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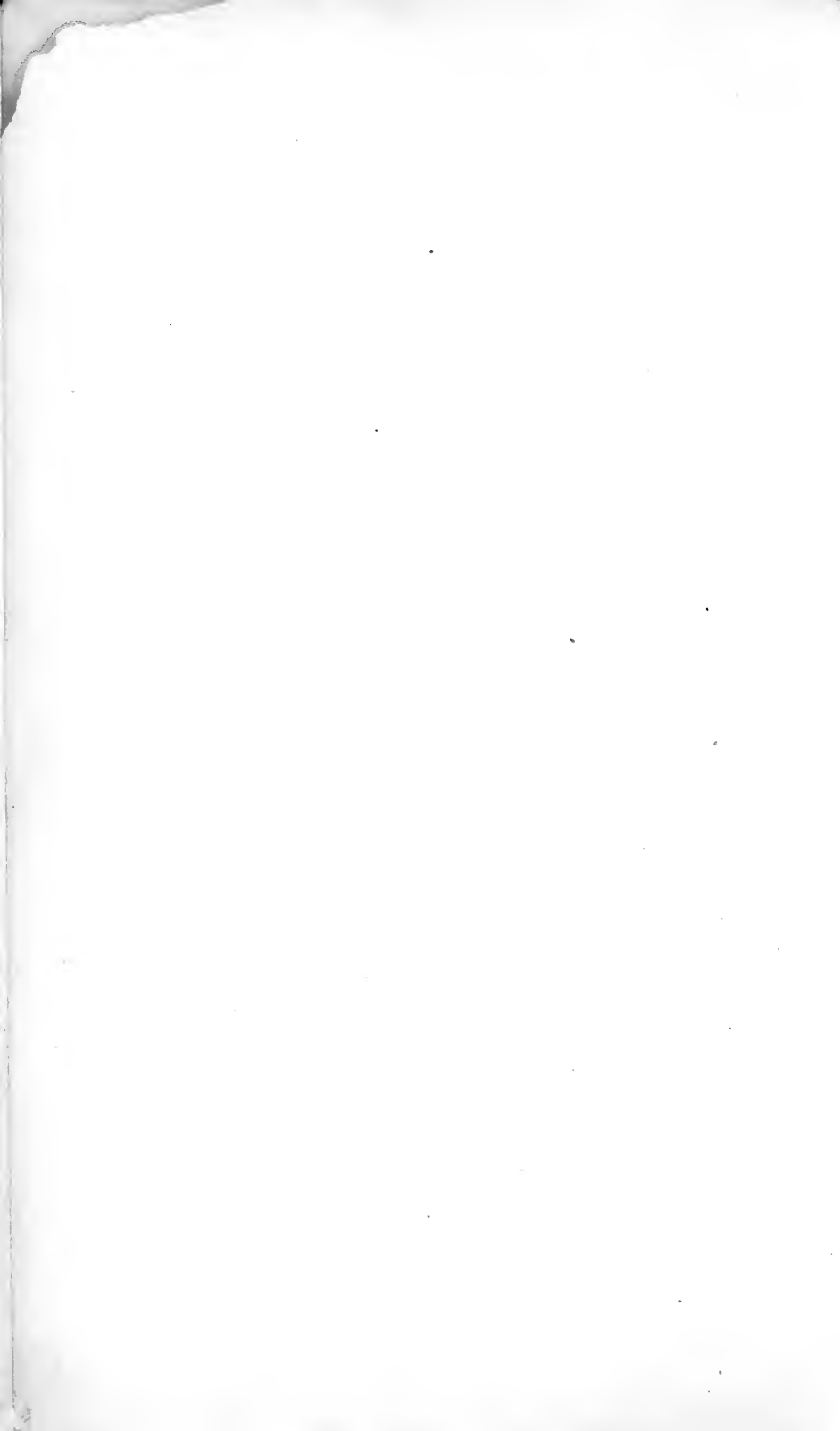
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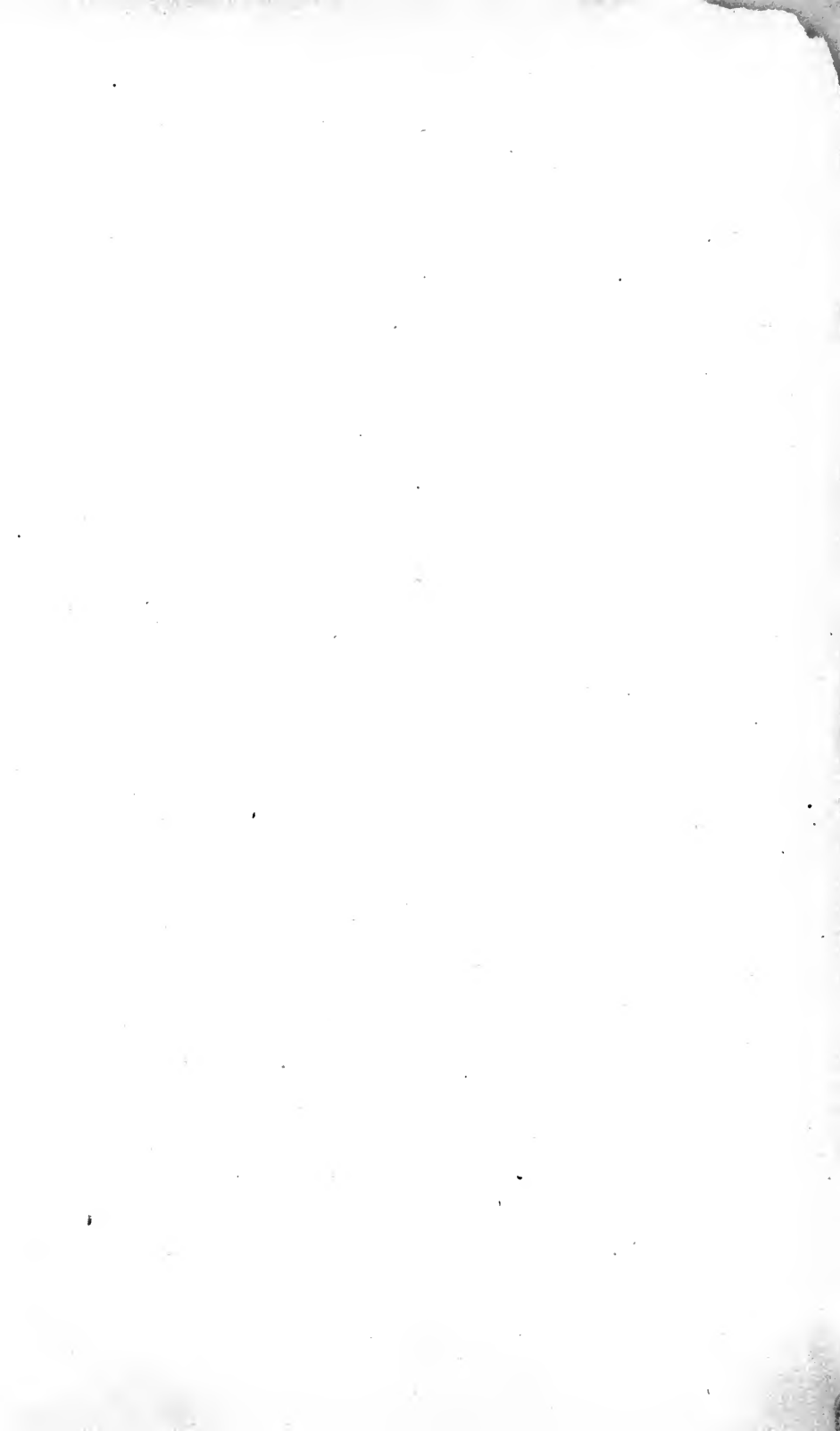
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This pamphlet does not relate to
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BRIEF EXAMINATION AND EXPOSITION

OF THE

Right of Detention, Visit, and Search

IN TIME OF PEACE.

EXAMINED ON LEGAL PRINCIPLES AND AUTHORITIES

by Henry Polkinhorn

BY

RICHARD S. COXE, LL. D.

COUNSELLOR AT LAW.

WASHINGTON:

HENRY POLKINHORN, PRINTER.

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NOTE.—This article, on a subject of deep interest, was commenced with the simple design of presenting, perhaps through a single column in a newspaper, a view of the purely legal principles which affect one of the most interesting questions which now subsist between the United States and Great Britain. It has swelled, unexpectedly, into its present dimensions—large when compared with the original design, small when estimated by the magnitude and importance of the subject discussed. It is hoped that it has been treated with mildness of temper and courtesy of language, and that while in no manner disrespectful to Great Britain, it will confirm Americans in their belief that our country has, upon this interesting subject, advanced no claim or pretension not perfectly founded in and well sustained by the highest authority, and which we never can or will surrender. R. S. C.

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ON

The Right of Detention, Visit, and Search.

The present aspect of affairs between the United States and Great Britain is calculated to awaken on both sides the most anxious solicitude, and certainly demands the most serious consideration. The exercise, by the cruisers of her Britannic Majesty, of a claim of right to detain on the oceans American vessels, while engaged in the prosecution of a lawful voyage, and sailing under the flag of their own country, in a time of profound peace, is conceded to be a flagrant outrage under any circumstances. To do this in the seas, so close to our own coast as the narrow passages between the several West India Islands and the territory of the United States, has at least the appearance of superadding indignity and insult to wrong.

It is not surprising, then, that the repeated recurrence of these insulting outrages should have kindled a deep feeling throughout the United States, or that some of our citizens should, under the strong sensibility to a supposed wrong, be disposed at once to retort upon the offenders with the alacrity and vigor which every hostile aggression, authorised or affirmed by a foreign power, would justly receive. Should Great Britain either have directed these proceedings, or assume the responsibility of them when brought to her notice by our Minister, such avowal can and will be considered in no other light than a public declaration of war. For years we have denied that any nation possesses the right

claimed and exercised by the cruisers of Great Britain; have refused to submit to even a modified exercise of it on the coast of Africa, as a means of repressing the slave-trade; and have given her distinctly to understand that any attempt to exercise it will be resisted by force of arms. When, therefore, under such circumstances, after such previous notification of the consequences which must result, any government directs or sanctions such proceedings, such conduct is tantamount to a declaration of war, and must be followed by general hostilities.

No formal declaration of war is required under the well recognised law of nations. (Every hostile act, directed or sanctioned by one government against another, is an act of war, and places the two nations in a hostile attitude.) We, therefore, await the response from England with anxiety, but with determination. On our side, a war, growing out of these proceedings, would be purely defensive. The aggressions have been wanton, deliberate, premeditated. They have been made with ample notice of what our national dignity, honor, and interests demand. They have been purely aggressive—not to repel any injury or insult, but to enforce against us a claim which we, denying its foundation in right, have avowed our determination to resist by arms.

It is important that the people of the United States should distinctly apprehend the true merits of a controversy which may lead to such results. It is equally unrighteous to enforce an unjust claim, and to resist or negative one which is well founded. If the claim which England asserts and undertakes to exercise be a lawful one, even a defensive war on our side, to prevent such exercise, would be unjust. If, on the other hand, her claim has no foundation in right, her aggressive acts, in support or execution of it, are as palpably wrong. If, then, it is clear that the justice of a war is, in no degree, dependent upon the question whether it be an offensive or a defensive one; if to assert and maintain a wrongful claim, by an act of hostility, be highly criminal, to repel such aggression cannot but be righteous. Independently of this

obvious truth, it may further be observed that, when one nation asserts a right which another denies, the ordinary courtesy which ought always to subsist between equals forbids the idea that either has been guilty of asserting what she knows to be untenable, but requires that each should be supposed honest and sincere in its respective opinion. To attempt by force, therefore, to compel acquiescence in a controverted claim, is discourteous and insulting. It carries with it, by distinct implication, the idea that the United States, in denying the right claimed by England, is not merely wrong in refusing to admit the exercise of this asserted right, but that such denial is not made *bona fide*, and is a sheer pretence, dishonorable as well as false in principle.

The distinct and positive assertion of the American doctrine, which recent events have elicited from so many quarters, demonstrates at least the honesty with which these views are entertained. Men of the highest and purest character—men of all parties, representing every variety of interest and all sections of our country—men most averse to any war in general, but more especially to one with Great Britain, are unanimous in their opinions and resolves. Their opinions are expressed in terms, and fortified by arguments, which, at least, indicate the sincerity with which they are entertained. Should an impartial world arrive at the conclusion that we have been wrong in these views, it is hardly to be conceived that any one would impute the error to any other origin than the fallibility of human judgment. This conclusion alone would sufficiently demonstrate the foul and insulting character of the wrong perpetrated by England, should she sanction or direct the continuance of the acts of which we complain. Should she be able to prove that we are wrong in the construction we have given to the law, until she also shows that we were knowingly, wilfully wrong, she will not have vindicated her conduct. The avowal of a determination to resist a claim believed to be unjust, honestly, publicly made, furnishes no pretext for a resort at once to force to establish the right of the party asserting it.

Other circumstances exist in this case. Before the present occasion, it is not known that England has ever at any one time attempted, by act or deed, to enforce this assumed right. Upon this subject it seems that an error has existed on all sides. It is alleged that this right of visit and search was one of the prominent causes which led to the war of 1812. This, it is apprehended, is a great mistake, and it is important that it should be corrected. Almost without intermission, from the time of the formation of our existing political institutions, until the year 1812, the two nations had never occupied the position they now hold, both being at peace. During the entire period, from the commencement of the wars originating in the French revolution, in 1793, until 1812, we were at peace and England at war, with the exception of the brief interval succeeding the treaty of Amiens. As a belligerent, the right of England to visit and search was never controverted by the United States. This right of visitation and search is one conceded by all the writers on the law of nations to a belligerent; and although for a time controverted by some of the northern powers on the continent of Europe, at least to the full extent claimed, or by them attempted to be modified and limited, it has never been denied by any jurist or statesman of this country.

Our difficulty with England stood on a wholly distinct ground. While we recognized the belligerent right of visitation and search of merchant vessels upon the high seas, we insisted that this being a right originating in and deriving its very existence from the law of nations, it was necessarily limited and restricted to objects over which that law had cognizance. That law, so far as relates to this subject, had reference to the relative rights and duties of belligerents and neutrals. It had nothing to do with the merely municipal laws or institutions of any particular nation. It authorised this visitation and search for the purpose of ascertaining whether the vessel or her cargo was neutral or hostile; whether there were on board contraband goods, or persons who were enemies. To this extent we always acknowledged

the right of a belligerent to examine, and the corresponding obligation of the neutral to submit to such an examination. Admitting this right, we consequently acquiesced in the legal conclusion involved in it, viz: that the right of visitation and search being a clear, undeniable, belligerent right, resistance to it was a wrong which would justify its enforcement by capture and condemnation as prize of the offending party.

These principles, not admitting of doubt or dispute on either side, have never been the subject of controversy. Our difficulty with England, anterior to the war of 1812, was of an entirely different character, involving questions to which distant allusion has been made in the foregoing remarks, but which are now to be more particularly noticed.

As has been said, the American government has uniformly recognized the right of visitation and search as a belligerent right, authorised and sanctioned by the law of nations, and, therefore, to find in that law the rules which justify its exercise; the subjects upon which it is to operate, the bounds to which it rightfully extends, and the restrictions by which it is to be limited. The British authorities, on the other hand, insisted that the right of visitation and search being, as all allowed, a belligerent right, entitled their cruisers to board a merchant vessel; and being once rightfully on board, their officers might continue the search, not only for the purpose of ascertaining whether the vessel or her cargo was neutral, and whether she had on board anything, or had done any act which injured the rights of the belligerent, but whether she had also on board any persons who, under the local or municipal law of England, owed allegiance to her, or were bound to military service under her. This claim obviously involved some most serious questions. The one was whether the belligerent right of visitation and search, being derived exclusively from the law of nations, was not limited to subjects and objects over which that law could operate. Second: Whether this right could legitimately be made the instrument, or afford the facilities for the enforcement of any purely municipal laws of the country of the belligerent. Third:

Whether, when the municipal laws of the belligerent which claimed the right, and those of the neutral upon whom it was to be exercised, were in antagonism, the former or the latter should prevail on board the neutral vessel. Upon these points the two governments differed. Independently of the argument on the part of the United States on the abstract question of right, the abuses and outrages, the insults and manifold personal injuries resulting from the actual exercise of the right claimed by England, were insisted upon and strongly urged. It was shown that, under color of this belligerent right of visit and search, the most gross outrages had been perpetrated, for which no or a very insufficient compensation had been made to the injured party. It was further insisted on that this right, to whatever extent it might be justified or allowed by the law of nations, conferred no authority to enforce the peculiar laws of the belligerent power, and therefore none, under any circumstances, to seize even an acknowledged subject of the British crown. That no individual could be arrested or taken on board an American vessel for a violation of English law, or to compel obedience to English institutions; and still further, that, as the United States, under her constitution and laws, allowed the subjects or citizens of any and every foreign government to become citizens of this country, and as such to be entitled to all the rights, privileges, and protection afforded to those who were native born, the rights of such were as perfect on board our own vessels as on our own territories. Thus we denied *in toto* the right of impressment on board an American ship.

