or permission of any of these so-called governments or their agents.

2d. That every American consulate in those countries shall be an asylum, and that none of said governments, or their representatives, shall enter such consulate for the purpose of making arrests, or for any other purpose, except with the consent of the United States consul.

3d. That every American citizen who has a passport from his own government, or from the American legation, or the United States consul, in any of these countries, shall be perfectly free to go where and when he pleases, in the absence of criminal process, without the necessity of having the passport, permission, license, or other authority of any military Jefe, or other representative of such governments, except in time of actual war.

4th. That no American citizen shall be detained or held, forcibly or otherwise, by these governments, or their representatives, in any civil case; nor in any criminal process, except when the facts on which such process is issued have been previously submitted to the United States consul, or other diplomatic representative, and he has certified that there is probable cause for such criminal process.

5th. That no American citizen shall be prevented from entering an American vessel in any of the ports of said countries, nor shall he be required to secure from such governments, or their representatives, permission to so enter such vessels, but the authority of the United States consul shall be sufficient, and this authority shall always be granted upon proper request, except when the United States consul is satisfied, from evidence submitted to him, that there is probable cause for detaining such citizen on criminal process.

6th. That none of said governments shall obstruct, or prevent, or levy tribute on, the free navigation of any river, lake, or other navigable waters, the navigation of which has ever heretofore been free, and all concessions or monopolies which have heretofore been or may hereafter be granted to prevent such free navigation shall be null and void in so far as they affect the interests of American citizens or companies.

7th. That these said governments are forever estopped from denying the validity and legality of any and all concessions or contracts which have been or may hereafter be granted by the *de facto* governments of such countries, or have been recognized by the United States, to American citizens or companies, or which have been or may be acquired by them, but that such concessions shall be and remain in full force and effect without any reference to the action of subsequent *de facto* governments, or any department thereof.

8th. That such governments shall not make any law, rule, regulation, or grant any concession or contract, wherein a distinction is made against the citizens or companies of the United States of America, or in favor of the citizens of said respective countries.

9th. That in such countries the United States consuls are authorized and directed to afford an asylum to the peaceful and law-abiding citizens of other foreign countries with which the United States is at peace, during periods of revolutions or other violence, or at any time when he may believe that the lives of such persons are in danger.

10th. That such governments, or their representatives, are prohibited from entering any American vessel for the purpose of removing therefrom, or otherwise molesting, any individual, no matter what the circumstances, except with the consent of the United States consul and the captain of such ship jointly; but if the authorities of said government allege that such person has committed a crime, and they shall submit the facts to the United States consul on which such charge is based, and if he is convinced that there is probable cause for such complaint, then he may retain such person secure in his custody and see that he receive a fair and impartial trial in a court of competent jurisdiction; provided that if the person shall be a citizen of the country where said vessel is lying, and shall have boarded such vessel in such port for the purpose of escaping arrest for crime committed by him, then it shall be the duty of the United States consul to deliver such person to the authority of such country; provided, further, that if such person is a foreigner, or if such person has boarded such vessel in another port of such country or of another country, *en route* for a port other than the one at which such ship is then lying, then neither the authorities of such port nor the United States consul shall have power to remove such person from such vessel; but if the evidence of crime against him is strong, he may be placed in irons, if deemed necessary, and carried to the nearest United States port where such ship touches, and there be placed in the control of the United States courts, to be dealt with the same as other persons who commit offences at sea.

11th. That whenever the United States consul or other diplomatic representative shall have satisfactory evidence that any authority, or other representative, of one of such countries is hostile and arbitrary towards American citizens or other civilized foreigners, or countenances, aids, and abets intrigues against them, or strives to unjustly and unduly oppress them, it shall be his duty to lay the facts before the American legation in such country, and if the latter shall find that there are just grounds for such complaint, the American minister, or other authorized diplomatic representative, shall demand of the Chief Executive of such country the immediate removal

from office and from all further connection with the government of such obnoxious authority.

12th. That the President of the United States is authorized and empowered to station such troops as he may deem necessary at the respective United States legations and consulates in such countries for their protection, whenever this may be required, by reason of revolutions or other violence, to afford protection to American citizens and companies, or the citizens of any other civilized foreign nation with which we are at peace.

III. The Dictatorships should be placed under a Civilized Government

Now, what shall be said of Venezuela, Colombia, Ecuador, Bolivia, Santo Domingo, and Haiti, and the rest of Central America?

They have sinned away their day of grace. They are semi-barbarous centres of rapine in an age which boasts of enlightenment. They are a reproach to the civilization of the twentieth century.

It is a waste of time to argue in connection with these States about sovereign rights. The United States should take immediate possession and jurisdiction of each and every one of them, without waiting for a pretext. It should govern them in precisely the same way as it governs other territory of the United States. The century of intrigue and bloodshed and bad faith in these countries should be brought to a close, and a new era ushered in more in harmony with the sentiments of the age. With the United States in control of South America, I venture to predict that within ten years we could take a Pullman car at Maracaibo and go straight through to Buenos Ayres without change, and in ten years longer it might be that we could step into another car and go to New York. Under the present régime such conditions would not be brought about in ten thousand years.

There are doubtless many persons who would concede that this ought to be done and yet hesitate to commit the United States to such a policy on account of the apparent magnitude of the task. Our people have not yet got over the idea that the taking of Porto Rico and the Philippines under our wing was a mighty feat, and the ravings of the "antis" have rather accentuated that belief. As a matter of fact, the Philippines and Porto Rico are only specks in the ocean in comparison with the immensity of England's colonial possessions.

If the United States were to take possession of the whole of the Western Hemisphere, from the Rio Grande to Cape Horn, the total area of its territory would be only about equal to that of the British Empire, and its population not more than one third as great.

What Englishmen can do Americans can do. The United States,

with vastly greater territory and population, is as truly a breeding-place of creative energy, of originating and productive enterprise, as England or any other country.

We may compare nations to men in this respect. There are men who have original creative power; men of character who inevitably control the great enterprises, who create wealth, who grapple with the forces of nature and reduce them to submissive obedience. As there are men of this kind, so there are nations which tower above others, not alone by their dominating intellectual power, but by their natural greatness. To this class belong the United States and England. They must rule, by virtue of their innate superiority, by virtue of the same qualities which place a great captain at the head of his army.