Such were the matters in controversy between Great Britain and the United States preceding the war of 1812. If this is a correct representation of the case, it will appear that, during the whole of the discussions which preceded that war, there never occurred an occasion for England to advance the doctrine of the right of search or of visitation, or simply visit, as it has been recently designated by some English authorities, which will be hereafter alluded to, in time of peace.

Up to the year 1812, therefore, there never had been asserted by the British government or by any writer of any country, that such a right existed—certainly it was never carried into practice. From the termination of hostilities in Europe and America in 1814 and 1815, it has never been exercised by any power, unless specially provided for in some treaty. It cannot, therefore, be supposed that England means, at this late day, to claim the privilege of interpolating this new doctrine into the code of national law; but it is to be hoped and expected that she will disavow these offensive proceedings, and formally renounce the odious pretension upon which they rest.

It is certainly true, that Great Britain has formally promulgated her views on the subject, and that the government of the United States has, on the contrary, as distinctly denied their soundness. It is not the design of these remarks to dwell minutely on the diplomatic discussion of the subject. A very brief reference to this aspect of the case will be all that the occasion requires.

It is admitted by the representatives of both nations, that, in the negotiations even as late as 1841, this point was not discussed between Mr. Webster and Lord Ashburton; nor did the treaty concluded by those gentlemen, in any way distinctly touch it. It was, it is believed, first presented diplomatically in 1841, in a correspondence between our Minister, Mr. Stevenson, and the British government. In January, 1843, however, a despatch from Lord Aberdeen was communicated by Mr. Fox, the British Minister to this country, to the Department of State. That despatch was founded upon an interpretation which had been placed upon a brief paragraph in the last preceding annual message of the President, to the two Houses of Congress. While commenting upon the construction which this paragraph had received in England, his lordship takes occasion distinctly to avow, that his government claimed the right to visit merchant ships for certain purposes, in time of peace, and that this right it can never surrender.

Mr. Webster, in an elaborate despatch addressed to Mr. Everett in March, 1843, states, with great clearness, the British claim, the antagonistic doctrine maintained by this country, and discusses the matter at issue with his wonted ability.—(6 *Webster's Works*, pp. 329, &c.) The full reference which has been made to this document, and the ample quotations from it in the recent discussions in Congress, dispense with the necessity for further allusion to it on this occasion.

Even up to a very recent period the question may be regarded, so far as the two governments were concerned, as simply an abstract one. The one party had asserted a right, but had, as yet, never attempted to enforce it; the other, while controverting the validity of the claim, had never been required to resort to any act of resistance. Till within the last few months, such has continued to be the position of the case. Unfortunately its aspect has been changed by officers in the British service, and it remains to be ascertained whether the offensive proceedings of these functionaries have been under governmental instructions, or will receive governmental approval.

The point at issue, as is obvious, is to be determined by the law of nations. That law settles the right one way or the other, and if its authority is repudiated, it must be settled by arms. It becomes us, therefore, to examine the question by this standard, and if, under that code, we are shown to be right, we can, with entire confidence in the justice of our cause, resolve at all hazards to maintain it.

It is not my intention to extend this examination to any great length, for the simple reason that the case does not require a protracted discussion. I shall content myself with citations from, and comments upon a few books, the authority of which has heretofore been held, by both parties, in the highest respect.

As no one writer of eminence, unless it may be one hereafter to be commented upon, no judicial decision, no one distinguished jurist has been cited as maintaining the Eng-

lish doctrine, we are absolved from the necessity of comparing and weighing the relative value and authority of different expositors of the same code. It will, however, appear that the subject has not escaped the notice of distinguished and accomplished jurists in both countries; but with the single exception alluded to, and which will be more fully noticed in the sequel, all have concurred.

The first authority to which reference need be made, is the case of two Spanish vessels, before Sir William Scott, in 1803, (5 Rob. Adm., 36.) Condemnation of these vessels was sought on the ground of their having made resistance to the belligerent right of search, attempted by an English cruiser during the war which had recently broken out between Great Britain and France. The pendency of the war was, of course, uncontroverted, the belligerent right of search not denied, the actual resistance to its exercise unquestioned, the usual consequences of such resistance conceded. Notwithstanding all these grounds to justify condemnation, restitution was decreed. The learned judge held, that "it must be shown, in the first instance, that the vessel had reasonable ground to be satisfied of the existence of war, otherwise there is no such thing as neutral character, nor any foundation for the several duties which the law of nations imposes on that character. It is, therefore, a very material circumstance in this case, that at the time of sailing, no war was supposed to exist, in the knowledge of those who commanded these vessels. They sailed in perfect ignorance of war, and, consequently, unconscious that they had any neutral duties to perform." "The whole of this proceeding is, surely, as different as possible from a case of criminal resistance to a lawful cruiser; since there is no reason to suppose that the vessels knew, either that the assailants were commissioned cruisers, or that they themselves had any neutral duties to discharge." "If the acts of resistance had been much stronger than they appear to have been in the conduct of these parties, they would have been acts of innocent misapprehension only."

If, then, the resistance to an act of search by a belligerent

cruiser involved no criminality, and consequently did not subject the vessels to condemnation, because of ignorance that war existed, and therefore, that belligerent rights and neutral duties existed, although actual war existed, and the assailant was a commissioned cruiser of a belligerent nation, *a fortiori*, would it follow that, when in fact no war exists, and there could be no belligerent right of search or neutral obligation to submit to it, such resistance would be perfectly justifiable and absolutely rightful.

It ought further to be observed that this case, if recognized as authority, as clearly annihilates the recent English pretension, that there is a distinction between the right of visitation and search, and a right of visit. It appears from the judgment pronounced by Sir William Scott, that "when the British boats approached the Spanish vessels, on being asked what they wanted, they answered to come on board; to which it was replied from the Spanish vessels, that if they had anything to say, they might speak; *certainly it was not necessary for the purpose of information that they should have gone on board.*" "Nothing more passed than that the request to come on board was refused."

English lawyers and English courts, if not British statesmen, bow with reverence to the opinions of Sir William Scott, upon questions originating in the law of nations; and if the same paramount authority is not yielded implicitly to his judgment, in other countries, it is because it is believed, and upon substantial grounds, that even he yielded too much to the political and temporary views of his own government, in his administration of public law.

When this eminent judge pronounced this judgment, he entertained opinions upon the subject of the duties of those tribunals which administered the law of nations, which are so eloquently and beautifully expressed in the famous case of the Swedish Convoy, (*The Maria*, 1 Rob. 350,) and which on every account deserves to be quoted and remembered. "In forming my judgment," he observes, "I trust that it has not escaped my anxious recollection for one moment, what

it is that the duty of my station calls for from me: namely, to consider myself here, not to deliver occasional and shifting opinions, to serve present purposes of particular national interests, but to administer, with indifference, that justice which the law of nations holds out, without distinction, to independent States, some happening to be neutral and some belligerent. The seat of judicial authority is indeed locally here in the belligerent country, according to the known law and practice of nations; but the law itself has no locality. It is the duty of the person who sits here to determine the question exactly as he would determine the same question if sitting at Stockholm; to assert no pretensions on the part of Great Britain which he would not allow to Sweden in the same circumstances, and to impose no duties on Sweden which he would not admit to belong to Great Britain in the same character. If, therefore, I mistake the law in this matter, I mistake that which I consider as the universal law upon the question; a question regarding one of the most important rights of belligerent nations relatively to neutrals."

In another case, (the *Flad Oyen*, 1 Rob. 142,) Sir Wm. Scott expresses similar views. Mentioning a pretension of the French government, as an attempt made for the first time in the world, in the year 1799, he adds, "In my opinion, if it could be shown that, regarding mere speculative general principles, such a condemnation ought to be deemed sufficient, that would not be enough, more must be proved; it must be shown that it is conformable to the usage and practice of nations." "A great part of the law of nations stands on no other foundation. It is introduced, indeed, by general principles; but it travels with those general principles only to a certain extent, and if it stops there you are not at liberty to go further, and to say that more general speculation will bear you out in a further progress."

The manner and language in which these great doctrines were enunciated had not only a great influence in elevating the reputation of the individual judge from whose lips they flowed, but also to inspire among other nations an entire

confidence in the ability, integrity, and impartiality with which the law was administered in the prize courts of Great Britain. The doctrines themselves were not new—similar language had been employed by distinguished English jurists in the celebrated answer of Great Britain to the Prussian memorial, more than half a century earlier. That document was, however, a legal argument on behalf of a party in interest. On this last occasion it was an official judicial exposition of the law; the well considered, deliberate judgment of the ablest judge who had ever presided in one of the most august tribunals the world has ever seen.

One other citation we shall venture to make from the same distinguished authority, on an occasion when this great man had practically, at least to some extent, abandoned, or at least swerved from his first and most highly approved opinions. In the case of the *Fox*, in 1811, he thus expressed himself: "It is strictly true, that by the constitution of this country, the king in council possesses legislative rights over this court, and has power to issue orders and instructions which it is bound to obey and enforce; and these constitute the written law of this court. These two propositions, that the court is bound to administer the laws of nations, and that it is bound to enforce the king's orders in council, are not at all inconsistent with each other, because those orders and instructions are presumed to conform themselves, under the given circumstances, to the principles of its unwritten law." "The constitution of this country relatively to the legislative power of the king in council, is analogous to that of the courts of common law, relatively to that of the parliament of this kingdom." Yet, in the very same opinion, he thus avows his adherence to his former doctrines: "This court," he says, "is bound to administer the law of nations to the subjects of other countries, in the different relations in which they may be placed towards this country and its government. This is what other countries have a right to demand for their subjects, and to complain if they receive it not. This is its unwritten law, evidenced in the course of

its decisions, and collected from the common usage of civilized States.”

It would be painful to give utterance to all the comments which such an obvious antagonism of views might warrant. To some extent, they have been criticized in able comments by English authorities, some of which will be found in the 19th vol. Edinb. Review, p. 309, &c.

On the present occasion, we shall confine ourselves to a few brief comments.

1. The presumption that the orders in council have been and will be in precise conformity with the unwritten laws of nations, is, it seems to our minds, a palpable absurdity. If they should neither go beyond nor fall short of the unwritten law of nations, “collected from the common usage of civilized States,” then they are manifestly altogether supererogatory. They clearly cannot indicate what is or what can be collected from that common usage. If they add anything to it or detract anything from it, they do not conform to it as expounders of the general law, the foundations of which rest, not only as to its general principles, but as to their application to particular cases, and their modification under particular circumstances, on “the common usage of civilized nations,” to employ the language of Sir Wm. Scott himself, in the opinion last cited, the monarch of England has no right to attribute to himself the character of a legal expositor—whose expositions are to be recognized in courts administering these laws.

2. If the British government may claim this prerogative, upon every principle of the laws of nations, the same right of interpretation must belong to every other government. It is unnecessary here to dilate upon the consequences which must flow from the practical adoption of this theory. Each nation, being its own interpreter of that law, by which all are in theory equally bound, it is manifest, that it will constantly vary with times, occasions, and countries. It can no longer be said of it, *non est alia Romæ alia athenis*. In fact, it will cease to be law in any sense or to any purpose.

3. The doctrine thus enounced is in flat contradiction of the doctrine laid down by the same eminent judge in the case of the *Flad Oyer*, already quoted. There he insisted that the attempt by the French government in 1799 to introduce a new doctrine into public law, on mere general speculative principles, was irregular, that "more must be proved; it must be shown that it is conformable to the usage and practice of nations." No attempt has ever been made to justify the British orders in council on this ground.

4. The analogy, by which Sir Wm. Scott attempts to justify his departure from his former opinions, is by no means the least objectionable part of this opinion. He asserts that the admiralty court owes the same obedience to the orders of the king in council as the civil courts do to the acts of Parliament, each exercising and possessing complete legislative power; and that the presumption is that all these orders and instructions are and will be in accordance with the unwritten law, the usages of civilized nations. These are novel and monstrous doctrines; to an American mind they appear equally absurd and contradictory. No lawyer in England ever advanced the idea that Parliament only possessed the faculty and authority of an interpreter and expounder of the common or unwritten law of the land. It unquestionably does, under the institutions of that country, possess, and occasionally, but unfrequently, exercise this limited power of interpreting and expounding the common law. Such declaratory statutes, as they are familiarly and technically called, are very unusual, and even in relation to them, they are held, by all English jurists and courts, to be purely and exclusively prospective in their operation. They have never assumed the power, at least in modern times, of determining how the common law ought now or should have been formerly understood; they only declare how it shall thereafter be interpreted. The British Parliament possesses and constantly exercises its unquestioned power of changing the common law at its pleasure, to meet the varying exigencies of the times, to carry out its own

views of expediency or policy, and its acts supersede and annul all that is in the common law at variance with the statute. No presumption ever exists, much less to the extent of determining the validity of an act of Parliament, that its provisions are in accordance with and only designed to interpret the common law. The avowed object is to change that law. Indeed, some writers on English jurisprudence have contended that the common law itself originated in and derives its authority from acts of Parliament, now lost or obsolete.

If such analogy as Sir Wm. Scott suggests has any substantial existenee, and if the argument he deduces from it possesses any weight, it must conduct to conclusions which that eminent man had too much sagacity not to see, but which he had not the temerity to enounce. It asserts, substantially, that the British crown possesses the supreme and absolute authority to interpolate, at any time, and under any circumstances, such new doctrines and principles as may suit its present views and policy into the law of nations, under color of interpreting, expounding, or applying it. Indeed, Sir Wm. seems, in two memorable instances, to have sanctioned this practical result. In reference to the doctrine of blockade, as well as on the subject of the orders in council, his later decisions, utterly at variance with those he had formerly pronounced, can only be justified on the ground of this monstrous heresy. A power to give an authoritative interpretation of a law, and especially to direct its application to particular cases, not previously comprehended in its terms or recognized by general usage, necessarily assumes, either the legislative authority to enact or the judicial power to determine questions arising under it, or as in the instances cited exercises both functions.

It is apprehended that the complete vindication of the American doctrine, upon the subject now under discussion, might safely be rested upon the grounds already presented. No one authority has been exhibited in contradiction of it; no one adjudication affirming the views of the British govern-

ment ; no one indication of the usage of nations in conformity with it, although the challenge has been repeatedly given to produce one. Until the last few months, no one actual exercise of the right as claimed even by England herself has been intimated ; and, finally, it has been shown that her pretension is deficient in every characteristic which ought to distinguish a principle of national and universal law. On the general doctrines expressed by her own highest authorities, diplomatic, and in her legislature, or special adjudication made by her highest tribunals, the claim now advanced is wholly unwarranted.

It may be urged that this is still but negative proof, and to some extent this is conceded. What stronger proof, however, need be exhibited in resisting a claim than that which is negative? One party asserts a right ; it is denied by the other. The former holds the affirmative and is bound to support his pretension. He who denies may rest upon the simple denial, without more, until such proof is exhibited. We assert that England has shown no evidence of any consent or any usage of nations in general, sustaining her claim. This assertion remains uncontradicted. If erroneous, the error has not yet been exposed ; the gauntlet thrown down has not been taken up.

In these observations we have advanced further in the discussion. It has been shown, at least till our assertion is denied, and proved to be incorrect, that no such doctrine as that now advanced on behalf of the English proceedings, has any foundation in the law of nations, and that it is altogether of recent origin, even with herself, that the principle has never been maintained by any writer of authority, either in her own or in any other country.

We now go further. The next case to which reference need be made, among the decisions of Sir Wm. Scott, is that of *Le Louis*, reported 2 Dodson, 210. This is, in its connection with the present subject, the most important case to be found in the judicial annals of England. It occurred in the year 1817. It was elaborately argued by the most distin-

guished advocates at the bar of the Court of Admiralty, and it elicited, on the part of the counsel as well as the bench, proofs of the most laborious research, as well as the highest powers of reasoning.

The *Le Louis* was a French vessel, captured by an English cruiser in January, 1816, near the coast of Africa, and was supposed to be a slaver. It was a period of peace. An attempt had been made to visit and search her. She resisted, and a conflict ensued, which resulted in the loss of several lives on each side. A decree of condemnation on several distinct grounds had passed in the Vice Admiralty Court of Sierra Leone, and that judgment was brought before Sir Wm. Scott for review. One of the principal points in the case, and one of prominent importance, involved the questions of the right of a British cruiser to visit and search foreign vessels on the high seas, in time of peace, on the ground of her being employed in the slave-trade, and the right of the ship thus visited to resist the attempt by force. Dr. Lushington, (p. 216,) and Dr. Dodson, (p. 226, &c.,) denied, in the most peremptory manner, the existence of the right of visit and search in time of peace, and challenged their learned opponents to cite one judicial decision, or one authoritative dictum, to sustain such a claim. No such authority was produced. In the judgment, Sir Wm. Scott employs this language: "Assuming the fact, which is indistinctly proved, that there was a demand and a resistance, producing the deplorable results here described, I think that the natural order of things compels me to inquire, first, whether the party who demanded had a right to search; for, if not, not only was the resistance to it lawful, but likewise the very fact on which the other ground of condemnation rests is totally removed. For if no right to visit and search, then no ulterior right of seizing and bringing in and proceeding to adjudication, &c." Upon the first question, whether the right to search exists in time of peace, I have to observe two principles of public law are generally recognized, as fundamental. One is the perfect equality and entire independen-

dence of all distinct States. Relative magnitude creates no distinction of right; relative imbecility, whether permanent or casual, gives no additional right to the more powerful neighbor; and any advantage seized upon that ground is mere usurpation. This is the great foundation of public law, which it mainly concerns the peace of mankind, both in their politic and private capacities, to preserve inviolate. The second is, that all nations being equal, all have an equal right to the uninterrupted use of the unappropriated parts of the ocean for their navigation. In places where no local authority exists, where the subjects of all States meet upon a footing of entire equality and independence, no one State, or any of its subjects, has a right to assume or exercise authority over the subjects of another. *I can find no authority that gives the right of interruption to the navigation of States in amity upon the high seas, excepting that which the rights of war gives to both belligerents against neutrals.* This right, incommodious as its exercise may occasionally be to those who are subjected to it, has been fully established in the legal practice of nations, having for its foundation the necessities of self-defence, in preventing the enemy from being supplied with the instruments of war, and from having his means of annoyance augmented by the advantages of maritime commerce"—pp. 240-41. "At present, under the law as now generally understood and practiced, no nation can exercise a right of visitation and search upon the common and unappropriated parts of the sea, save only on the belligerent claim. If it be asked why the right of search does not exist in time of peace as well as in war, the answer is prompt: that it has not the same foundation on which alone it is tolerated in war—the necessities of self-defence. They introduced it in war, and practice has established it. No such necessities have introduced it in peace, and no such practice has established it"—p. 245. In page 225, Sir Wm Scott adverts to a very interesting fact, having an important bearing upon the question under consideration; he says, "The project of the treaty proposed by Great Britain to France, in 1815, is,

‘that *permission* should be reciprocally given by each nation to search and bring in the ships of each other;’ and when the permission of neutrals to have their ships searched is asked at the commencement of a war, it may then be time enough to admit that the right stands on exactly the same footing in time of war and in time of peace.”* Again, p. 257, “If I felt it necessary to press the consideration further, it would be by stating the gigantic mischiefs which such a claim is likely to produce. It is no secret, particularly in this place, that the right of search, in time of war, though unquestionable, is not submitted to without complaints loud and bitter, in spite of all the modifications that can be applied to it.” “If it be assumed by force, and left at large to operate reciprocally upon the ships of every State, (for it must be a right of all against all,) without any other limits as to time, place, or mode of inquiry, than such as the prudence

* In Mr. Walsh’s appeal, p. 375, published in 1819, there is a passage illustrating this point in Sir Wm. Scott’s argument. “In the first negotiations respecting the (slave) trade, which Lord Castlereagh opened with the French cabinet after the treaty of 1814, he suggested, as a desirable arrangement, the *concession of a mutual right of search and capture in certain latitudes*, between France and Great Britain, in order to prevent an illegal exportation from the coast of Africa. The Duke of Wellington made the proposition to the Prince of Benevento, but soon discovered that it was too disagreeable to the French government and nation to admit a hope of its being urged with success. I do not find from the history of the Conferences at Vienna, in 1815, that it was more than hinted in these conferences. Spain and Portugal, however, in their mock renunciation of the trade north of the equinoctial line, acceded to a stipulation of like tenor. Great satisfaction was expressed in Parliament with the arrangement, when the Spanish treaty came under discussion. *The introduction of the right of search and bringing in for condemnation, in time of peace*, was declared to be a *precedent* of the utmost importance.” On the same authority it appears that, in June, 1818, Lord Castlereagh addressed a special letter to the American Minister, enclosing copies of the treaties made with Spain and Portugal, and inviting the government of the United States to enter into the plan digested in those treaties for the suppression of the slave-trade, which must otherwise prove irreducible. The answer of the American government, communicated at the end of December, by the American Ambassador, is detailed in the report of the institution. He asserts the deep and unfeigned solicitude of the United States for the universal extirpation of the slave-trade, but with all due comity declines the proposed arrangements as being of a character “not adapted to the circumstances or institutions of the United States.” Mr. W. pointedly remarks, “Truly the United States had sufficiently proved the British right of search in time of war to be careful not to create one for the season of peace.” “In July, 1816, a circular intimation was given to all British cruisers that the right of search, being a belligerent right, had ceased with the war.”—*Wheaton’s Right of Search*, 25. See also American State Papers, Foreign Relations, vol. 4, p. 400, and *Wheaton*, from p. 25.

of particular States, or the individual subjects may impose, I leave the tragedy contained in this case to illustrate the effects that are likely to arise in the very first stages of the process, without adding to the account, what must be considered a most awful part of it, the perpetual irritation and the universal hostility which are likely to ensue."

It has, it is believed, been fully shown in the preceding pages, that the claim of England, under the law of nations, to exercise any right, be it called visit, visitation, or search, in time of peace, is not only of modern, but very recent origin; that it has never been asserted by any other nation; that it is entirely destitute of those grounds on which the entire law of nations and each of its distinct principles can alone find any assured foundation, viz: a general recognition by the civilized nations of the world. It would not be easy to add to the force of the argument of Sir Wm. Scott in rebutting every ground upon which Britain has claimed this right, or to sustain every principle by which that pretence has been controverted by the United States.

It now remains to examine the views presented on this subject by Mr. Phillimore, the most recent distinguished author in England upon the laws of nations. It is but justice to this gentleman to say that his valuable work is characterised by diligent research, extensive and profound erudition, and, in the main, by fairness and impartiality. On this particular branch of his subject, it will devolve upon us to point out what we cannot but apprehend to be an aberration from that clearness and fairness which in general we acknowledge to belong to him.

The third chapter of his third volume is appropriated to the discussion of the right of *visit* and *search*. He commences by citing two passages from French writers, to show that, even in time of peace, it is not lawful for a vessel to sail upon the high seas without any papers on board indicating the nation to which she belongs," &c. From this general principle he proceeds *per saltem* to assert "that a vessel may, under extraordinary circumstances of grave suspicion,

be visited in time of peace on the high seas ; for how otherwise could it be ascertained whether or not she carried the proper papers on board? Or for what purpose, if she may not be visited, is she to carry them? These circumstances of "grave suspicion" are to be found in some "extraordinary case," and to attach to some particular "vessel." Without further specification the doctrine advanced is certainly vague and obscure.

The proposition, at least the ground on which it is supposed to rest, is clothed rather in the form of an interrogation than in that of direct assertion. It may, without meriting the opprobrium of merely punning, be said that it comes in a very questionable shape. It may be answered in the same form. Is there any law of nations which prescribes the form and character of the papers which a vessel ought to carry in time of peace? Are not these directed in every nation by its own peculiar laws? Each nation has a right to prescribe to its own vessels what papers they shall carry to exhibit their national character, and require them to conform to its own municipal regulations. Sometimes, by conventions between different powers, papers of another kind are required under peculiar circumstances, or to provide against particular incidents. But it cannot be pretended that any particular description of papers is required by the law of nations ; that a neutral cruiser has a right to detain, for the purpose of ascertaining whether a ship is furnished with such documents, or that the want of such papers would justify a foreign vessel in the seizure of such vessel, or subject her to condemnation. The right of search must exist before such an inquiry can be lawfully made. The want of proper papers may prevent an original clearance from a native port, may interfere with entry into a foreign port of destination, may warrant the cruisers of any nation or its revenue officers within their appropriate sphere of jurisdiction, in visiting vessels which, within such jurisdiction, bear their respective national flag, or come within the boundaries of their respective ports or harbors, to enforce the revenue or other muni-

cial laws of their own countries. Surely Mr. Phillemore will scarcely contend that an American or Spanish cruiser has a right, either on the broad ocean or in the English channel, to visit a vessel sailing under the British flag to see whether she is provided with such papers as the law of its own country requires.

His second proposition being a mere inference from the preceding, is, it is conceived, already answered in what has been said.

The next doctrine advanced by Mr. Phillemore demands a more distinct and serious reply. "It is quite true," says he, "that the right of visit and search is strictly a belligerent right." He, however, continues: "But the right of visit in time of peace, for the purpose of ascertaining the nationality of a vessel, is a part, indeed, but a very small part, of the belligerent right of visit and search."

For the first clause in this paragraph the author cites the case of *Le Louis*, from 2 Dodson; *La Jeune Eugenie*, 2 Mason, 409, as cited in the *Antelope*, 10 Wheat, 66. No authority is referred to to sustain the second and most important clause. It is made to rest on the simple authority of Mr. Phillemore himself. The language employed is not characterised by the clearness and distinctness usually displayed by the learned author. He limits the right which he asserts to one single object, "the purpose of ascertaining the nationality of a vessel." He does not, however, intimate in whom the right exists to determine or to inquire into this nationality, under what circumstances or to what extent such right may be exercised, what is to result from the fact when ascertained, or what penalties may attach to the vessel resisting such an attempt to visit. Nor does he point out by what evidence this nationality is to be established. What is even more remarkable, he omits to explain the extraordinary proposition, that a right which he claims may be exercised in time of peace, can possibly be a part, however small, of a belligerent right. Without any explanation we must say, with all due respect to the learned commentator, the proposition is to our minds unintelligible, contradictory, and preposterous.

Had Mr. Phillemore diligently examined the cases to which he refers as sustaining the first clause of the paragraph, he could not have failed to perceive, that they as distinctly contradict and repudiate his last position as they affirm the first. The citations already made from *Le Louis* are in direct opposition to the view of the commentator. In the case of *La Jeune Eugenie*, Mr. Justice Story (2 Mason, 436) thus expresses himself: "I am free to admit, as a general proposition, that the right of visitation and search of foreign ships on the high seas, can be exercised only in time of war, in virtue of a belligerent claim, and that *there is no admitted principle or practice which justifies its exercise in time of peace.*" The *Antelope*, in 10 Wheaton, was a case of a foreign vessel. Chief Justice Marshal, in delivering the opinion of the court, overrules so much of the judgment in *La Jeune Eugenie* as had sustained the doctrine that the slave-trade was prohibited by the law of nations. In another part of his judgment, he says:

"If it (the slave-trade) is consistent with the law of nations, it cannot, in itself, be piracy. It can be made so only by statutes; and the obligation of the statute cannot transcend the legislative power of the State which may enact it. If it be neither repugnant to the law of nations, nor piracy, it is almost superfluous to say, in this court, that the right of bringing in for adjudication, in time of peace, even where the vessel belongs to a nation which prohibited the trade, cannot exist. The courts of no country execute the penal laws of another; and the course of the American government on the subject of visitation and search would decide any case in which that right had been exercised by an American cruiser, on the vessel of a foreign nation not violating our municipal laws, against the captors," (pp. 122, 123.)

So much for the very cases referred to by Mr. Phillemore in this very paragraph. They effectively annihilate his proposition.

The learned author then quotes a passage from Bynkershoek, which he himself admits was part of an argument for

the right of search in time of war, and then observes, "surely this reasoning applies to the right of ascertaining the national character of a *suspected pirate*, in time of peace; and it may be added, that it appears to have been so considered by no less a person than Mr. Chancellor Kent."

So far as regards this logic, if so it may be called, it has been abundantly refuted by Sir William Scott in the *Louis*, where he refused to attach the smallest importance to "a solemn declaration of very eminent persons assembled in Congress, whose rank, high as it is, is by no means the most respectable foundation for the weight of their opinion."

The invocation of Chancellor Kent, as sustaining, to any extent, the position contended for, must not, however, be allowed to escape with so slight a notice. In the third edition of his commentaries, page 153, this able jurist thus declares his view of the law. It is given in his precise words:

"In order to enforce the rights of *belligerent* nations against the delinquencies of *neutrals*, and to ascertain the real, as well as assumed, character of all vessels on the high seas, the law of nations arms them with the practical power of visitation and search. The duty of self-preservation gives to belligerent nations this right. It is founded upon necessity, and is *strictly and exclusively a war right, and does not exist in time of peace*. All writers upon the law of nations, and the highest authorities, acknowledge the right as resting on sound principles of public jurisprudence, and upon the institutes and practice of all great maritime powers." The authorities referred to in support of this doctrine are Vattel—the *Maria*, 1 Rob., 287; 2 Dodson, 245, (*Le Louis*, a passage we have already cited, in which the exercise of such right in time of peace is distinctly repudiated;) the *Marianna Flora*, 11 Wheat., 42, a case presently to be cited.

By what process of reasoning such language can be made to sustain a proposition which it distinctly repudiates, and which is equally at variance with each of the authorities quoted by the Chancellor; by what Procrustean method, doctrines, so distinctly opposed, can be brought to sustain a

proposition which they appear to condemn and disavow, Mr. Phillemore has not thought it expedient to explain. From the terms of high eulogium he applies to this distinguished American jurist, it might be inferred that he was familiar with his writings, or at all events, with his great production—his commentaries—to which he so frequently refers. If what has already been said furnishes some indications, to say the least, of unfairness and misrepresentation, what shall be said of the accumulated evidence now to be produced? In page 25 of the same volume which Mr. Phillemore professes to quote, the learned Chancellor says :

“The open sea is not capable of being possessed as private property. The free use of the ocean for navigation and fishing is common to all mankind, and the public jurists, generally and explicitly, deny that the main ocean can ever be appropriated. The subjects of all nations meet there *in time of peace*, on a footing of entire equality and independence. No nation has any right of jurisdiction at sea, except it be over the persons of its own subjects, in its own vessels; and so far territorial jurisdiction may be considered as preserved; for the vessels of a nation are, in many respects, considered as portions of its territory, and persons on board are protected and governed by the law of the country to which the vessel belongs. This jurisdiction is confined to the ship; and no one ship has a right to prohibit the approach of another at sea, or to draw round her a line of territorial jurisdiction, within which no other is at liberty to intrude. Every vessel, in time of peace, has a right to consult its own safety and convenience, and to pursue its own course and business, without being disturbed, when it does not violate the rights of others.”

Enough has been said, it is believed, to show how much confidence is justly to be attributed to the candor and impartial judgment of Mr. Phillemore; but we cannot resist the opportunity of adverting to another specimen of the same character. Appended to the citation above adverted to from Bynkershock, which, while used as an argument in favor of

the belligerent right of visitation and search, he intimates is equally applicable to the existence of the same right in time of peace, which is that a ship is bound to have on board papers which will demonstrate her national character, he again cites American authorities. He refers to 1 Paine, 594; 1 Kent Com., 161, 158.