The reasons for the adoption of this policy may be summed up under three heads:

1st. The benefits which would accrue to the United States.

2d. The blessings which would be conferred upon the peoples of these countries.

3d. The advancement of civilization in the world and the consequent destruction of barbarism, anarchy, and disorder.

It would seem that, with the concrete example of England before our eyes, no very great argument should be required to show the incomparable benefit to the United States as a nation in controlling these great territories. It is a curious thing that the English, who are in all ordinary business matters extremely slow and conservative in comparison with Americans, should in this one matter so completely outstrip us in foresight and in a true apprehension of the right policy to pursue. If we are to become a great manufacturing nation, we must have outlets for our goods, and those outlets must be in countries where there are money to pay for them and the disposition to buy them. To develop the continent of South America properly will require twice as many tons of steel rails as it has required to develop the United States, for it is twice as large. It will require as much mining machinery, for the natural mineral resources of South America are unquestionably as great and as valuable as those of North America. The people who are now scantily clothed would, under proper conditions, be large consumers of our manufactured products. The manufactured production of the United States is now running parallel with the domestic consumption, and in a short time will overleap it. We must have markets, vast markets; for our productive capacity is great. If our workingmen are to be kept employed, if the prosperity of the United States is to continue, we must look ahead, and provide ourselves for outlets of our products. It has been truly said that when we export a million dollars worth of goods, at least $800,000 of money has been paid to our own people for the labor of their production. I am aware that every effort of far-

seeing statesmen to establish our future commercial prosperity on a sound basis calls forth protest from a certain class of mugwumps, who join the words "commercialism," "militarism," and "imperialism" as though they constitute a trinity of horrors.

I acknowledge no fault requiring apology or subterfuge in advocating for the United States the fullest measure of commercial expansion. The ambition to acquire wealth and sink deep the foundations of substantial material prosperity, national as well as individual, is not only highly laudable but inevitable. The talk about militarism and imperialism is entitled to no more consideration than is the crime imputed to those who favor "commercialism." England, the greatest colonizer of the world, not only has, next to our own, the freest and best government, but it is more completely and perfectly free from the domination of the military than is any other country of the world, excepting our own. Leaving out of consideration such countries as Russia and Germany, let any one institute a comparison between England and France or Switzerland, — both of them republics, the latter without colonies, — for the purpose of ascertaining the relative influence of the military in affairs of the government, and he will be convinced that of all the governments of the earth the one to which the word "militarism" could with least justice be applied is the greatest of them all — England. Nor may the word "militarism" be applied with more justice to the system of administration of the colonies themselves. Rather it may be said that in no other countries of the world, excepting the United States, not even in the most enlightened republics, is there such complete personal liberty and constitutional government as in those very colonies.

The larger a machine is, the steadier must be its motion. Great countries are more apt to be free, for they cannot be controlled by the individual whims of dictators, but must be under the operation of uniform law; and in proportion as a law becomes universal, it is liable to become mild and beneficent. Russia, a severe government in comparison with our own, is just, mild, and humane in comparison with Santo Domingo.

IV. Importance of Civilized Control

It seems unnecessary to emphasize the beneficent effects upon the people of those South American countries which would result from placing them under the American flag. One immediate and very important consequence would be that a man could go to sleep at night without fear of being assassinated. No one, unless he have slept for some years with one eye open and an automatic revolver within reach, can appreciate the delight of unmolested sleep.

Another blessing scarcely less appreciable would be the privilege of working and reaping the results of one's efforts. To-day, in South

America, military Jefes will not work, nor will they let any one else work. The enormity of this wrong can be only partially appreciated by those people in the United States who have personally observed the tyranny of the labor boss as displayed in its unvarnished ugliness in certain localities.

As fully explained in another chapter, the great majority of the people of South America are good people, — incapable of self-government, but fully capable of marvellous development under decent conditions. To those who wish to live in peace and accumulate a little property against old age or death, the American flag would be a beacon of hope. Rascals, intriguers, and the semi-bandit governing class are the only people whose liberties would in any wise be curtailed by the control of the United States.

Do I need to multiply examples in order to prove my contention? Is there any American so blind that he cannot to some extent perceive the blessings that have accrued to each successive territory which has come under the beneficent control of the United States? Look at that magnificent State, Texas, and that incomparable garden of the world, rich and beautiful California, and the rest of the splendid commonwealths which have been created out of the territory wrested from Mexico.

Suppose that territory had remained in the exclusive control of Mexico and Mexicans, and that the enterprise and capital of Americans had never entered it. Does any sane man believe it would ever have attained a fraction of its present prosperity? Even the progress of Mexico itself is due mainly not to internal activity, but to the stimulus of external enterprise exercised within its borders. Nor can any fault-finder truthfully assert that the rule of the United States in Porto Rico and the Philippines is any less promising. The mediæval systems of a century are not to be swept away in a moment, and the complete regeneration of a people is a question of time; but already much has been accomplished in both those colonies. Never before were they so well governed, never were they so clean, never was education so well looked after, public improvements so actively pushed, happiness and security of the people so thoroughly safeguarded, or such contentment and evidences of future prosperity as at the present time.

Size, distance, or inaccessibility of these countries constitutes no valid objection against this program. The world is apparently destined to be divided up among five or six great powers. The time has passed when we can permit the famines and pestilences and revolutions which grow out of barbaric or semi-barbaric conditions to destroy millions. With the world under the control of half a dozen civilized powers, wars would be unknown, and the chief function of the military would be its police duties. On this hemisphere the power which controls should be the United States.

We can travel around the world now in sixty days; we can telegraph around it in sixty minutes. The boundaries of New York were more remote and inaccessible from headquarters when the colonies declared their independence than are the furthest confines of the United States now. Steam and electricity have annihilated time and space. Washington could be placed in more intimate communication with the farthest point in the Western Hemisphere than was London with the boundaries of the United Kingdom one hundred years ago. So far as size is concerned, the whole Western Hemisphere would be more readily reached and controlled by one government now than were the thirteen colonies in 1776. The difference between civilization and barbarism is so immense that one not personally familiar with these wild countries can have no conception of it. There are places in Brazil to which it would require weeks for the central government to transmit an order. It would have to be carried thousands of miles on burros and in canoes. From the principal port of Colombia, Barranquilla, to the capital, Bogotá, requires something like seventeen days' journey — about twelve on river boats and five on muleback. There are vast sections in South America where a town might be wiped out of existence by fire, revolution, or earthquake, and nobody in the outside world ever be any the wiser for it. Railroads, which can only come with decent government, would change all this.