Now, the case cited from Paine is that of *Catlett vs. Pacific Insurance Company*. The action was brought upon a policy of insurance, to which citizens of the United States were alone parties, to which there actually existed, or was implied, a warranty that the vessel was American. The question was whether the party had shown a compliance with this condition. The court expressed its opinion that a register was sufficient evidence of this fact. "There being a state of universal peace, and no treaty provisions applicable to the voyage, the register was all that could be necessary to show the national character. No question of belligerent or neutral rights could arise." Two cases were cited in the argument of the case, (14 Johns, 316; 2 Serg. and R., 133.) It may be sufficient to say that all these cases involved questions of purely municipal law, what were the documents required by the American law under our own revenue system. These questions arose in American courts, and were to be adjudicated by the law of the land. Not a word is said as to the evidence which the law of nations may require to establish the nationality of a vessel, and this was the point, and the only point, which it was pertinent to Mr. Phillemore's argument to shew.

In a previous passage from his work, which meets with, as it deserves, our almost entire concurrence and approbation, he thus expresses himself, in his chapter on the general character and duty of tribunals of prize. Such a court, he says, p. 533, "ought to command the respect of nations; it ought to be above—not slander, indeed, for then it would not be a human institution—but just and reasonable suspicion. It ought to administer international not municipal law, except in so far as it might happen that the latter was identical with or

declaratory of the former. Its procedure ought to be open and exposed to all criticism. It ought to allow every liberty of speech to the claimant or his representative, as well as to the belligerent or his representative. It should administer a consistent law, upon certain and known principles, impartially applied to all States and to their subjects. The high standard of the great philosopher and jurist of antiquity, (*neque erit alia lex Romæ, alia Athenis; alia nunc, alia posthac,*) should be perpetually before its eyes. It should always remember that the law which it has to administer is not of one character at Rome and another at Athens, but one and the same everywhere, followed and applied, as far as human infirmity will permit, upon the principles of immutable right and eternal justice."

So long as the English admiralty courts acted upon these principles and rigidly practised, them, so long as British jurists acknowledged and maintained them, those tribunals and judges were the admiration of the world—all recognized the ability, the integrity with which their judgments were pronounced, and their opinions were universally revered.

It is hoped that another opportunity will be soon afforded them of sustaining this high reputation. If every American vessel which has been stopped in her voyage shall institute proceedings in the British courts, claiming damages for the stoppage and detention of them on their voyage, and claim demurrage, and if, particularly, those that have been fired into or stopped by force, should institute similar proceedings, it would be ascertained how far British courts, assuming to administer the laws of nations, would maintain their former character.

We have thus inadvertently been brought off, for a moment, from the immediate subject before us; to that we shall now return, to meet the only remaining point which it appears necessary to discuss. The English government, and its advocates, endeavor to support their views upon this subject by a new sophism; they try, at least by assertion, neither by argument, reason, nor authority, to draw a line

of distinction between the right of visit and that of visitation and search. They have repeatedly been challenged to produce any individual authority which mentions, much less asserts, this distinction. To this challenge no response has been yet made by either jurist or diplomat. On the American side it is denied that there is any foundation for such distinction beyond the mere grammatical one between a verb and a substantive. We understand the verb visit to signify to make a visitation; we understand visitation as the act of visiting. Such is the acceptation of these words, as is believed without exception, by every writer and lexicographer. Lord Aberdeen, who it is believed was the first author of this distinction, can hardly, even in Great Britain, be regarded as of higher authority than Lord Castlereagh, Mr. Canning, and other accomplished English statesmen; or than Sir Wm. Scott, Dr. Lushington, Dr. Dodson, to whom it was apparently unknown. He belongs to the Scotch school, admirably accomplished in all the refinements of metaphysics, but to whom neither Americans nor English would ordinarily be disposed to resort as umpires in a question as to the precise signification of English words.

The distinction, which we consider as a mere specimen of what an eminent Scotch writer has called logomachy, has never received the sanction of any British judge, or of any British jurist, anterior to the time of Mr. Phillemore. It is utterly unknown on the continent of Europe. In the most approved French dictionaries we find that the word *visiter* is translated into English by the phrase *to search*, *visiter les marchandises*, to search commodities; *visiter unnavine*, to search a ship. As Mr. Webster and Mr. Wheaton have remarked, no writer on the continent has ever afforded the least sanction to this modern distinction.

In the absence of all authority to the contrary, we may be permitted to quote, as, at all events in our judgment, conclusive upon the subject, the solemn exposition of the law by the Supreme Court of our own country, in the case of the *Marianna Flora*, reported in 11 Wheaton. This case is

specially adverted to, and a long citation from the judgment of the Supreme Court is given by Mr. Phillemore, p. 422. But the quotation made by him would fail to convey anything approaching to a correct exposition of the views expressed by the august tribunal by whom the case was decided, and is likely to mislead readers who rely upon Mr. Phillemore as an expositor of the law.

Correctly to understand and properly to appreciate the language of the court, especially when pronounced at some length in the exposition of the law in a case *primæ impressionis*, the facts and circumstances of the case should be fully and fairly presented. This Mr. Phillemore has failed or omitted to do. Be it our part to supply his deficiency. So far as the present question is in any way affected by this case, the facts were, as stated by the reporter.

On the morning of the 5th November, 1821, the Alligator and the Marianna Flora were mutually descried by each other on the ocean, at the distance of about nine miles; the Alligator, being on a cruise against pirates and slave-traders, under the instructions of the President, and the Portuguese vessel being on a voyage from Bahia to Lisbon, with a valuable cargo. The two vessels were then steering on courses nearly at right angles with each other; the Marianna Flora, being under the lee bow of the Alligator. A squall soon afterwards came on, which occasioned an obscuration for some time. Upon the clearing up the of weather, it appeared that the Marianna Flora had crossed the point of intersection of the courses of the two vessels, and was about four miles distant on the weather bow of the Alligator. Soon afterwards she shortened sail and hove to, having at this time a vane or flag on her mast, somewhat below the head, which induced Lieutenant Stockton (the commander of the Alligator) to suppose she was in distress or wished for information. Accordingly he deemed it his duty, upon this apparent invitation, to approach her, and immediately changed his course towards her. When the Alligator was within long shot of the Portuguese ship, the latter fired a cannon-shot ahead of

the Alligator, and exhibited the appearance and equipments of an armed vessel. Lieutenant Stockton immediately hoisted the United States flag and pennant. The Marianna Flora then fired two more guns, one loaded with grape, which fell short, the other with round shot, which passed over and beyond the Alligator. This induced Lieutenant Stockton to believe her to be a piratical or a slave vessel, and he directed his own guns to be fired in return; but as they were only cannonades, they did not reach her. The Alligator continued to approach, and the Marianna Flora continued firing at her at times, until she came within musket shot, and then a broadside from the Alligator produced such intimidation, that the Portuguese ship almost immediately ceased firing. At that time, and not before, the Portuguese ship hoisted her national flag. Lieutenant Stockton ordered the ship to surrender and send her boat on board, which was accordingly done. He demanded an explanation, and the statement made to him by the Portuguese master and other officers was, that they did not know him to be an American ship of war, but took him to be a piratical cruiser. Under these circumstances Lieutenant Stockton determined to send her into the United States on account of this, which he deemed a piratical aggression. Such were the facts upon which the court was to decide. The vessel and cargo had been restored with the assent of the government and the captors, and the only remaining question was as to the liability of the captors to damages. The judgment was pronounced by Mr. Justice Story. In p. 41, the points as contended for by the claimants are thus presented: "They contend that they are entitled to damages; first, because the conduct of Lieutenant Stockton, in the approach and seizure of the Marianna Flora, was unjustifiable; and second, because, at all events, the subsequent sending her in for adjudication, was without any reasonable cause. In considering these points, it is necessary to ascertain what are the rights and duties of armed and other ships, navigating the ocean in time of peace.

"It is admitted that the right of visitation and search does

not, under such circumstances, belong to the public ships of any nation. The right is, strictly, a belligerent right, allowed by the general consent of nations in time of war, and limited to those occasions. It is true, that it has been held in the courts of this country, that American ships offending against our laws, and foreign ships in like manner, offending within our jurisdiction, may afterward be pursued and seized upon the ocean, and rightfully brought into our ports for adjudication. This, however, has never been supposed to draw after any right of visitation or search. The party, in such cases, seizes at his peril. If he establishes the forfeiture, he is justified. If he fails, he must make full compensation in damages.

“Upon the ocean, then, in time of peace, all possess an entire equality. It is the common highway of all—appropriated to the use of all—and no one can vindicate to himself a superior or exclusive prerogative there. The general maxim in such cases is, *sic utere tuo, ut non alienum lædas*.

“It has been argued that no ship has a right to approach another at sea; and that every ship has a right to draw round her a line of jurisdiction, within which no other has a right to intrude. In short, that she may appropriate so much of the ocean as she may deem necessary for her protection, and prevent any nearer approach. This doctrine appears to us novel, and is not supported by any authority. It goes to establish, upon the ocean, a territorial jurisdiction, like that which is claimed by all nations within cannon shot of their own shores, in virtue of their general sovereignty. But the latter right is founded on the principles of sovereign and permanent appropriation, and has never been successfully asserted beyond it. Every vessel undoubtedly has a right to the use of so much of the ocean as she occupies, and as is essential to her own movements. Beyond this, no exclusive right has ever yet been recognized, and we see no reason for admitting its existence. Merchant ships are in the constant habit of approaching each other on the ocean, either to relieve their own distress, to procure information, or to ascer-

tain the character of strangers ; and hitherto there has never been supposed, in such conduct, any breach of the customary observances or of the strictest principle of the law of nations. In respect to ships-of-war sailing as in the present case, under the authority of their government, to arrest pirates and other public offenders, there is no reason why they may not approach any vessels descried at sea, for the purpose of ascertaining their real character. Such a right seems indispensable for the fair and discreet exercise of their authority, and the use of it cannot justly be deemed indicative of any design to injure or insult those they approach, or to impede them in their lawful commerce. On the other hand, it is as clear that no ship is, under such circumstances, bound to lie by or wait the approach of any other ship. She is at full liberty to pursue her voyage in her own way, and to use all necessary precautions to avoid any suspected sinister enterprise or hostile attack. She has a right to consult her own safety, but at the same time she must take care not to violate the rights of others. She may use any precautions dictated by the prudence or fears of her officers, either as to delay or the progress or course of her voyage, but she is not at liberty to inflict injuries upon other innocent parties, simply because of conjectural dangers. These principles seem to us the natural result of the common duties and rights of nations navigating the ocean in time of peace.”

In a subsequent part of the same opinion (p. 49) we find this language : “ It might be a decisive answer to this argument that, here, no right of visitation and search was attempted to be exercised. Lieutenant Stockton did not claim to be a belligerent, entitled to search neutrals on the ocean. His commission was for other objects. He did not approach or subdue the *Marianna Flora* in order to compel her to submit to his search, but with other motives. He took possession of her, not because she resisted the right of search, but because she attacked him in a hostile manner, without any reasonable cause or provocation.”

“ Upon the whole, we are of opinion that the conduct of

Lieutenant Stockton, in approaching and ultimately subduing the Marianna Flora, was entirely justifiable. The first wrong was done by her; and his own subsequent acts were a just defence and vindication of the rights and honor of his country."

These citations have been more full and distinct than under other circumstances would be deemed necessary; but these brief remarks upon a question of absorbing interest and deep concern, not only to the people of the United States and their government, but to all nations, may possibly be read by many who have not the facilities of referring to the original authorities, and because it is thought that Mr. Phillemore has not made his quotations from American authorities sufficiently full, or so arranged them as to convey to his readers an opportunity fully to appreciate their precise meaning, or to give to them their full weight.

It is the earnest desire of the great mass of the American people, sincerely so of the writer—and it is believed that this feeling is reciprocated on the other side of the Atlantic—that the present difficulties may not only be amicably adjusted, but settled in a manner which will preclude for the future any recurrence of them. We, however, believe that such controversies can alone be terminated to the mutual satisfaction of the parties, and in a way to be productive of the continuance of amicable relations, by no other mode than one, which will continue, cherish, augment, and perpetuate those feelings of mutual respect which every consideration induces the belief that they can never be diminished or shaken, by an adjustment which will leave to either party a confidence in the sincerity and untarnished honor of the other.

Deeply impressed with this feeling, we have sought, and it is hoped not unsuccessfully, to show that the American government has uniformly acknowledged every doctrine of the public law which has obtained the concurrent evidence of established usage among civilized nations, and the authority of approved jurists; that the doctrine for which we at present contend has passed this ordeal and received this

sanction; that it has been, in an especial manner, and in the most precise terms, approved by the most exalted statesmen, the ablest judges, and the most learned jurists even of England herself; that, until within a few years, the contrary doctrine against which we contend, and which we ever have and ever will resist, has met with no approbation out of England, and much of disapprobation and opposition even there; that while we are unanimous in our resolution never to concede it, the great weight of British authority is wholly antagonistic to it.

It is a subject of congratulation that there are at present, and every day increasing, indications that there will be no interruption of the harmony which has so long, and happily for both nations, subsisted between them, and these remarks will be closed with the prayer, *Esto perpetua!*

From The New-Englander.

THE

MONROE DOCTRINE.

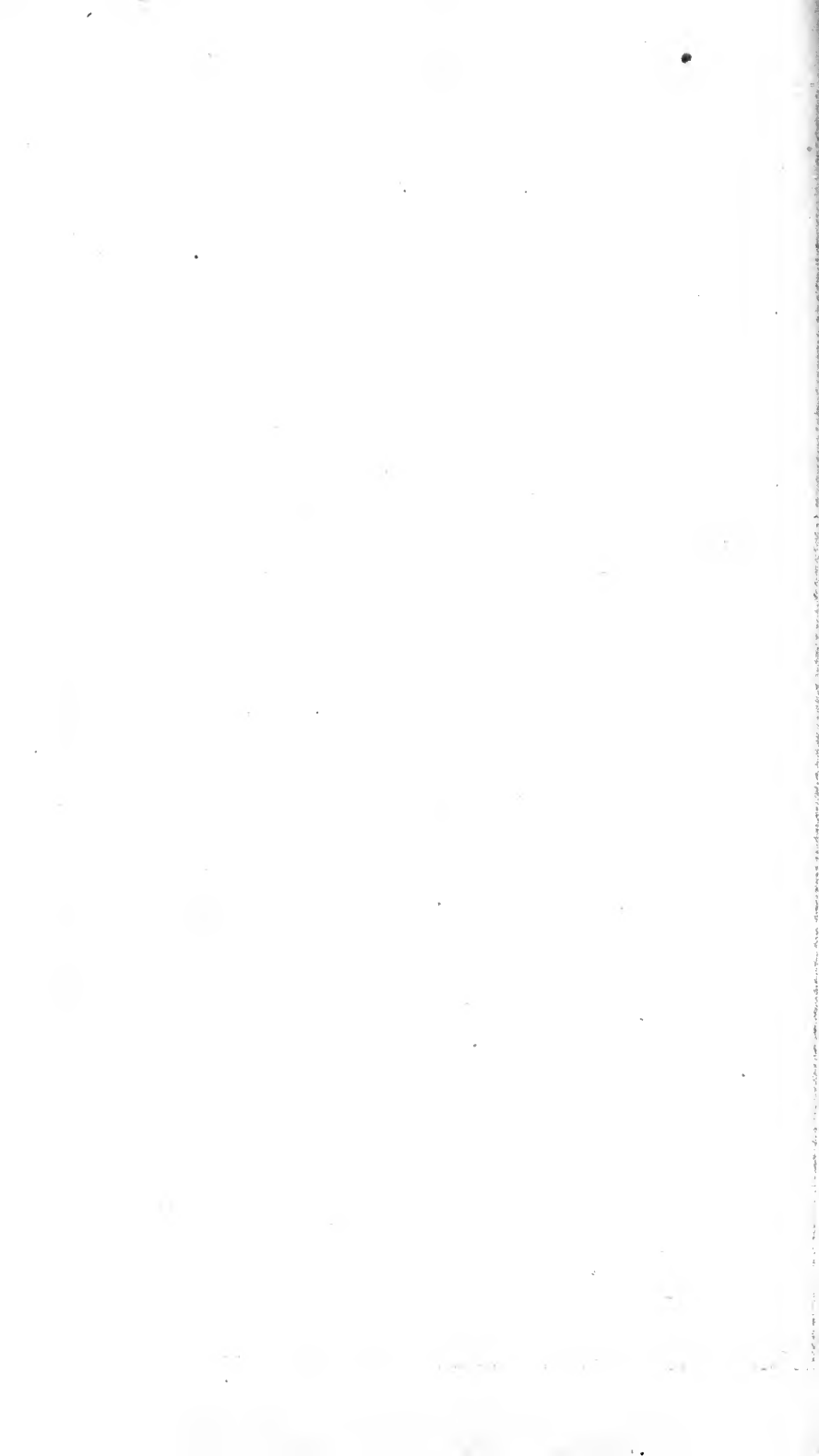
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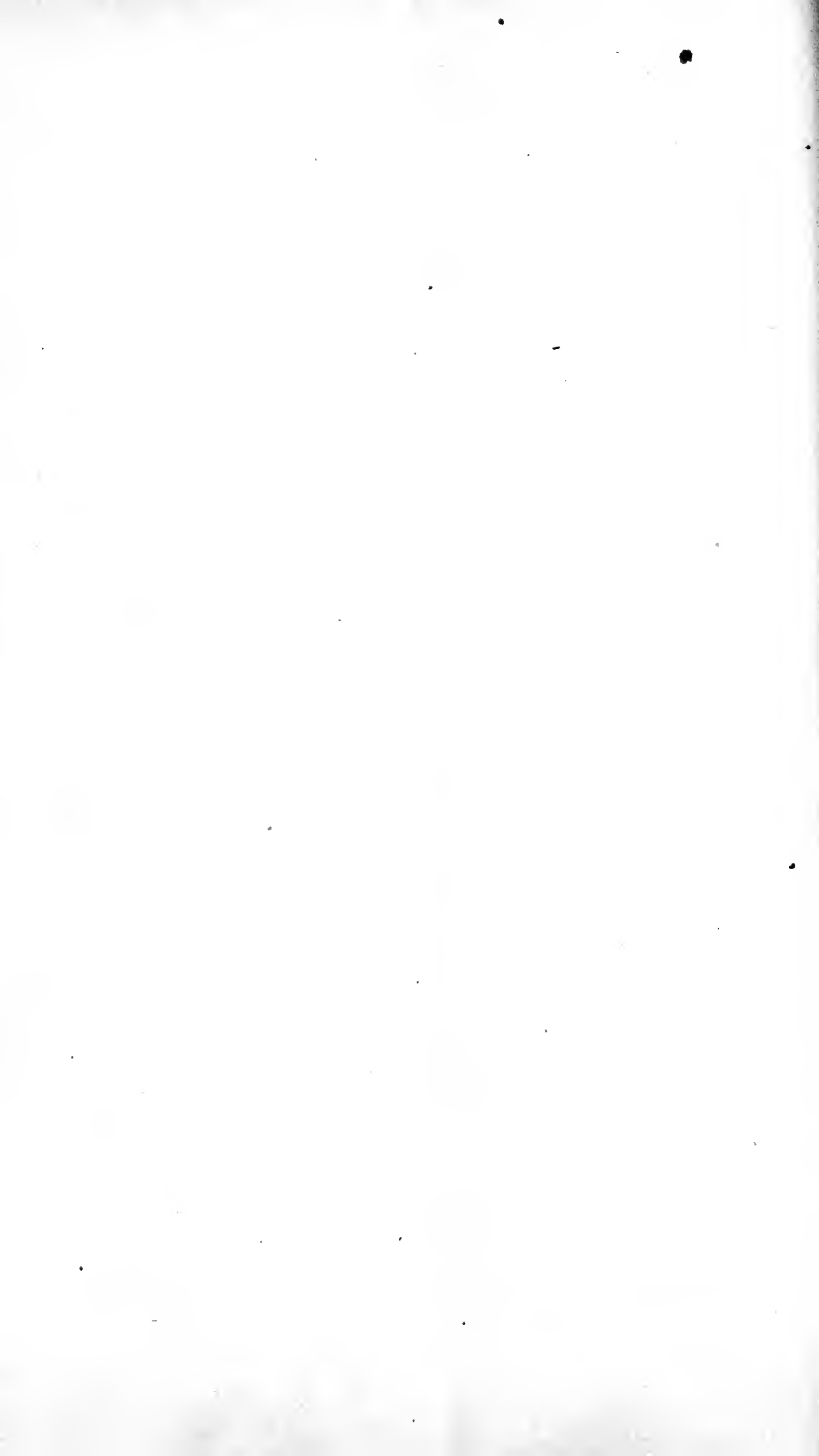
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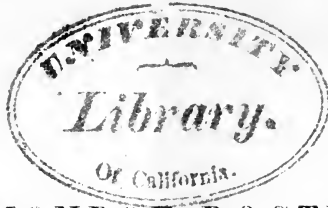
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THE MONROE DOCTRINE.

THE old platform of religious exclusives—"Resolved, 1st, that the earth belongs to the saints; and—Resolved, 2dly, that we are the saints"—was not original with the fanatics to whom it has been imputed. It is, in fact, but a summary of the code of public law which prevailed in Europe at the period when America was discovered. The nations calling themselves Christian assumed the right of seizing and occupying all lands inhabited by barbarians, and in case of a dispute as to boundaries or priority of claim, the Pope was recognized as the supreme judge and divider among them, from whose decrees there was no appeal but to the ultimate arbitrament of arms. A comparison of this simple code with that complicated system of rules by which the intercourse of nations is now regulated, would show the advance which civilization has made in this respect since the Reformation. In modern public law, some apology for the seizure of territories, occupied by barbarians, is deemed necessary, beyond the grants of the Pope, or the natural rights of Christians to the ownership of the whole earth. There were certain rules by which European nations agreed to divide the American continent among themselves, and these are still referred to among diplomatists in discussing questions of boundary and the like. But the validity of the original title is no longer allowed to be drawn into discussion. It is sufficient to say that all America is held under titles derived from the governments of Europe. And all questions of title, except as modified by local law, are decided according to the rules and principles of the European country to whose original sovereignty all rights of individual ownership refer. It is impossible, therefore, to suppress this fact, in any faithful investigation of our relations to Europe.

But in addition to this, we must remember that every civilized community on this continent was originally constituted by

the authority of some European monarch, and for about two centuries was governed by the laws, and disposed of by the will of the mother country. They were mere dependent colonies, having no rights except by the gift of their sovereigns, and, indeed, were held to be owned as the rightful property of those sovereigns, and liable as property to be assigned by one to another, or captured in war from one by another, at will, like any other absolute possession. They were simple appendages of the political system of Europe, liable at any time, without any will or agency of their own, to be involved in the calamities and responsibilities of war, for objects in which they had no interest, and then to have the war ended by treaty in which their welfare received no consideration. Without having any voice in the matter, they could be transferred to new masters, or used in any other way as mere counters in the settlement of dynastic quarrels, or make-weights in the re-adjustment of the European "Balance of Power."

The Declaration of Independence was the first breath of independent national life on this continent. The United States assumed at once the rank and the responsibilities of a real nation among nations, having the right to govern itself, to make war and peace, and to determine its own policy in relation to other nations, according to its own judgment of its own interests and duties. This new nation was not in Europe, was not subject to the liabilities of the European governments, not interested in the rise and fall of European dynasties, not concerned for the maintenance of the balance of power in Europe, not subject to the calculations and complications of European statesmanship. It was a new sensation, an unsolved problem, to meet face to face an American nation, civilized, Christian, responsible, and respectable, demanding a place among the family of nations, as one of them, and yet separate and aloof from all the machinations of diplomacy, and unconcerned in any of the anxieties of state-craft. No wonder that kings and courts were at a loss and uneasy with such an anomaly. From that day no art or effort has been left untried to bring the United States into their circle, as a new subject for their tricks and manœuvres.

The philosophical student of history, who looks deeply into

the springs and currents of national sympathy and antipathy, will be struck with admiration at the completeness of our separation from European politics, so that no friendships ensnared us, no professions seduced us, no fears intimidated us, to swerve from our isolated position. From a century of dependence, we rose by a leap to independence. We had a war with France and a war with England, to prove that we were independent, and to show that we dared and were able to assert and enjoy our rights, as an independent power, unconnected with the political fortunes of European nations. And we began to be understood in Europe. The result was well stated by Mr. Richard Rush, who was our Minister to England from 1817 to 1825. In the second series of his "Memoranda of a Residence at the Court of London," he says :

"Let me here give brief expression to a feeling I often had during my mission ; one which is common, I suppose, to every minister of the United States abroad. It is, his feeling of entire independence of the combinations and movements going on among other powers. Properly improved, this makes his personal situation agreeable, as well with the court where he may be residing, as with the entire diplomatic corps. For his country, he has only to be just and fear not. The smaller Powers cannot have this calm assurance ; and the representatives of the Great Powers naturally respect the office of American Minister, from a knowledge of the resources and growing power of the nation that sends him ; and also (some of them) from dreaming of contingencies which may make the friendship of the United States desirable, though their maxim be, 'Peace and commerce with all nations, entangling alliance with none.' One of the members of the corps who witnessed the salutations passing between Lord Castlereagh and myself, said to me a few minutes afterwards, 'How happy you must feel in these times when none of us know what is to happen in Europe !—you belong to us (meaning the corps), yet you are independent.'" pp. 357-8.

Such was the practical estimate formed by diplomatists of the actual situation of the United States among the nations of Europe, as observed by one of the most calm and cautious of our statesmen, with ample experience. We were among them, but not of them ; concerned in all that concerned them, on the ground of common humanity and equal civilization ; liable to be affected in our interests by all their movements, which we were therefore obliged to comprehend and to watch ; but not forming a part of their "system," to be dictated to by their will, to be assigned our place by their arbitrament, or to be disposed of in accordance with their varying interests or arbitrary caprices. We can ap

preciate the air of satisfaction, not to say pride, with which this experience was recorded and published. It was gratifying to the highest feelings of patriotism. To realize the importance of the facts thus elicited, it is necessary to consider briefly the nature of the European Political System, of which our able representative was so glad that we were not a member.

The Political System of Europe, as it existed at the time of Mr. Rush's residence in England, was the result of the political history of Europe for three centuries, beginning with the reign of Charles the Fifth, and ending with the Congress of Vienna. It was the product of its wars, treaties, dynastic changes, and advancing intelligence and civilization. In all these changes, one dominant idea has been kept always in view by European statesmen, as more important than any family interests or any changes of dynasty or form of government. This paramount object of regard, this central point of guidance, this first meridian of all political reckonings, is oftenest designated by the name of the "Balance of Power." Personal ambitions and family interests, war and peace, have been made subordinate to this. The most elaborate treatises on public affairs have had for their object the elucidation of this subject, in its various bearings and consequences. To understand this subject, in its infinite complications and implications, and to be able to steer among them all a successful course of administration of affairs, made a man a statesman. Of this whole complex system of relations, obligations, and liabilities, the Balance of Power was so much the central principle, that the phrase is customarily used by writers to denote the whole Political System, including all other elements as subordinate.

Vattel's definition of a Balance of Power—"Such a disposition of things as that no one potentate or state shall be able absolutely to predominate and prescribe to others"—expresses rather the ostensible and praiseworthy object which ought to be aimed at, than the secret motives by which governments are commonly actuated, or the results actually attained by this great political system. The circle of nations who recognize this system are supposed to maintain an understanding among themselves, that no one among them can interfere with the essential rights of an-

other among them, without exposing itself to the censure of the rest, and then to the danger of a counter interference and coalition for the redress of the wrong. Also, that no one nation ought to acquire such surpassing power as to be able to defy this censure, or to domineer at pleasure over any or all of the rest. The coalitions to curb the grasping ambition of Charles the Fifth, of Louis the Fourteenth, and of Napoleon Bonaparte, are instances of gigantic struggle and vast combination of strength for the preservation of the Balance of Power. The occasions, methods, and limitations, of this system have become a complex science, taxing the powers of the profoundest scholars. Its application to the ever varying exigencies created by the ambition of kings, the profligacy of their ministers, and the constantly shifting conditions of nations, has taxed to the utmost the sagacity of the wisest statesmen. It is a problem in history, which we shall not now attempt to solve, whether this theory of the Balance of Power, or the entire Political System of which it commonly stands as the exponent, has been a blessing to mankind or a curse; whether it has prevented more wars than it has caused, or has mitigated rather than aggravated the severities of war; whether it has improved or injured the cause of liberty, and advanced or retarded the progress of civilization. There are not wanting able and weighty opinions on either side of the question.

After the overthrow of Napoleon, the Congress of Vienna assumed the restoration of this great political system, and placed its control and conservation under the care of the Five Great Powers, as they were termed—Great Britain, France, Austria, Russia, and Prussia, as a sort of Executive Committee, whose united determinations were to bind all the rest. The British Government, indeed, on technical grounds and for domestic reasons, declined to become in form a party to the so-called Holy Alliance. But it participated fully in all the negotiations, and approved all the arrangements then made, and has at all times maintained and relied upon the adjustments then agreed upon. Its recent letter of remonstrance on behalf of Poland, is based upon the obligations of the treaty of Vienna. The practical administration of the machinery so artistically arranged at Vienna, it must be confessed, has partaken quite largely of the ordinary

irregularities of human institutions. A man setting himself down to study that arrangement and anticipate its results in forty years' operation, would hardly bring out the actual state of things now existing in Europe. How it works in practice, we may learn, at least in part, from an eminent living writer, whose work is just now exciting great attention in the highest circles of Europe.

Mr. Kinglake devotes the second chapter of his *History of the Crimean Campaign* to a delineation of the Public Law, of Europe, which he terms the Supreme Usage, and which he treats from the English point of view, in a very original as well as *very English* manner. The opening paragraphs are as follows:

“The Supreme Law or Usage which forms the safeguard of Europe is not in a state so perfect and symmetrical that the elucidation of it will bring any ease or comfort to a mind accustomed to crave for well-defined rules of conduct. It is a rough and wild-grown system, and its observance can only be enforced by opinion, and by the belief that it truly coincides with the interests of every power which is called upon to obey it; but practically, it has been made to achieve a fair portion of that security which sanguine men might hope to see resulting from the adoption of an international code. Perhaps under a system ideally formed for the safety of nations and for the peace of the world, a wrong done to one state would be instantly treated as a wrong done to all. But in the actual state of the world there is no such bond between nations. It is true that the law of nations does not stint the right of executing justice, and that any Power may either remonstrate against a wrong done to another state, great or small, or may endeavor, if so it chooses, to prevent or redress the wrong by force of arms; but the duties of states in this respect are very far from being co-extensive with their rights.

“In Europe, all states except the Five Great Powers are exempt from the duty of watching over the general safety; and even a state which is one of the five great Powers is not practically under an obligation to sustain the cause of justice unless its perception of the wrong is re-enforced by a sense of its own interests. Moreover, no state, unless it be combating for its very life, can be expected to engage in a war without a fair prospect of success. But when the three circumstances are present—when a wrong is being done against any state, great or small, when that wrong in its present or ulterior consequences happens to be injurious to one of the five great Powers, and finally, when the great Power so injured is competent to wage war with fair hopes, then Europe is accustomed to expect that the great Power which is sustaining the hurt will be enlivened by the smart of the wound, and for its own sake, as well as for the public weal, will be ready to come forward in arms, or to labor for the formation of such leagues as may be needed for upholding the cause of justice. If a power fails in this duty to itself and to Europe, it gradually becomes lowered in the opinion of mankind, and happily there is no historic lesson more true than that which teaches all rulers

that a moral degradation of this sort is speedily followed by disasters of such a kind as to be capable of being expressed in arithmetic." pp. 36, 37.