V. Methods of Government which should be adopted

It would seem superfluous to add any suggestions as to how the Spanish-American countries should be governed, and perhaps none is necessary; yet there are certain methods which should be adopted to govern successfully, and certain others to be avoided, and I may be pardoned for indicating some of them.

First, public order should be established and maintained, and as many revolutionary leaders should be imprisoned as may be necessary to settle permanently this question once for all. Criminals should be weeded out of the army and public offices, and sent to the penitentiary, where they belong. The crime of assassination should be uniformly punished by long imprisonment, and no sentimentality should be allowed to influence the government on this point. Crime should be mercilessly exterminated. It is needless to say that a good government is a terror to evil-doers only. Having with an iron hand put down revolution, anarchy, and crime, the next question arising would be the administration of the several governments. Wisdom would here prescribe that we should place the local administration of these respective governments as far as practicable in the hands of the people of those respective countries. By this I do not mean to suggest that the present military gang of semi-brigands should have anything

to do with affairs, but I mean to select the really good, able, conscientious men, of whom there are tens of thousands in all Spanish-American countries, and throw the burden of administering affairs upon their shoulders so far as it may be possible. There are enough good men in Venezuela, Colombia, and San Domingo to establish governments admirable from every point of view. Some of them hold office under the present administrations, but they have no real power. If government positions were an honor instead of a disgrace, if permanency and dignity attached to them, there is no reason why the best men of Spanish America should stand aloof from this service, nor would they. They know the needs and peculiarities of the people, many of them have their affection and confidence, and under a stable and just government their work could be of great value.

More than this, the great mass of the people should be prepared for good citizenship as rapidly as possible. This is not the work of a day, perhaps not of even one generation, but the elements should be placed in operation without delay. Need I indicate what these are? A universal system of compulsory public instruction, manual training and technical schools, agricultural colleges, schools of mines and engineering, — in short, a duplication of our own excellent system of instruction; the development of industry of all kinds, — mining, agriculture, commerce, railroads, the building of bridges, good roads, paving the streets, construction of sewers and water-works. We should make one vast manual training and technical school out of the whole continent.

As fast as these people are capable of exercising the functions of citizenship, they should not alone be permitted, but should be encouraged, to take an active part in the government. Every one who is competent and qualified to vote should be allowed to vote for local and legislative officials within safe restrictions, and this privilege should be extended to them as rapidly as they are really qualified, until they finally have the same unlimited voting privileges which we ourselves enjoy.

It is not alone the height of wisdom and far-sighted statesmanship, but absolutely essential to their welfare and ours, that they be taught to really and truly govern themselves as soon as possible. To attempt to thrust the responsibility of self-government on a people who are in no sense prepared for it is an absurdity; nay, it is as truly a crime as it would be for a father to desert his son in his infancy to grow up uneducated among criminals or degrading surroundings.

With regard to the mechanical organization of the administration a word will not be amiss. The number of alleged republics in Latin America is ridiculous; they are like freaks in a dime museum. What would be said if it were proposed to create a sovereign Commonwealth of Rhode Island, or the Republic of Hudson County, New Jersey, or a United States of Connecticut? Yet Rhode Island, Hudson County,

and Connecticut are more populous and immensely more wealthy than any one of several of these Spanish-American countries.

The following is a table of the comparative areas of some of the alleged Spanish-American Republics:

	Square miles
Cuba	41,655
Haiti	10,000
Santo Domingo	18,000
Guatemala	63,400
Salvador	7,225
Honduras	43,000
Nicaragua	49,200
Costa Rica	23,000
Paraguay	98,000
Uruguay	72,110
Panama	31,570
	457,160

From this it will be seen that eleven of them combined are not as large as the Territory of Alaska, and not more than sixty per cent larger than the State of Texas.

When it is reflected that most of these countries are in continual revolution, and that their wars with one another or with other powers are frequent, the absurdity of the multiplicity of alleged sovereignties is manifest. There is not and cannot be any unity of purpose or action among them touching the general welfare of them all. It is as if every cog wheel were revolving independently, with cranks, levers, pulleys, and belts all in a jumble, instead of being blended into one harmonious whole, constituting an effective machine. This does not imply that a central government should assume the functions of the respective local governments. Quite the contrary, the people should be educated as rapidly as possible to manage their local governments by the free use of the elective franchise, and their autonomy preserved.

But there are many vast responsibilities which would devolve upon a central government. In its hands should be the military power. The building of railroads, not only locally, but those vast systems which ought to span the continent, should be under its exclusive supervision. In short, the central government should exercise those general powers which the government of the United States has with reference to the several States and the territories under its control.

What shall be the final destiny of these countries no man can tell. What part the United States is to take in the mighty onward march of affairs is likewise shrouded in the future. But any reasonable man must see clearly that the present condition of anarchy cannot continue indefinitely in Spanish America. It is not they alone who suffer, but the whole world; and not they alone, but the whole world, would be benefited by the United States taking possession of them.

CHAPTER XII

THE ETERNAL MARCH OF PROGRESS MUST GO ON

For if happy circumstances bring it about that a powerful and enlightened people form themselves into a republic which by its very nature must be disposed in favor of Perpetual Peace — this will furnish a centre of federative union for other States to attach themselves to, and thus to secure the conditions of liberty among all States, according to the idea of the Right of Nations. And such a union would extend wider and wider in the course of time, by the addition of further convictions of this kind. — IMMANUEL KANT, 1795.

I

THE social philosopher must look at all sides of every proposition. He must divest himself of all prejudices and predilections, and weigh the causes and effects which control the destinies of human organizations, with the same spirit and exactness that Adams and Le Verrier calculated the location of Neptune.

I have shown, by a thousand facts and arguments, that the barbarisms of Haiti, Santo Domingo, Central America, Venezuela, Colombia, Ecuador, and Bolivia are outrages on the civilization and progress of the human race; that they are utterly devoid of internal elements of regeneration; that the only hope for betterment lies in the influence of exterior civilization; that the Monroe Doctrine has stood as a wall of fire for a century between savagery and the possibility of outside help; that this state of affairs is a disgrace to the world; that it is incumbent on civilization to wipe out this black spot on the face of the earth; and that the United States, in virtue of its geographical location, self-interests, and moral and physical power, is the one nation of all the world to undertake this task.