"The obligation imposed upon a great state by this Usage is not a heavy yoke, for, after all, it does no more than impel a sovereign by fresh motives and by larger sanctions, to be watchful in the protection of his own interests. It quickens his sense of honor. It warns him that if he tamely stands witnessing a wrong reckoning which awaits him in his own dishonored country, but that he will also be held guilty of a great European defection, and that his delinquency will be punished by the reproach of nations, by their scorn and distrust, and at last perhaps, by their desertion of him in his hour of trial. But, on the other hand, the Usage assures a Prince that if he will but be firm in coming forward to redress a public wrong which chances to be collaterally hurtful to his own state, his cause will be singularly ennobled and strengthened by the acknowledgment of the principle that, although he is fighting for his own people, he is also fighting for every nation in the world which is interested in putting down the wrongdoer. Of course, neither this nor any other human law or usage can have any real worth except in proportion to the respect and obedience with which it is regarded; but, since the Usage exacts nothing from any state except what is really for its own good as well as for the general weal, it is very much obeyed, and is always respected in Europe." p. 40.

"To keep alive the dread of a just and avenging war, should be the care of every statesman who would faithfully labor to preserve the peace of Europe. It is a poor use of time to urge a king or an emperor to restrain his ambition and his covetousness, for these are passions eternal, always to be looked for, and always to be combatted. For such a prince, the only good bridle is the fear of war." p. 41.

It is only by a figure of speech that the workings of such a rickety machine as this are called Law. And yet they are held to impose a certain obligation upon such nations as can be held within the circle. And they often serve the Powers as convenient pretexts and apologies for interference in the affairs of others, whether right or wrong. Some instructive views of the practical operation of this system, in the case of what are called Minor Powers, may be gathered from a cursory examination of the history of Modern Greece. About forty years ago, the people of Greece, of their own accord and by their own motion, threw off the intolerable yoke of Turkey, and declared themselves an independent nation. Thereupon, and forthwith, the Three Great Powers took the nation in charge, forbade the further attempts of Turkey to subdue them, and required of them to confine their country forever within certain narrow limits, to become a hereditary monarchy, and to choose a king for themselves from among the royal families of Europe, subject to the approval of the Three

Powers. They also assumed the right of requiring the funding of the revolutionary debt, nominally of fourteen millions of dollars, although only five millions had reached the national treasury. In 1832, the Powers interfered again, creating another debt of ten millions, of which about one million went for roads and other beneficial objects, and the rest was absorbed by the harpies of King Otho's court. In 1854, the debt had grown to sixty millions, and there was another interference of the Three Powers, resulting in a requisition that Greece should reserve annually 900,000 francs—nearly \$200,000—for her creditors, out of a revenue barely reaching four millions per annum, in a country where material civilization is far in arrear. This requirement, after some years' delay, was complied with for one year, and then followed a revolution. But Greece is still held by the bondage of this debt under the tutelage of the ever-present Three Powers, who allow no free choice to the people but to try over again the disastrous experiment so fully tried out in thirty years of unhappiness, of another hereditary dynasty, under a king subject to the approval of the Powers. And the millstone of a debt of sixty millions, for which Greece never received above one-tenth of the value, is still bound about her neck, and the yearly payment is to be coerced by the Powers, on penalty of war, and subjugation, and national extinction. Such is the working of the Political System of Europe, as organized by the Congress of Vienna, and administered by the Great Powers. Some American writers have spoken of the Holy Alliance as a thing of the past. Greece finds it a living Dominion, from whose grasp she as yet sees no possible way of escape. Perhaps some reflecting minds will trace out from this example an analysis of the principles involved in the Treaty of London, under which the Mexican republic is invaded by a European coalition to compel the payment of debts and claims even more exorbitant than those under which Greece is pressed to the earth, and will thus learn the meaning of the phrase, the extension of the Political System of Europe to the American continent.

This sodality of nations, thus imposed upon Europe by the Congress of Vienna, and administered by the Five Great Powers, or any three, or even two of them, [either England or France

being-always one], assumed the right to interfere at will with the internal policy of any state, and to require such an administration of its domestic affairs as they judged to be necessary to what was styled "the tranquility of Europe." No state was allowed to manage its own concerns or construct its own government, according to its own judgment of what was most for the welfare of its own people, but each was required to conform its economy to a pattern laid down by the managing Powers. And this prerogative of review and control was held to extend beyond the limits of the ring, and nations outside of Europe were to be coerced into conformity to the will of this overshadowing conspiracy. This tremendous machinery was guided by men of the highest sagacity and largest experience, and thoroughly devoted to its objects. They were too shrewd to attempt the reduction of all governments to the uniformity of a common pattern, for they knew that diversity is inseparable from humanity. But they evidently had an ideal form or standard of perfection, and made it their constant aim to bring all governments into as near conformity with this as circumstances would allow, and to repress all tendencies in the contrary direction. The *beau-ideal* of the Holy Alliance was an absolute monarchy, hereditary, and both imposed and maintained by military force. Constitutional monarchy, in its various grades, was recognized where it could not be avoided, with the proviso that the constitution must derive its validity from the grant of the monarch, and not by the will of the people. And then they held it to be quite competent for the sovereign to resume his grant, and set aside the constitution, whenever he thought that the interests of the monarchy required. So a legislature, with powers more or less extended, could be tolerated, provided it owed its being to the gift of the crown. But it was not allowed that the people should create a legislature, and then offer to the king the privilege of reigning under such limited prerogative as they chose to prescribe. Revolutions might be permitted to succeed, where they resulted in hereditary governments, imposed by the will of the Alliance, and maintained by military force. The antiquity of the Swiss republics, with their comparative insignificance, and perhaps the difficulty of their subjugation, permitted them to continue; but no other republic was to exist in Europe, nor elsewhere if it could

be prevented. The idea was utterly rejected, that it is in the power of a people, by their own will, and without asking leave or receiving assent from any body, to create a valid government, such that to revolt against it should be a crime by human and divine law. To this day, the reactionaries and conservatives of Europe do not allow that the authority of a government, thus originated, is of the same nature with that of one of their old monarchies. For this reason the sober mind of Europe is not shocked at the wickedness of the American secession, because they do not consider the casting off of such a government an offense against good morals. Our government is generally regarded in Europe as a mere aggregation of individuals, to and from which men may come and go at pleasure, without incurring any moral obligation or violating any moral principle.

It is upon this ground that we are to explain what appeared to Americans so shameless in the conduct of the French Emperor, when, in his letter to General Forey, he directed him to treat any government he might find in Mexico as merely provisional. The government of President Juarez is unquestionably the constitutional government of Mexico, and it has been supported by the great body of the people as such—the malcontent priests and their followers, and a few factious chiefs, only excepted. But it originated solely in the voice of the people, and neither had nor asked any other sanction than the popular will;—and therefore Europe pronounces it only provisional, and hence liable to be replaced by another of equal authority by any faction which could get possession of the Capital, so as to wield for a moment the forms of government at the accustomed seat of government. Another point gained by this subtlety is to give color to the pretext by which Mexico is held to be bound by the acts of the transient Usurper, Miramon; for if Juarez' government is only provisional, Miramon's had as much authority as his. And on no better ground than this, the Three Great Powers, Great Britain, France, and Spain, formed a coalition to invade Mexico, just as it was recovering from the disorders of a long revolution, in order to coerce the payment of Miramon's bonds, for which the scoundrel bankers had paid the plundering brigand only at the rate of four or five cents on the dollar. And by the same rule, if Jeff. Davis

had been smart enough to seize Washington City in 1861, and inaugurate himself as President of the United States, they might by and by be making war against us to compel the payment of his loans, for his government would have been provisional, and just as valid in fact as Mr. Lincoln's; for Europe decides in the case of Mexico that a constitutional government, sanctioned alone by the will of the people, is "only provisional."

If there had been any doubt as to the real intent of the language employed in the diplomatic correspondence of the allied Powers and in the Emperor's letter, it is all now dispelled by the action of the French commander since he got possession of the city of Mexico. He knew the object of the expedition, and what his master meant by his orders. He has treated the constitutional government of Mexico as no valid government, as a merely provisional arrangement, a *locum tenens*, until military power could come in and grant to the people a government conformed to the fundamental ideas of Europe. He first appoints by his own authority a commission of three persons, one a renegade Mexican, the instigator of the invasion, Almonte; the second, the Archbishop, a servant of the sovereign of Rome, to give the sanction of the Pope to the proceeding; the third, Salas, the most unprincipled of all the chiefs who have aided to keep Mexico in turmoil for a generation. These three convene a Council of Notables, selected by themselves, who proceed at once to declare Mexico an Empire, and appoint the Archduke Maximilian of Austria for Emperor, with the provision that, if he declines, the Emperor of France shall designate a person to be their monarch. Here we have the true intent of the ambiguous phraseology which was used throughout by the allied powers, of their intention to secure to unfortunate Mexico the blessings of a *stable* government. They meant a frame of government not originating with the people, in the exercise of their own inherent rights, and which they were always at liberty to change for good cause, but one *granted* to the people by some authority above them. It is a legitimate outgrowth of the political system of Europe, as adjusted by the Congress of Vienna.

We have devoted the more space to this attempted analysis of the political system of Europe, in order the better to show its

antagonism to the ideas which have been adopted in America, both concerning the origin of valid governments, and as to the mutual relations of states or nations. But few words are necessary to explain the system which exists among the nations of this continent, and to make it manifest that the two systems cannot exist together in the Western Hemisphere without creating a constant and irrepressible conflict of irreconcilable ideas. It is the fundamental idea that underlies our institutions, that the state is for the people, and not the people for the state; that the state is valued for its benefits to the people, rather than the people for the greatness it adds to the state; that the people are, in the order of nature, before the state, which they create by their will; and that, in like manner, the state is before the government, which it creates for itself, and may alter as it sees fit. Hence the stability of the government rests in the intelligence and patriotism of the people, and is promoted by whatever expands the minds and strengthens the principles of every class in society. The American Land system, by which the laborer owns the land he cultivates, and the system of Common Schools, by which every man learns to know his own rights and those of his neighbors, are natural products of the American Political System. The government neither stands on the grant of a superior, nor secures itself by keeping the people in subjection. For the sake of international comity and good neighborhood, it asks recognition, and courtesy, and justice from other nations, as its equals in rank, but would peril everything rather than concede that it owes its validity to the grant of any potentate, or depends for its continuance upon the strength of any foreign power. It would carry us over too much ground, to show in detail how perfectly such a government must shape itself to the people, and how such a people would grow up to their government, until it would become impossible to mold either the people or the government into compliance with the opposite political system. It were more practicable to exterminate them from the face of the earth than to make them patient and submissive subjects of a government imposed upon them without their consent. It is more to our present purpose to consider the workings of this political system upon the international relations of independent states. And the

first thought which suggests itself is, that each state, creating its own government for its own purposes, will necessarily have such a government as it prefers, such as it can create, can administer, and can support, and defend—and no other. And hence it does not admit the right of any combination of states to judge for another state what is best for it, or to dictate to another what it may or may not have for itself. The people living under such institutions would feel an interest in the progress of civil liberty everywhere, and would extend a cheering sympathy to any people who were struggling worthily to obtain the boon of self-government; but the nation itself would maintain a pure and impartial neutrality, unless some extreme case should arise in which our own safety was involved, or where the voice of outraged humanity might call for interposition. We would neither attempt to force such institutions upon the unwilling, nor purchase them for the incompetent. Whatever people would have them must win them; and if they would enjoy them, must keep them. In a word, the principle of non-intervention, which some statesmen are vainly endeavoring to graft upon the political system of Europe, is the natural growth of the American system, or rather, it is a necessary part of the life of society on this Western Continent—to be asserted on all occasions, and maintained at all hazards.

The European system in its full-blown development under the domination of the Holy Alliance, brought all Europe under its control. The final struggle for popular rights was made in Spain, where the Cortes adopted a constitution by their own authority, and compelled the king to accept its conditions. Ferdinand the VII appealed to the Holy Alliance to restore him to his legitimate prerogative, of governing by hereditary right, and making his people contented with such privileges as he saw fit to give them. It was a test case, and the absolutists were equal to the occasion. By their advice and consent, France sent an overwhelming army into Spain, in aid of the king, and totally broke the power of the popular party, leaving the throne as absolute as any in Europe. Europe was tranquilized, in the Vienna sense, and the Holy Alliance was at liberty to turn its attention to other continents for conquests to win, or dangers to repress.

But while these struggles had been going on in Europe, and partly in consequence of them, a great change had come over the political aspect of the New World. Our country no longer stood alone as the exponent of the American political system, and the object of absolutist jealousy. But this republic found itself at the head of a glorious sisterhood of free and independent states. The whole congeries of Spanish colonies on the continent of America, although in apparently the least possible preparation for the enjoyment of free institutions, had been first thrown loose from the control of the parent country by the breaking up of the regular government, through the ambition of Bonaparte; and having thus been compelled to assume the functions of self-government, they had severally, each by and for itself, successfully asserted and won their independence. The case is presented in a statesman-like way by Mr. Adams, when Secretary of State under President Monroe, in his letter of instructions to Mr. Anderson, the first American Minister to one of the Spanish Republics, dated May 27th, 1823:

- "The revolution of the Spanish Colonies was not caused by the oppression under which they had been held, however great it had been. Their independence was first forced upon them by the temporary subjugation of Spain herself to a foreign power. They were, by that event, cast upon themselves, and compelled to establish governments of their own. Spain, through all the vicissitudes of her own revolutions, has clung to the desperate hope of retaining, or of reclaiming them to her own control; and has waged, to the extent of her power, a disastrous war, to that extent. In the mind of every rational man, it has been for years apparent that Spain can never succeed to recover her dominion where it has been abjured; nor is it possible that she can long retain the small remnant of her authority yet acknowledged in some spots of the South American continent."

It was a great and glorious change for America, and was not unappreciated by the great men who were then at the head of affairs in this country. Mr. Webster said, in his celebrated oration at the laying of the corner stone of the Bunker Hill monument, June 17th, 1825, that "among the great events of the half century, we must respect certainly the revolution of South America; and we are not likely to overrate the importance of that revolution, either to the growth of the country itself, or to the rest of the world. When the battle of Bunker Hill was fought, the existence of South America was scarcely felt in the

civilized world. The thirteen little colonies of North America habitually called themselves the continent. Borne down by colonial subjugation, monopoly, and bigotry, those vast regions of the South were hardly visible above the horizon. But in our day there has been, as it were, a new creation. The southern hemisphere emerges from the sea. Its lofty mountains begin to lift themselves into the light of heaven; its broad and fertile plains stretch out in beauty to the eye of civilized man; and at the bidding of the voice of political liberty, the waters of darkness retire."

With the exception of the British Provinces north of us, the power of Europe was driven from the continent. From the lakes to Cape Horn, every foot of land had ceased to belong to the European political system, or to be in any way responsible for the "Balance of Power" in the Old World. Mexico, indeed, temporarily, and Brazil permanently, had adopted monarchical forms of government, but they were entirely American in interest. Fortunately, we had men in the administration of our government, who possessed both the wisdom and the patriotism to comprehend the situation, and act as the occasion required. It was the golden period of our political history. The devotion to public interests which characterized the days of the revolution had not died out, for Jefferson, Madison, Marshall, Rufus King, and many of their compatriots, were still alive. The native sagacity of our early statesmen which had baffled the diplomatic skill of Europe, had been ripened by the practical experience of thirty years in the administration of affairs at home and abroad. Private interest had not become so large as to withdraw most of the ablest men from public service. Party spirit had not eaten out the keen sense of what becomes the honor of the country. And slavery had not yet extinguished patriotism in half the states of the Union. It was in the lull of party strife called "the era of good feelings." It was the transition period between the patriotic inexperience of our infant government and the dominant selfishness of late years. Some of the men still in public life had participated in the cares of government when the indifference, if not contempt, of Europe for our insignificance was a shield to us against aggression. All of them had participated in the anxious

and critical period of the "second war of independence," by which we had at length gained the respectful consideration of the European governments. It was a crisis in our affairs, and we had men who could see its importance, and who knew how to meet it. And it is not too much to say, that if the policy which they adopted had been properly carried out by their successors, we should have been saved from many humiliations, as well as many political evils, which have been, or will be our portion.

The Holy Alliance had no thought of letting this whole continent slip out of their hands. The instant that they saw "the tranquility of Europe" restored by the suppression of popular freedom in Spain, their attention was turned towards this continent, with a determination first to resubjugate the colonies of Spain, and then to see what might be done towards breaking up the nest of dangerous principles in this country, and, if possible, put the United States into a situation where neither their doctrines nor their examples should again disturb the peace of Europe. The arrangements for this purpose were on the eve of being concluded, indeed were only waiting for the formal adhesion of England, when the sudden death of the British Secretary of Foreign Affairs laid the foundation for a change of policy in that government, which finally altered the whole course of events in Europe.

The Marquis of Londonderry, best known by the title of Lord Castlereagh, which he bore during the life of his father, died* by his own hand, in a fit of insanity, caused, it was believed, by excessive care and labor in the session of parliament then just closed. He had managed the foreign affairs of England with consummate ability during all the latter years of the great continental conflict in Europe, which ended with the battle of Waterloo, and had taken a distinguished part in all the negotiations for the readjustment of boundaries and other relations of all the countries of Europe. He was in full sympathy with the reactionary governments, and as earnest as any in favor of such measures as were thought best calculated to protect legitimate and established dynasties against all future revolutions in favor

* In August, 1822.

of popular rights or democratic ideas. For technical reasons, such as the forms of administration in England, he declined to make his government a party in form to the league of the Holy Alliance. But he acquiesced, tacitly at least, in the French invasion of Spain to suppress the Cortes. And he declared to Mr. Rush, our minister, that England would not assent to any pacification between Spain and the Spanish American states, that did not embrace the re-establishment of the supremacy of the Spanish crown.*

The death of Lord Castlereagh (Londonderry) gave the portfolio of Foreign Affairs to Mr. George Canning, who looked at public relations in a light entirely different from that seen by his predecessor. He is regarded as the most philosophical statesman that Great Britain has had during the century. An original thinker, with sound common-sense and liberal views, his character is not to be estimated without taking into consideration the circumstances and influences with which he was surrounded.† He not only declined to take part in any measures for the military coercion of the Spanish American States, but he soon came to look at the full recognition of their independence as the only practicable method of restoring peace in South America. At the earliest practicable period after getting possession of his office,

* "His lordship expressed regret that the United States viewed the question of independence in the colonies differently from England, giving as a reason the probable weight of their counsels with the colonies; so that, although my government was no formal party to the mediation, if, nevertheless, *it had harmonized with England on the question of independence*, the hope would have been increased of seeing the dispute healed the sooner, through influence which, from local and political causes, the United States might mutually be supposed to have with the colonies. How far it was practicable to settle it, giving back to Spain her supremacy, and granting to the colonies a just government under her sway, was not for him to say; but it was the hope to which the European Alliance still clung." Feb. 12, 1819. Rush's Memoranda, Vol. II., p. 17.

† Mr. Canning was an orator of the highest rank, as well as a wise statesman and skillful diplomatist. His predecessor's oratory was lampooned in "The Twopenny Post-Bag."

"Why is a pump like Viscount Castlereagh?
Because it is an ugly thing of wood,
That up and down its awkward arm doth play,
And coolly spout, and spout, and spout away,
In one weak, washy, everlasting flood."

and prior to the actual invasion of Spain by the French, under the Duke D'Angouleme, he intimated to the French government that "England considered the course of events as having substantially decided the question of the separation of the colonies from Spain," although the formal recognition of their independence by her might be hastened or retarded by various causes. Mr. Rush, in giving an account of his first formal diplomatic interview with Mr. Canning, which was on the 16th of August, 1823, describes the informal conversation which they held on Spanish American affairs. After the regular business of the interview was disposed of, Mr. Rush introduced the subject by referring to Mr. Canning's intimation made to France, in March, and remarked that he considered that note as a distinct avowal that England would not remain passive under any attempt by France to re-subjugate the Spanish colonies. Mr. Canning then asked Mr. Rush whether it was practicable for the United States to go hand in hand with England in such a policy. Thereupon arose a free and candid interchange of thoughts, broadly covering the whole case. Mr. Rush persistently pressed the inquiry to learn the precise intentions of England in regard to the acknowledgment of the independence of the late colonies, as he was satisfied that the course of the United States would be influenced in no small degree by this consideration. Mr. Canning said that the question of recognition was yet an open one, but finally said that he was about to send a commission of inquiry which might lead to recognition.*

We come now to the point which is of some importance, both historical and political, in its bearing on the importance to be attached to the course taken by our government. Which government, the American or the English, is entitled to the credit of taking the lead in the recognition of the Spanish-American states as independent nations? On this general question there is no uncertainty. The United States originated every step, in sending out a commission of inquiry, then in appointing consuls to these governments, and finally in conceding a full recognition of their nationality, and sending ministers to negotiate treaties of amity and commerce. All this was done before the first step

* Rush, Vol. II., pp. 400-404.

of inquiry was taken by England.* And yet Mr. Canning is said to have claimed that *he* "spoke the word which called nations into being in the New World, to redress the balance of the Old." And his biographer, Stapleton, labors to prove that the bold position taken by President Monroe originated in the suggestions,

* In his letter of instructions to Mr. Anderson, before referred to, Mr. Adams, in narrating and justifying the course proposed by our government, says that, "In August, 1818, a formal proposal was made to the British government for a concerted and cotemporary recognition of the independence of Buenos Ayres, then the only one of the South American provinces that had no *Spanish* force contending against it, within its borders; and where it therefore most unequivocally existed *in fact*. The British government declined accepting the proposal themselves, without, however, expressing any disapprobation of it; without discussing it as a question of principle, and without assigning any reason for the refusal, other than that it did not then suit with their policy. It became a subject of consideration at the deliberations of the Congress of Aix la Chapelle, in October, 1818. There is reason to believe that it disconcerted projects which were there entertained of engaging the European Alliance in actual operations against the South Americans, as it is well known that a plan for their joint mediation between Spain and her colonies, for restoring them to her authority, was actually matured, and finally failed at that place, only by the refusal of Great Britain to accede to the condition of employing force eventually against the South Americans for its accomplishment. Some dissatisfaction was manifested by several of the members of the Congress at Aix la Chapelle, at this avowal on the part of the United States, of their readiness to recognize the independence of Buenos Ayres." Message and Documents, March 15, 1826. House Doc. 129, p. 18.

Dates are here quite important. The resolution of the House of Representatives, calling for information on the subject, was passed the 30th of January, 1822. Mr. Clay's brilliant and commanding speeches in favor of recognition, which so electrified the civilized world, were delivered in February. Although the House at first declined, February 5, to include an allowance in the General Appropriation Bill, 33 to 77, and afterwards failed by only one vote to lay Mr. Clay's resolution on the table, 71 to 72, yet after the debate, the declaration of interest in the cause of South American independence was adopted, 134 to 12, and the pledge to support the President in his measures, passed 87 to 68. The President's Message was transmitted to Congress on the 8th of March, in which he "declared his own persuasion that the time had arrived when, in strict conformity to the law of nations, and in the fulfillment of the duties of equal and impartial justice to all parties, the acknowledgment of the Independence declared by the Spanish American colonies could no longer be withheld." The appropriation was made by Congress, May 4th, and on the 17th of June, Mr. Torres was received by the President as Charge d'Affairs from the Republic of Columbia. Mr. Adams says that "the immediate consequence of our recognition was the admission of the vessels of the South American nations, under their own colors, into the ports of the principal maritime nations of Europe." Doc. p. 21.

and was strengthened by the promised support of Mr. Canning. And it has been the policy of some American politicians and writers on public affairs to take the same ground, for the purpose of depreciating the value of Mr. Monroe's declaration. We have examined, with as much care and as much impartiality as we were able, all the evidence within our reach, and we have no hesitation in giving judgment that the course of our government was in no sense originated by the forethought or the sagacity of British statesmen, or emboldened by their courage, or the expectation of their countenance and support, but is to be credited in full to the wisdom and sagacity and patriotic courage of the American administration. And any attempt in any quarter to disparage the importance, or discredit the independence of this proceeding, is unjust and wrongful in Englishmen, and unpatriotic and mean in Americans. Of course it is impossible to present, in these pages, a detailed summary of the evidence on which this judgment rests. We can only indicate a few of the leading points in the case.

Mr. Stapleton, in his elaborate memoir of the public life of Mr. Canning, represents that statesman as having a desire to recognize the Spanish American states, with a view to counteract certain apprehended schemes of the French government, who might seek to acquire some of those territories as an indemnity for the cost of the invasion which restored absolutism in Spain. "It was with this view," he says, "that towards the latter end of August, 1823," he "*sounded Mr. Rush*, as to whether the moment were not arrived when the two governments" "might not come to some understanding with each other on the subject," so as to unite in some statement of principles, &c. Memoir, Vol. II., p. 24. And this account of the affair is followed and substantially copied by the North American Review for 1856, Vol. 82, p. 487.

Now we have Mr. Rush's own account of this interview, from which it is plain that it was Mr. Rush who introduced the subject, and who not only "*sounded*" Mr. Canning, but interrogated him, and persisted in seeking the desired information as to his views, and pressed upon him the direct and simple and American method of dealing with the difficulty, by immediate recognition,

as the wisest and safest policy. And it is impossible to read Mr. Rush's book without the conviction that he is a most considerate writer, conscientiously careful to make his statements in the most exact accordance with truth, and singularly free from a desire to magnify his own merits or glorify his own abilities, or in any way to exalt his own reputation at the expense of the truth, or of any other person. There is no modern writer whose statements bear more convincing marks of calm and exact verity.

It was on the 16th of August, 1823, that Mr. Rush had his first formal diplomatic conference with the new secretary. It was held at the particular request of Mr. Rush, for the especial purpose of opening negotiations on five or six subjects, (all unconnected with Spanish America), which had been particularly and freshly committed to him by his government. He says of the conference, "The proper object of it being over, I transiently asked him," Mr. Canning, "some question concerning the aspect of affairs in Spain, as the defection of Ballasteros from the constitutional cause had given rise to much apprehension of final disaster." Receiving a general response in the same tenor, Mr. Rush remarked that there would be one consolation left, that Great Britain would not allow the Powers to stop the emancipation of the colonies. This remark he based upon Mr. Canning's letter to the French minister, dated March 31, 1823, which simply expressed the belief of England that no attempt would be made by France to bring any of the Spanish colonies under her dominion, either by conquest or cession. Mr. Canning, without a positive assent, asked what the American government would say to a joint movement with England for this object. Mr. Rush replied that he had no instructions on that point, but would make the inquiry informally if it was desired, but could do it with more advantage if he knew the precise position of England towards those countries, especially as to the material point of acknowledging their independence. Mr. Canning admitted his own belief that America was lost to Europe, but England must for the present leave the question open for Spain to do what she could towards making terms with the colonies. Mr. Rush, "wishing to be still more especially enlightened," pressed the inquiry whether England was "contemplating any steps which

had reference to the recognition." Mr. Canning answered that it was proposed to send out a commission of inquiry to Mexico, such as the United States sent in 1817 to Buenos Ayres. And then he suggested the specific proposal that the two countries should, in some unobjectionable way, cause it to be known that they were agreed in the opinion that France ought not to extend her efforts at subjugation to the colonies. Mr. Rush expressed no opinion either for or against this suggestion, but promised to communicate it to his government. See Memoranda, Vol. II., pp. 397-404.

Such, we have no doubt, is a true history of the "sounding" process, as it took place on the 16th of August. On the 22d, Mr. Canning, in turn, "sounded Mr. Rush," by an "unofficial and confidential" note, renewing the suggestion which the latter had finally drawn from him, of a joint declaration against further attempts to subjugate the colonies, and inquiring whether he considered himself authorized to sign a convention, or to exchange ministerial notes to that effect. Mr. Rush replied, next day, that what his government most earnestly desired was to see those states "received into the family of nations by the Powers of Europe, and especially by Great Britain;" that the sentiments in the note were shared by the United States, who considered the recovery of the colonies of Spain to be entirely hopeless, and would "regard as highly unjust, and as fruitful of disastrous consequences, any attempt on the part of any European power, to take possession of them by conquest, by cession, or on any other ground or pretext whatever," but that his instructions were silent as to any manner in which these principles should be avowed. We cannot go over the whole of this negotiation, Mr. Rush's account of which extends to above forty pages; but the intelligent reader will see in the sentence last quoted, the spirit, and almost the very language of President Monroe's declaration, issued three months afterwards. Whoever examines it attentively will see that Mr. Rush adhered, throughout the correspondence and conferences, to the one indispensable point, of recognition, as the preliminary, declining to take any step or agree to any measure until that was accorded; while he at the same time maintained a scrupulous regard for our friendly relations with both France and

Spain. On the other hand, Mr. Canning continually avoided the promise of recognition at once, evidently with a view to secure advantages which he hoped to gain for England by the delay. The farthest he could go was to say that England would acknowledge the independence of the colonies at once, "in case France should employ force" to subjugate them, or if Spain "should attempt to put a stop to the trade of Britain" with them. And he finally closed the conference on the 26th of November, by informing Mr. Rush that he had judged it best for England to act alone, and had accordingly already entered into communication with France on the subject. He therefore wished the whole affair, as far as concerned a united movement with this country, to remain as it had been, informal and unofficial—"not as a proposition already made, but as evidence of the nature of one which it would have been his desire to make," had Mr. Rush been empowered to respond to it.

On the 2d of December, 1823, President Monroe communicated his annual Message to Congress, in which he laid down, broadly and clearly, the doctrine held by this government concerning the new relation subsisting between this continent and the nations of Europe. After alluding with deep interest to the struggles for liberty in Greece, and to the disappointment of our expectations in regard to Spain and Portugal, he proceeds to observe—

"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 favor of the liberty and happiness of their fellow-men 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 preparations for our defense. 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 defense of our own, which has been achieved with so much expense of blood and treasure, and matured by the wisdom of their most enlightened citizens, and under which we have enjoyed most unexampled felicity, this whole nation is devoted. We owe it, therefore, to candor, and to the amicable relations subsisting between the United States and 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. 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 purposes 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. In the war between these 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."

He also informs Congress that in the pending negotiations with Russia, which he had entered upon, through a desire, "by this friendly proceeding, of manifesting the great value which we have invariably attached to the friendship of the Emperor, and our solicitude to cultivate the best understanding with his government," he had judged the occasion a proper one "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 subjects for future colonization by any European power."

These paragraphs, taken together, present three distinct articles of faith or principles of action, growing out of the newly won independence of the Spanish American countries.

1. That the American continents, (leaving out the islands), are henceforth not to be considered subject to any future colonization by any European nation.

2. That we shall consider any attempt on the part of the European powers to extend their political system to any portion of this hemisphere as "dangerous to our peace and safety," and of course to be counteracted or provided against as we shall deem advisable in any case.

3. That for any European power to interfere with any American government for the purpose of oppressing or dictating to them unjustly, or of controlling their destiny by force or threats, would be viewed by us as "the manifestation of an unfriendly

disposition towards the United States," which we should be called upon to notice by protest or remonstrance, or in such way as we should think our honor and interest required.

This declaration, so plain, so explicit, and so firm, electrified Europe, which had begun to learn, by the results of the war of 1812, that the United States were to be respected for their strength, even where they were hated for their free institutions. Indeed, it may be said to have astonished both continents, by the boldness of front which it assumed. Mr. Rush tells us that "when the message arrived in London, the whole document excited great attention. It was upon all tongues, the press was full of it, the Spanish American deputies were overjoyed, Spanish American securities rose in the market, and the safety of the new states from European coercion was considered as no longer doubtful." Vol. II., p. 458. Mr. Stapleton, the biographer of Canning, says that "coupled with the refusal of Great Britain to take part in a Congress, similar to those which had met at Vienna, Aix la Chapelle, Laybach, and Verona, it effectually put an end to the project of assembling one, since, with the intentions of Great Britain and the United States thus unequivocally declared, such an assembly would have been utterly unable to have given effect to its own resolutions." Vol. II, p. 40.