I have pointed out in a general way the marvellous expansion of the European powers in the nineteenth century, greater by far than the world movements of the fifteenth and sixteenth centuries, or even of the eighteenth century, — wherein the English have spread over the entire northern part of India, have absorbed Burmah, established a protectorate over Egypt, developed the greatest commercial port of the world at Hong Kong; wherein the French have settled Tunis and Madagascar and Tonkin; wherein Russia has annexed nearly all of Central Asia, and even Japan has made a colony of Formosa and established a protectorate over Corea; wherein Germany has extended its power, not

only by the Prussianization of States adjacent to it, but also by pushing out its tentacles of commerce in every direction; wherein the continent of Africa has been partitioned among the great powers and is now on the road to civilized development; — and our studies have led us to see that this overflow from civilized powers into the barbarous countries must continue, because the enormous increase of population in civilized powers continues and the area of the earth's habitable surface is limited.

II

But one question still remains to be considered, — a question of supreme importance. It is the problem of good faith, — the thought as to whether the people of the United States would go into Central and South America to govern honestly and develop them; to establish manufacturing, agriculture, industry, commerce, education, good government, as the English have done in India; or whether we would go there to exploit them and provide jobs for our own thieving politicians, as Spain did.

Better that Latin America should remain barbarous, that it should be governed by its own insufferable military bandits, than that a foreign tyranny be established under rulers as corrupt as their own!

Is the history of the United States such that a discussion of this question can be considered impertinent? By no means! The carpetbag governments established by the United States in the Southern States at the close of the Civil War stand as a monstrous reminder of the doctrine of total depravity. This fratricidal struggle, — to my mind the greatest crime in all history, — brought on by a handful of lunatics on both sides, and made possible by an almost universal fanaticism and the entire abdication of Reason, had left the heroic people of the South prostrate before overwhelming force. They had fought with unparalleled bravery for a construction of the Constitution of the United States which their ablest men honestly maintained. With incredible valor they had written their deeds on the page of history, — a record of glory, suffering, and daring. And the end had come; the Lost Cause was forever lost. That great general and noble American, Robert E. Lee, had surrendered his army to that noble American and great general, Ulysses S. Grant. Grant had received it with the magnanimity of a great soul. In that act the hatred and vindictiveness of the war should have rolled away, and brother should have again clasped brother in a happy reunion of a mighty family.

But no. In a fell hour the gentlest and purest heart of this nation was stricken by the hand of an insane assassin. This calamity, shocking to the North, was black and irreparable to the South. Lincoln had stood, with charity towards all, with malice towards none, ready

to work with the old Commander to re-establish happiness and prosperity in the beautiful and desolate South.

The people of the South were not to blame for Lincoln's assassination, but every thief and cut-throat, every murderous mountebank, every rascally politician throughout the country, saw in this tragedy his opportunity for loot. A hundred thousand bayonets were placed at the command of unfeeling men; many negroes, brutalized and rendered bold and desperate by the encouragement of their alleged protectors, gloated over their fallen masters and raped their wives and daughters. Outrages beyond conception or description, under the pretence of law and under the authority of the United States government, were perpetrated, not upon aliens and oppressors, tyrants and enemies, but upon our own brothers, their wives and daughters, — upon a race of men who in splendid valor, pride, superb daring, patient long-suffering, and personal honor, has never been surpassed. It is not believed, however, that such a history can ever be repeated.

The strongest guaranty that the government of the United States will never again become the oppressor lies in the fact that a great section of our country realizes from bitter experience how intolerable is oppression; and it must be remembered that this outrageous tyranny, the carpet-bag governments, grew out of an attempt on the part of the United States to relieve another form of oppression no less intolerable, that of slavery.

There are security and stability in justice, and in justice alone. Let us therefore be just; let us be true to all men, and play our part in the drama of life without fear.

III

We must, therefore take possession of these countries and govern them; there is no help for it. We may not wish to do this; we are compelled. We must do it in order to escape greater perils to ourselves and to them. We cannot blind our eyes to the fact that there is not and cannot be any civilization in them; that there is no good faith in them; that good faith is the very corner-stone of civilization, and that no civilization is possible without it. They are a frivolous people, and the great mistake which the United States has made is that it has taken them seriously for so long a time.

There is no good faith in Central or South America, as Bolívar truly said,—neither in their governments nor among their citizenship. Every enterprise is destined to be blackmailed to death in the worst of these countries, such as Venezuela and Colombia. The individual despoiler sees the government take the lead, and he loses no time in following the example set. What is to come of all this? The United States must take possession of the worst of those countries — for their sake, for our own sake, and for the sake of the world.

We must grow morally and materially, individually and nationally, internally and externally. Cessation of growth means the beginning of decay and ultimate death. We are bounded on the north by a free people and the eternal snows; we can go no further there. On the east the three hundred millions of Europe stand like an adamantine wall. No less civilized than ourselves, they likewise are seeking outlets for their surplus millions. To the west the hordes of Asia forever bar the path of our progress. To the south the finger of destiny points. My tale is told. The naked, horrible, dreadful truth I have laid bare without mercy and without fear. And yet the reality is worse than the picture; the shadows are deeper and more fearful than their portrayal. The surgeon's knife alone can remove the ulcers of Latin America; they are too deep for remedies, too widespread for caustic.

What will he do — I refer to the Great American Voter — in view of this diagnosis so laboriously performed for him? Are we Americans so ignoble that we will permit without dread rebuke the wrongs herein described? Have we no spirit, no sense of honor, no manliness? Shall we have received the priceless heritage of liberty, of good government, of high ideals, and with craven spirits wallow in the mire of political pestilence? Are we so weak that no insult or outrage can stir us? If we have not manhood enough to resent brutal extortion practised on our own countrymen, ought we not at least to blush when the Flag of Freedom is dishonored?

I have known men who were men. When they saw the acts of these tyrants, — when they saw women and children driven into the woods like wild beasts; when they saw men loaded with chains, with sunken cheeks and hollow chests, and the death glaze in the eyes; when they saw waste places covered with grinning skulls and ghastly white bones and blackened ruins, — then I have seen the blood rise, the teeth set hard, the face black as a thundercloud and livid with rage.

Oh that we had Americans who were Americans, offspring of those who fought at Bunker Hill, at New Orleans, at Monterey, at Gettysburg! The roar and thunder of this army, of this multitude, will yet arise from near where the heart of this nation beats. The well-groomed, fed, contented East, with its bags of gold and bundles of bonds, will never institute a reform or a genuine advance, unless it is pushed with many a jolt and set-back from the ranks of the working masses. But if I had a message to the Great United States, I would stand upon the highest, most rugged peak of the Alleghanies, and shout the sentences into the splendid West, the glorious South. The splendid South, the glorious West! — there are the real brains and heart of the American nation.

The wonderful, tremendous West and South, in peace placid and gentle, but when oppression galls and outrage makes bitter, how

strange and terrible is its changed aspect! Woe to the tyrant who arouses this mighty people to the necessity of meting out swift and condign punishment for his crimes!

I see the United States of the future great and glorious beyond dreams of splendor. I see its citizens, by the hundreds of millions, free and happy as the winds of the mountains. I see it purifying itself as with fire, establishing justice and righting wrongs, and turning the searchlight of progress into the dark places. I see it ploughing up the anarchy and barbarism of Latin America as though they were poisonous weeds in a garden, and in their stead, like flowers, education and prosperity bloom. And I behold this mighty people, strong and gentle, fearless and just, enterprising and honest, educated and industrious, uphold with stern determination the banner of civilization over a land of smiling fields, of gilded spires, and shining domes.

APPENDIX

I

AS this work is going to press in September, 1908, the diplomatic relations of Venezuela have become complicated in the extreme, and competent observers are expecting another blockade by the European powers. The dictator of Venezuela has shocked the world, not only by his atrocities upon foreigners, and on the respectable citizenship of Venezuela, but also by his wanton disregard of international procedure, and by the acrimonious insults which he has showered upon the representatives of nearly all foreign countries. One of the first nations with which Venezuela broke diplomatic relations was France. The French Minister, M. Taigny, went on board a French liner at La Guayra, and Castro's police refused to allow him to return on shore. Thus without baggage, or an opportunity to arrange his personal affairs, he was in this brutal manner expelled. Diplomatic relations were also broken between Colombia and Venezuela, and between the United States and Venezuela. In July the Venezuela government dismissed M. de Reus, the Dutch Minister. This occasioned predictions of an armed conflict between Holland and Venezuela, but it appears that the degenerate tyrant, Castro, from his vantage point behind the august Monroe Doctrine, with his army of licensed criminals, is able to trample out and destroy civilization in Venezuela, and defy the civilized powers of the world.

II

Personally I am concerned very little about the insults heaped upon foreign powers, or the outrages committed upon foreigners by this degenerate savage and his army, because foreigners who reside or trade in Venezuela well know that they are doing so at their own risk, and if foreign governments are so devoid of self-respect that they will permit a savage to insult them with impunity, it is obviously no affair of mine.

A matter which is worthy of the most serious attention, however, is the fact that under the military domination of Cipriano Castro, the highest type of Venezuelan manhood and womanhood, as represented in the best families of that country, has been terrorized, outraged, imprisoned, tortured, and assassinated, or exiled, to such an extent that there is to-day no civilized and civilizing element among the Venezuelan people themselves which has not bowed its neck to the yoke of the tyrant. Thousands of the humble citizens of Venezuela have been imprisoned or recruited into the army, or otherwise deprived of life and liberty at the whim and caprice of the dictator. But this vindictive, mercenary tyrant has not stopped at this point. He has, on the contrary, carried his program of hatred and extortion into the homes of the wealthy, the learned, the leaders of society and education, by no means ex-

cluding the clerical profession. While several thousands of the humble citizens of Venezuela have been immured in dungeons, at least hundreds of the most eminent citizens of that commonwealth have suffered a like, or even more terrible, fate. These men are as a rule arrested and imprisoned without the slightest pretence of a judicial trial, or without warrant of complaint whatever. The imprisonment is carried into effect by the direct order of the dictator tyrant, sometimes because of suspicion or personal dislike, at other times because of some secret complaint made by an enemy; and oftentimes, it is charged, because the sister or daughter of the victim has refused to become Castro's mistress. The names of these victims are not published; they are not brought before any court; no record is made of anything pertaining to the case. In this manner the most distinguished men of Venezuela are seized in a moment without notice by a soldier and thrust into dungeons, compared with which the black hole of Calcutta was a palace. The unfortunate one imprisoned is utterly without redress. He is weighted down with the horrible grillo, frequently chained to some cadaver, or to some prisoner suffering from a loathsome disease, in a dark unventilated cell, covered with filth, with polluted water to drink, and little or nothing to eat. To these prisoners death is the greatest blessing of which the mind can conceive.

Under the constitution of Venezuela, political prisoners and also prisoners of war must be put in liberty as soon as peace is established, but during the period of Castro's reign of graft and terror, covering nearly nine years, every prison in the country has been filled with unfortunates of this class, held in absolute violation of the constitution. In these pest holes of death have been imprisoned a vast number of honorable and noted men, the very flower of Venezuelan citizenship. Hundreds, perhaps thousands, of Venezuelans, more fortunate than the rest, have escaped from the country and now live in exile on foreign shores, — many of them, persons of wealth, living in extreme poverty, their property having been embargoed by the omniverous dictator.

III

Among the honorable and notable citizens of Venezuela who have been imprisoned by the unscrupulous tyrant, many of whom have been tortured and assassinated, is the list herewith given. These are only a few prominent cases occurring within the knowledge of the author, or his immediate personal friends. A considerable number of these unfortunates, it will be observed, are clergymen of the Catholic church. Many of them are professors, editors, distinguished scholars in other walks of life, whose only offence is that they have failed to join in the bedlam of maudlin man-worship at the shrine of the tyrant dictator. If authentic records were kept and could be produced of the iniquity thus practised by Castro, they would shock credulity, and horrify mankind.

Gen. José Manuel Hernàndez
Gen. Antonio Paredes
Dr. Alejandro Urbaneja
Rev. Dr. Francisco J. Delgado
Dr. Elíminas Finol
Dr. Edesio Finol
Dr. Pedro Vicente Mijares
Dr. Augustin Vallenilla Lanz
Dr. Alberto Smith
Dr. Francisco de P. Reyes
Lucas Ramella
Rafael Arévalo Gonzàlez

Dr. Francisco E. Bustamante
Gen. Pedro Julián Acosta
Gen. Ramón Guerra
Dr. Manuel Clemente Urbaneja
Dr. Carlos Grisanti
Dr. Vicente Betancourt Arámburu
Dr. Guillermo Tell Villegas Pulido
Dr. Juan Pietri
Gen. Leonsio Quintana
Anselmo López
Francisco Marrero
Gen. Samuel Acosta
Dr. Miguel A. Seco
Dr. Ovidio Abreu
Dr. Atilano Vizcarrondo
Dr. Manuel A. Fonseca
Dr. Laureano Villanueva
Dr. Eduardo Cellis
Dr. Carlos Urrutia
Gen. Alejandro Ducharme
Gen. Vicente Sanchez
Gen. Federico Escarrá
Gen. Augusto Lutowsky
Gen. Luis María Andueza
Dr. Francisco González Guinán
Narciso Sucre Paredes
Máximo Lores
Rafael Pittaluga
Dr. Elías Rodriguez
Cayama Martinez
Gen. Pedro Oderíz
Gen. Lorenzo Guevara
Gen. Eleazar Urdaneta
Capitán de Navío, R. Pellicer
Col. Augusto Blanco Fombona
Col. Oscar Blanco Fombona
Isaac Van Praag
Gen. Pablo Guiseppi Monagas
Gen. Francisco Vásquez
Rodolfo Hernández
Gen. Felipe Sierra
Gen. Ceferino Castillo
Gen. Jeremías Arena
Gen. Ramón Castillo García
Gen. B. Marquez Fuenmayor
Dr. Tomás Aguerrevere Pacanís
Gen. Vidal (brother of Gen Zoilo Vidal)
Gen. Diego Colina
Dr. José María Gil
Gen. Antonio Urbina
Dr. Odoardo León Ponte
Dr. Fsco. de P. Meaño Rojas
Gen. José Dolores Ríos
Col. Leopoldo Taylhardat
Gen. Nicolás Rolando
Gen. Antonio Ramos
Gen. Pablo Guzmán
Baltazar Vallenilla Lanz
Gen. Camilo Merchan
Alberto Suiny, C. E.
Gen. Roberto Pulido
Gen. Francisco Franco
Gen. Faustino Vargas
Felipe Garbiras
Col. Reyes
Gen. Urbina (of Guayana)
Gen. Baudilio Gutierrez
Gen. Horacio Ducharme
Gen. Pedro Ducharme
Dr. Pedro R. Bastardo
Dr. José María Ortega Martínez
Gen. Francisco Batalla
Gen. Jacinto Lara
Gen. Ezequiel Garmendia
Gen. N. Solagni
Gen. Rafael Parra
Rev. Dr. Adolfo López
Rev. Dr. J. M. Zuleta (of Maracaibo)
Rev. Dr. Gómez
Gen. Ricardo Castillo Chapellín
Col. Agelvís
Col. Miguel Benedetti
Col. Juan Tarquis
Col. Ismael Arellano
Col. N. Guerrero
Gen. Bruno Borges
Gen. Baudilio Gutiérrez
Arturo Sanz
Eduardo Montauban
Gen. Manuel Antonio Matos
José Gabriel Núnez
Gen. Torcuato Colina
Gen. Pilar Medina
Gen. Desiderio Centeno
Gen. Rafael Carabaño Izarra
Col. N. Prieto
R. Arévalo González
Eduardo Porras Bello
J. I. Pérez Bermudez
Dr. José Antonio Paz Castillo
Gen. Pedro Manuel Guerra

Dr. Claudio Bruzal Serra
Dr. Eduardo Calcaño
Francisco Travieso
Gustavo Betancourt A.
Ramón Farrera
Gen. Tomás La Rosa
Gen. Santiago Hernández
Dr. Santiago González Guinán
Delfín Aguilera
Martín Perez
Oscar Larrazabal (Secretary of Gen. Hernández)
Dr. Rafael Cabrera Malo
Eduardo Dagnino
Gen. Martinez Miramonte
Dr. P. V. Lopez Fontainés
Luis López Méndez
Gen. Manuel Vicente Romero García
Gen. Maximiliano Guevara
Carlos Ibarra
Gen. Germán Perez
Col. Federico Peyer
Fernando Pumar
Carlos Pumar
Col. Pablo Ulloa

IV

Of the foregoing list of prisoners, torture and disease have left on many of them their ghastly mark. Dr. Elíminas Finol died in Maracaibo a short time after being liberated. His death was directly due to the suffering in prison. Gen. Pedro Julian Acosta has been in Fort San Carlos more than seven years. He is said to be a walking cadaver, the image of death.

Gen. Ramón Guerra was Minister of War when he was seized and thrown into prison without warrant or legal declaration of any kind. He was kept in prison for four years, and was finally liberated after having become completely blind.

Anselmo Lopez was put in prison at Caracas at the beginning of Castro's administration. At the time he was arrested they were having a carnival in Caracas, in which the whole population took part with delirious enthusiasm. Lopez was arrested by the police because he drew a revolver from his pocket at the time Castro was passing along the street in a carriage. The police supposed that he intended to murder Castro, but Lopez denied this and declared that he was merely taking part in the festivities of the occasion. He was a man of respectable antecedents, and there was no reason to believe that he contemplated any violent act towards Castro, except the fact above noted. Those who know the man believe him to be entirely innocent. He was taken to prison, and the most cruel torture practised upon him with the object of obtaining a confession, but he stoutly maintained that he had no such intention as that imputed to him. After eight years of beating and torture this man died in prison, according to reports, at Fort San Carlos.

Shortly after the imprisonment of Lopez, the police arrested Francisco Marrero, charged with having a part in the alleged conspiracy to murder Castro. The man was beaten half to death, and tortured cruelly, but not the slightest evidence was discovered against him. The judges, the public, and even those immediately around Castro, were thoroughly convinced of the innocence of this man, yet he was abused and tortured until death came to his relief. He was a respected father of a large family, which was left in destitution. On receiving the sacrament as he was about to die, his last words were "Soy inocente" — I am innocent.

Dr. Odoardo León Ponte was founder and proprietor of the periodical "El Pregonero," one of the most important newspapers in Venezuela. He

was imprisoned, his newspaper suppressed, and his printing establishment absolutely closed by the order of the tyrant dictator. After suffering the horrors of a Venezuelan prison, influential friends secured the release of this brilliant and scholarly, but unfortunate, journalist. Help came too late in his case, however; death had already set its mark upon him, and but a short time afterwards he joined in the great beyond the numerous victims of the mercenary tyrant.

Colonel Leopoldo Taylhardat, a military character of wide reputation, was captured by Castro's troops shortly after the commencement of the Matos revolution. He was imprisoned in Fort San Carlos where he became violently insane. No medical treatment whatever was given to him, no physicians were called, not the slightest thing done to alleviate his terrible condition. He was chained with eighteen other prisoners in a dungeon below the level of the sea. I need not describe the terror and horror of the other eighteen companions of this unfortunate. Inside of a year this man died without ever having received the slightest medical attention. The mother of Taylhardat, after doing everything in her power to secure the release of her son, directed a petition to President Roosevelt, praying him to intercede in his behalf. This letter was published in the United States and Europe. The unscrupulous Castro, upon learning of the publication of this letter, sent for the unfortunate mother and told her that if she would sign a document declaring that the signed letter was unauthorized and a forgery, and praising the government of Venezuela in terms which Castro had already written out for her signature, that he would release her son from prison. The mother, feeble and heartbroken, gladly gave her signature to the document placed before her in order to save her son. A few days after this she discovered the infamous deceit which Castro had practised upon her: her son had already been dead three months at the time Castro offered to put him in liberty in exchange for his mother's signature.

Gen. Antonio Ramos delivered his arms to Castro in virtue of an agreement of amnesty. The moment that the army of Ramos had surrendered in accordance with this treaty, Castro violated every provision of the agreement, and put Ramos and many of his men into prison.

Gen. Pablo Guzman, a prominent citizen, still remains in Fort San Carlos after five years of imprisonment. There was no warrant, no judgment by any court, merely the personal order of the dictator.

Colonel Reyes died from torture and bad usage in the prison of San Carlos.

Gen. Urbana, of Guayana, was also a victim of the cruelty of Castro, and died in the prison of San Carlos.

Gen. Horacio Ducharme has been in the prison at San Carlos for more than five years. It is said that his health is ruined.

Gen. Vicente Sanchez has also been a political prisoner for more than five years.

Gen. Pedro Oderíz is in San Carlos, where he has been a prisoner for longer than five years.

Captain R. Pellicer has been a political prisoner for more than six years in San Carlos.

Dr. Pedro R. Bastardo was the proprietor of two drug-stores in Caracas. He was imprisoned on demand of Tello Mendoza, one of Castro's most odious henchmen, who was at that time Minister of Hacienda. Mendoza

had a relative named Thielen also engaged in the drug business. Dr. Bastardo complained before the local tribunal that Thielen was bringing his drugs in without paying the duty, in violation of the custom law. This secured for Dr. Bastardo the enmity of Mendoza. A humbug charge of political hostility was made against the Doctor, and his imprisonment on the order of the raptorial Castro was the result.

Gen. N. Solagni has been for many years a prisoner in San Carlos.

The Rev. Father Gomez, a venerable priest of seventy years of age, was imprisoned at the whim of Castro, and loaded down with grillos in his cell.

Eduardo Montauban, President of the Bank of Venezuela, was thrown into San Carlos by orders of Castro, and all bank officials in our sister republic were given to understand that when the tyrant wanted money it should be forthcoming without argument.

Gen. Manuel Antonio Matos was one of the first prominent men of Venezuela to feel the wrath of the tyrant. He gained his liberty by paying to Castro a large sum of money. Shortly afterwards he left the country and organized a revolution which was called "Libertadora" one of the strongest revolutions which Venezuela has witnessed, and in which it is estimated more than twenty-six thousand lives were lost.

Gen. Torcuato Colina died from bad treatment and torture in Fort San Carlos.

Gen. Pilar Medina was also a victim of disease and punishment at San Carlos.

Gen. Desiderio Centeno was also a victim of the cruelty of the tyrant, which terminated in his death in prison.

Gen. Rafael Carabaño Izarra died in San Carlos after a long and painful sickness. The authorities refused to permit a physician to see him, and he had no medical aid whatever. During the sickness which resulted in his death, they even refused to remove the grillos which weighted him down, although it was claimed that, in his infinite mercy, Castro permitted them to remove a part of an excessively heavy grillo, and substitute lighter ones.

Colonel Preito also met his death in San Carlos.

Gen. Vidal, brother of Gen. Zoilo Vidal, met a similar fate.

Gen. Diego Colina was tortured and abused in prison so that he died within two or three days after his liberation.

Exactly the same experience befell Gen. Antonio Urbina, a distinguished native of Coro, highly honored throughout that portion of Venezuela. He died in the dungeon of Puerto Cabello with the grillos still fastened on him.

Dr. Claudio Bruzal Serra was imprisoned in the Rotunda at Caracas on Castro's order. He was only liberated a day of two before his death.

Dr. Eduardo Calcaño, a celebrated lawyer of Venezuela, a literary man, a noted and brilliant orator, was imprisoned at the caprice of Castro, and lost his life through the suffering and torture which he endured.

Francisco Travieso, a heavy and substantial business man of Caracas, member of the Board of Directors of the Bank of Venezuela, a citizen of high repute, was imprisoned by Castro because he did not see fit to place the funds of the bank at the disposal of the tyrant. He was chained like a dog in the dungeon of Puerto Cabello, where he became gravely sick, and shortly afterwards he died.

Ramón Farrera was tried by a Court Martial on the ground that he was a traitor, and sentenced to ten years' imprisonment. He is the only man of

all the foregoing list of honorable citizens with reference to whose imprisonment there has been the slightest pretence of legal formality.

Gen. Germán Perez was one of the richest coffee planters in the Valley of Güigüe. Castro and his generals desired the property of this honorable citizen, and they proceeded to seize it in their customary manner. Manufacturing a pretended political conspiracy, Castro seized General Perez, tied his arms and legs as a common prisoner, and took him to Valencia. Castro then proceeded to possess himself of all the property belonging to this citizen by means of a so-called embargo. In this manner the tyrant took possession for his own use and benefit of the great coffee plantation belonging to Gen. Perez, and of all the harvests of coffee on this plantation. He also looted the store belonging to Gen. Perez, and carried away all the merchandise contained therein. He also stole or seized the horses, mules, and cattle belonging to the hacienda, and turned this man's family out into the woods, as though they were beggars or wild beasts.

Fernando Pumar and Carlos Pumar were editors and proprietors of the well-known periodical "El Tiempo." These brothers were thrown into prison, and their newspaper property destroyed, on the order of the tyrant dictator. With the destruction of this newspaper, and also of the "Pregonero," there remains in Caracas only the "El Constitucional," which is the personal organ of the tyrant, and in addition a few sheets which devote their entire space to vile, indecent laudation of the dictator.

Colonel Pabalo Ulloa was imprisoned and severely wounded by a machete in the hands of an official at Fort San Carlos. The outrage was never in any manner redressed.

Gen. Antonio Paredes and eighteen companions, sixteen of whom were Venezuelans, and two Americans were assassinated on the 15th day of February, 1907, on board the steamship Socorro, in the Rio Orinoco, and their bodies were thrown overboard. This assassination was in obedience to the personal orders given by Castro. Gen. Paredes had organized a revolt, but he was captured and put to death. It should be remembered that the alleged constitution of Venezuela prohibits capital punishment under any pretext, while the Executive is not given any power by that document to order the imprisonment or execution of any person. According to the law of Venezuela, Paredes and his companions should have been accused before a competent court, and judgment against them should have followed in regular course. Castro, impatient of all legal restraints, had them removed from their prison at Rosario and carried to Barrancas, where they were embarked on the vessel Socorro, their hands and legs tied, and executed without mercy. It is not known that the United States Government has taken any action whatever with reference to the assassination of the two American prisoners. Hector Luis Paredes, brother of the man murdered, forwarded to the Corte Federal y de Casacion at Caracas, a denouncement of Castro as a murderer, and calling for his punishment for the crime of assassination. Under the constitution and laws of Venezuela, Castro was undoubtedly guilty of the crime, and should obviously be removed from the office the same as any other delinquent, but of course any judge who would for a moment entertain such a complaint, would himself be liable to lose his liberty or his life.

The foregoing are only a few of these cases. It is beyond the power of the writer to give any adequate description of the tyranny, brutality, and maliciousness displayed by Castro.

V

Throughout the remaining portion of Latin America general uneasiness and widespread disorder are observable. Haiti remains in the anarchistic condition with which all students of history are familiar. The venerable voodoo-worshipping negro dictator, Nord Alexis, seems to have given the country over to the license and pillage of his soldiers. In the early part of the year, Port-au-Prince was burned and looted, and a reign of terror inaugurated among the inhabitants. It was openly charged that adherents of Alexis were responsible for the outrage. A reign of terror throughout the island resulted in a vast number of assassinations of those suspected of disloyalty to the government. Foreign consulates and legations were filled with helpless refugees, but, disgraceful to relate, the American consulates, upon orders from Secretary Root, ejected these unfortunates, and at Gonaives it was reported that about thirty of them were murdered by Alexis' troops.

Throughout Central America the wildest scenes of license and disorder continue to be enacted by the lawless soldiery. Notwithstanding the peace conventions signed on the initiative of the governments of Washington and Mexico, war, brigandage, and terrorism continue throughout Guatemala and Honduras, and most of the other Central American states. In July, the military Jefe of Honduras, Davila, cancelled the exequaturs of United States Consuls Drew Linard and Dr. Reynolds. This arbitrary action was taken without any cause, except suspicions growing out of the diseased imagination of the Honduras military chief. The Washington government "protested" as it has so often done before.

Throughout Ecuador, Bolivia, and Paraguay extensive uprisings continue to menace civilization and prevent all economic developments.

Throughout Brazil, Argentina, and Uruguay there appears to be a spirit of unrest and preparation for military adventure. Brazil has announced a naval program little short of extraordinary, while Argentina is preparing to construct a fleet of 20,000-ton battleships, cruisers, and a torpedo flotilla, and also, it is reported, to fortify Mardin Garcia Island within three miles of the coast of Uruguay.

A revolutionary outbreak in Mexico during May, June, and July, 1908, again raises the question as to what will happen to our neighboring republic when Diaz dies or retires. This revolution which was headed by Dr. Fransisco Gonzales and Flores Magon, was suppressed without serious difficulty by the government troops. It was reported that revolutionists had about two thousand men in the vicinity of Chihuahua, that they had captured a town called Casa Grandes, and that they were to be strongly re-enforced by sympathizers from across the Texas border. The latter part of the program failed, owing to the vigilance of the United States authorities. The revolutionists were defeated after several bloody skirmishes, and Dr. Gonzales was lodged in jail. It was reported that of the revolutionists captured more than fifty were shot without trial.

Dr. Gonzales and his friends published broadcast serious charges against President Diaz and the Government of Mexico. Gonzales alleged that Diaz had absorbed the judicial, legislative, and executive functions of the government. It would be more truthful to state that there were no such functions of the government prior to Diaz, and that to-day in all ordinary matters, while

the legislative department voices accurately the sentiments of Diaz, the judiciary is fairly independent, and on an average superior to the judiciary of the United States.

Gonzales alleged that trials in Mexico are farces when they concern men who have opposed the government. That is true; but in Latin America a constitutional opposition to the government is an impossibility. Diaz is doing the best he can to maintain law and order with the elements at his command. Gonzales states that the seeming good order of Mexico is based upon an absolute despotism. There is much truth in this statement, but that is the only way in which law and order can be maintained in Mexico or in any other Latin American country; and law, order, peace, and protection to life and property are all things of supreme importance. The liberty which Gonzales would give the Mexicans would be the liberty of cutting each other's throats, of looting all property owners, of burning towns and massacreing women and children. We find the same sort of liberty in Haiti, Central America, Venezuela, and most of the Latin American countries. Dr. Gonzales alleges that graft in Mexico flourishes on a gigantic scale, and describes conditions connected with the granting of concessions, etc. A widespread acquaintance with local and state administrations in Mexico lead me to believe that in this respect Gonzales speaks the truth; but it may be said that graft and political corruption on the western hemisphere are by no means confined to Mexico, and if in order to extirpate them it is necessary to upset existing governments, then there would be a collapse and toppling over among governments on the western hemisphere, like unto the pulling down of the temple by Samson.

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