In the debate on the reply to the King's speech at the opening of Parliament, February 6th, 1823, Mr. Brougham said, "The question with regard to South America was now, he believed, disposed of, or nearly so; for one event had recently happened, than which no event had ever dispersed greater joy, exultation, and gratitude, over all the freemen of Europe; that event which was decisive on the subject, was the language had with respect to Spanish America in the speech or message of the President of the United States to the Congress." He proceeded to state, as an indisputable fact, that "Ferdinand had been promised by the Emperor Alexander, that if the King of Spain would throw off the constitutional fetters by which he was trammelled, he would assist him in recovering his transatlantic dominions." "In that case, however, assistance would not have been given openly, but in a covert, underhand way." And he concluded this part of the subject by expressing his belief that "if the

declaration of the United States did not put an end to such attempts on the independence of the colonies; if a vigorous resistance were not opposed to such machinations, sooner or later, the liberties of those colonies would fall a sacrifice to the intrigues of Spain and the Allied Powers." Stapleton, pp. 46-47.

Sir James Mackintosh, June 15th, 1824, on the Recognition of the Spanish American States, in the House of Commons, bears this testimony to its importance:

"Although the attention of the House is chiefly directed to the acts of our own government, it is not foreign to the purpose of my argument to solicit them, for a few moments, to consider the admirable message sent on the 2d of December, 1823, by the President of the United States to the Congress of the great Republic. I heartily rejoice in the perfect agreement of that message with the principles professed by us to the French minister, and afterwards to all the great Powers of Europe, whether military or maritime, and to the great English State beyond the Atlantic. I am not anxious to ascertain whether the message was influenced by our communication, or was merely the result of similarity of principle, and coincidence of interest. The United States had, at all events, long preceded us in the recognition. They sent consuls and commissioners two years before us, who found the greater part of South America quiet and secure, and in the agitations of the remainder met with no obstacles to friendly intercourse. This recognition neither interrupted amicable relations with Spain, nor occasioned remonstrance from any Power in Europe. They solemnly renew that declaration in the message before me. That wise government, in grave but determined language, and with that reasonable and deliberate tone, which becomes true courage, proclaims the principles of her policy, and makes known the cases in which the care of her own safety will compel her to take up arms for the defense of other states. I have already observed the coincidence with the declarations of England; which, indeed, is perfect, if allowance be made for the deeper, or, at least, more immediate interest in the independence of South America, which near neighborhood gives to the United States. This coincidence of the two great English commonwealths, (for so I delight to call them, and I heartily pray that they may be forever united in the cause of justice and liberty), cannot be contemplated without the utmost pleasure by every enlightened citizen of either. Above all, Sir, there is one coincidence between them, which is, I trust, of happy augury to the whole civilized world:—they have both declared their neutrality in the American contest, as long as it shall be confined to Spain and her former colonies, or as long as no foreign power shall interfere."

Mr. Webster, in his great speech in Congress, on the Panama Mission, April 11th, 1826, expressed his entire concurrence in the sentiment expressed by other gentlemen, that "this Declaration of Mr. Monroe was wise, reasonable, and patriotic." And he had understood that "it was considered, weighed, and dis-

tinctly approved by every one of the President's advisers at that time." He adds, that "it met with the entire concurrence and the hearty approbation of the country. The tone which it uttered found a corresponding response in the heart of the free people of the United States." And he thus eloquently describes its general reception and effect :

"The people saw, and they rejoiced to see, that on a fit occasion, our weight had been thrown into the right scale, and that, without departing from our duty, we had done something useful, something effectual, for the cause of civil liberty. One general glow of exultation, one universal feeling of the gratified love of liberty, one conscious and proud perception of the consideration which the country possessed, and of the respect and honor which belonged to it, pervaded all bosoms. Possibly, the public enthusiasm went too far; it certainly did go far. But, Sir, the sentiment which this declaration inspired was not confined to ourselves. Its force was felt everywhere, by all those who could understand its object and foresee its effect. In that very House of Commons, of which the gentleman from South Carolina has spoken with such commendation, how was it received? Not only, Sir, with approbation, but, I may say, with no little enthusiasm. While the leading minister [Mr. Canning] expressed his entire concurrence in the sentiments and opinions of the American President, his distinguished competitor [Mr. Brougham] in that popular body, less restrained by official decorum, and more at liberty to give utterance to all the feelings of the occasion, declared that no occasion had ever created greater joy, exultation, and gratitude among all the free men in Europe; that he felt pride in being connected by blood and language with the people of the United States; that the feeling disclosed by the message became a great, a free, and an independent nation; and that he hoped his own country would be prevented by no mean pride, or paltry jealousy, from following so noble and glorious an example."

Such a declaration, so uttered, and received with such distinguished consideration, and followed by so momentous results, ought not to be regarded as of trifling significance or of transient authority. By it the United States took the position which of right belonged to them, as the first of American republics, the proper representative of American principles, the faithful defender of American interests. It was as Mr. Edward Livingston termed it, "a pledge to the world," and involved national obligations and responsibilities which will never die out, so long as we remain a 'free republic.' For the obligations assumed by nations do not die with those who incurred them, or cease to bind because not duly valued by a succeeding generation. It became and is to us, in our relations with both Europe and America, the point of honor, in losing which, we become a base nation, for honor is

the chastity of nations, as patriotism is the faith of their citizens. It is to be regretted that so many of our own politicians, from one motive and another, have either grievously misapprehended the import of the declaration, or have been insensible of its importance as well as of its permanent force. The learned and judicious compilers of Appleton's Cyclopaedia have correctly pronounced it "a platform of principle on this important subject, which has been approved by the prominent statesmen of the country, from the time of its proclamation to the present."

It was perhaps unfortunate that the Monroe Doctrine, shortly after its promulgation, but under a change of political party tactics, became mixed up with the discussions concerning the Congress of Panama. Narrow-minded partisans, on the one side and the other, thought it necessary to attack or defend the administration by expanding or narrowing the scope of this doctrine, until it finally seemed to many that the Panama Congress was the culmination of the Monroe Doctrine, which perished when that failed. Whereas the Panama Congress was, at the most, but a measure designed to apply and carry out the Monroe Doctrine, if found advisable in a certain connection.

Mr. Benton, in his "Abridgment of the Debates," makes a note to this part of President Monroe's Message, quoting a passage from President Adams's Panama Message, where he states it as one of the objects of consultation at the proposed Congress, whether it was advisable to form "an agreement between all the parties represented at this meeting, that each will guard, by its own means, against the establishment of any future European colony within its borders;" and says this is "an authoritative exposition of the scope and extent of the Monroe Doctrine." Whereas, the exclusion of European colonization was but one of three distinct points of the Monroe Doctrine, and the measure suggested by Mr. Adams, so far from defining the "extent and scope," was merely an application of the doctrine to a transient occasion. The Administration saw indications of a tendency among the new republics to fling themselves upon the protection of our government, without proposing to make use of their own resources for their own defense. And they were anxious to have the conference so managed as to lead these infant nations to a

manly assumption of the dignity of independence, teaching them to feel its responsibilities, by practising its duties of self-assertion and self protection, as well as to enjoy its benefits. And to effect this result, they projected the agreement referred to. But that was not itself the Monroe Doctrine, nor did it determine either the "scope and extent" of the doctrine, or the course to which it might lead our government at other times or under other circumstances.

Mr. Benton further describes the occasion of the declaration; that the "Holy Alliance for the maintenance of the order of things which they had established in Europe, took it under advisement to extend their care to the young American republics of Spanish origin, and to convert them into monarchies, to be governed by sovereigns of European stocks—such as the Holy Allies might put upon them. It was against the extension of this European system to the two Americas that Mr. Monroe protested." And the *North American Review* for 1856, in an article displaying no inconsiderable acquaintance with historical facts pertaining to the question, says of the declaration:

"Originated for the purpose of meeting a particular conjuncture of events, it finds in them alone its real purport and justification. Wise and seasonable with reference to the circumstances of the time at which it was promulgated, it ceased to be of any force *even* as a Presidential recommendation, as soon as the crisis which called it forth had passed." Vol. 82, p. 489.

It is true that the occasion of the Monroe Declaration was as is described. But the *cause* was the antagonism of the two political systems of Europe and America, and the object was not merely to prevent the present danger of invasion, but to warn off the incompatible system from ever attempting to force itself upon this continent. The danger was transient, but the cause of the danger was permanent, and the principle enunciated was of general application, as long as the cause remains, in the existence of an incompatible system, which its supporters desired to make universal. The utterances of great principles which are most effective, are commonly made upon occasions. So it is with the scriptures of truth, The law of nations has been wrought out and formed into a tolerably logical system of general principles, solely through the methods by which governments have

met occasions. And to argue that great principles put forth, like those of the Monroe Doctrine, to meet an occasion, therefore "cease to be of any force" "as soon as the crisis which called it forth had passed," is to bury out of sight all the lessons of history and all the wisdom derived from human experience. The Monroe Doctrine was not so understood by those who advanced it. The meditated intervention or invasion, and even the international conference which was to arrange for it, were stifled in their inception by this bold declaration of the determination of a great people. The danger which called forth the utterance passed away at the instant that word was proclaimed. But the administration, which sent forth so potent a declaration, intended that it should serve for the future as well as the present. This is proved by the earnestness with which Mr. Monroe reiterated the Doctrine, with its reasons, after the existing danger had passed away. Speaking of the Spanish American States, whose independence was not yet acknowledged by Europe, the Message to Congress of December 7th, 1824, says:

"The deep interest which we take in their independence, which we have acknowledged, and in their enjoyment of all the rights incident thereto, especially in the very important one of *instituting their own governments*, has been declared, and is known to the world. Separated as we are from Europe by the great Atlantic Ocean, we can have no concern in the wars of the European Governments, nor in the causes which produce them. *The Balance of Power between them, into whichever scale it may turn in its various vibrations, cannot affect us.* It is the interest of the United States to preserve the most friendly relations with every power, and on conditions fair, equal, and applicable to all. But in regard to our neighbors our situation is different. It is impossible for the European Governments to interfere in their concerns, especially in those alluded to,"—[of *instituting their own governments*]"—"which are vital, without affecting us; indeed, the motive which might induce such interference in the present state of the war between the parties, if war it may be called, would appear to be equally applicable to us. It is gratifying to know that some of the Powers with whom we enjoy a very friendly intercourse, and to whom these views have been communicated, have appeared to acquiesce in them."

This settles the question as to the scope and extent of the Monroe Doctrine, and the permanent force which it was intended to possess. Mr. Monroe here used the technical phrase, "Balance of Power," to designate the "political system" which he would spurn. It was not merely the defeat of the threatened invasion that he aimed at, nor even a counterblast to the Holy

Alliance that he wished to put forth. But he would separate us forever from the complications of the Balance of Power in Europe, and vindicate forever the right of American nations to construct their own governments according to their own views of their own welfare, without the liability of interference by other governments intent upon serving their own interest. The great deliberation and forethought with which our government formed its conclusions, as well as the independence of European suggestion or influence with which it acted, is shown by the correspondence which the President held with Mr. Jefferson, at a date before it was possible for him to have learned anything definite concerning Mr. Canning's intentions as to recognition. An extract of a letter from the Sage of Monticello to Mr. Monroe, dated the 24th of October, 1823, shows also the views entertained by both of these learned and experienced statesmen, as to the breadth of scope and permanence of application of the principles under consideration :

“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.* 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 cis-Atlantic affairs.* America has a set of interests, (North and South,) 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 ; the last is laboring to become the domicil of despotism ; our endeavors should surely be to make our hemisphere that of freedom.”

The *National Intelligencer*, a paper in which we used to look only for the elevated utterances of an enlightened patriotism, had an editorial Article in its issue of March 11th, 1863, designed to show that the Monroe Doctrine was nothing more than “a *caveat* addressed to the Holy Alliance, and so of merely temporary import.” And it concludes that,

“The contingency which it was instituted to meet never occurred, and hence there was no necessity for its enforcement. We have no disposition to call it a *brutum fulmen*, or to disparage the patriotic impulse to which it owed its origin ; but it no longer exists save as a Presidential precedent which Congress declined to endorse. The creature of circumstances, it perished so soon as the circumstances disappeared which gave it life and activity. In a similar juncture, it would remain for the wisdom of the country to decide, upon a similar course, if that should be considered the most expedient and proper.”

This Article has been supposed to have a common origin with the more elaborate disquisition in the *North American Review* for April, 1856, the views and arguments being much alike, and coming to a similar conclusion, which is thus expressed in the *Review* :

“While, therefore, the Monroe Doctrine with regard to forcible intervention was still a living question, it failed to meet the sanction of Congress, in whose judgment it seemed at least prudent to delay the adoption of any measures corroborative of the President’s suggestions, until such intervention had actually taken place. The declaration of the President did not commit the policy of the country to any specific action in the premises. It rested with Congress to give it life and activity, and this Congress declined to do. Upon the wisdom of this decision we do not undertake to pronounce; we merely state the facts, for the purpose of drawing the conclusion that this branch of the Monroe Doctrine is not a living and substantive principle of our governmental policy. In case, however, of any emergency similar to that which prompted the declaration of Mr. Monroe, it would be competent for Congress to resuscitate and enforce the principle he announced, not because it was the doctrine of Mr. Monroe, but because it might be deemed wise and expedient *at the time*. Let the dead past bury its dead. To act in the living present is as sound a maxim in public affairs as in private life.” Vol. 82, page 493.

It is a mistake, into which we are surprised that so able a statesman as General Cass has also fallen, to suppose that the Monroe Doctrine lacks any element of force or authority in consequence of not having been formally confirmed or enacted by Congress. It is a matter that pertains exclusively to the President, and his declaration gives it complete validity. By the distribution of powers in our frame of government, questions of international relation and diplomacy, except the declaration of war, are committed to the executive department. A resolution of approval, or even an act of Congress, may sometimes be of value, in any emergency, to show that the representatives of the people by states and districts are in full accord with the President, who acts for the whole nation as a unit. But the nation is as fully committed, and foreign powers are at liberty and bound to recognize our national determination on such a point, in a declaration of the President of the United States, as though the matter had been solemnly enacted by both Houses of Congress, and even ratified by the people in town meeting all over the country.

But it is equally a mistake to suppose that the Holy Alliance,

the Balance of Power, or the Political System of Europe, are no longer of concern to us, or that the danger is passed of a European invasion for the purpose of dictating to American nations the form of government under which they may live. If the Holy Alliance were indeed utterly abrogated and forgotten, it would not therefore follow that there is no longer reason to fear the introduction of the European system of politics in this hemisphere. The Balance of Power is still the central idea of European statesmanship. The doctrine still prevails, that rights are not inherent in the people, but granted to them by the crown or the conqueror; and that it cannot be a valid or "stable" government which has been created solely by the will of the people, and holds its authority from no higher source than "the consent of the governed." Unhappy Greece, which succumbed to the European system, is at this day as destitute of the blessings of good government as the most unfortunate of the American republics which rejected that system. And every nation in Europe stands liable to interference from its neighbors, for ends and with purposes lying outside of the mutual relations between it and the interfering powers. Nor were the statesmen of Europe ever more eager than they are to-day, to make their system of policy as dominant in the New World as it is in the Old. Those persons are doubtless greatly mistaken who imagine that the Great Rebellion was inaugurated without help or counsel from Europe; or that the confident reliance upon European help sprung only from the heated imaginations of the arch traitors; or that the instant recognition of belligerent rights in the rebels was a sudden after-thought, suggested at the moment; or that the command of vast resources in Europe, by the rebels, was merely a matter of private arrangement with Messrs. Spence and Laird, and their associates. Great effects require adequate causes. It is hardly supposable that the ready coalition and instant action of the three powers, England, France, and Spain, which united in the invasion of Mexico for the purpose of imposing a government upon that free people, were the effect merely of a sudden resolve to improve an unlooked-for opportunity. We must rather believe that there was, somewhere, a pre-existing concert of design, to help the rebellion into full being, and thus make an op-

portunity, while our government was embarrassed, to overthrow the Monroe Doctrine, and get at once a firm footing on this continent for the political system of Europe. It will require a succinct but careful examination of this Mexican affair, to show precisely the present position of our government in regard to the Monroe Doctrine in its practical applications under the existing aspect of affairs in Europe.

Almost simultaneously with the attack on Fort Sumter, as if by one and the same impulse, Spain obtained possession of the eastern provinces of St. Domingo, through the treachery of the President Santana, and made that fine island again a colony, our own government quietly acquiescing in this first grand outrage against the Monroe Doctrine. On the 29th of June, 1861, Mr. Corwin, our minister to Mexico, called the attention of our government to the inklings he had heard of a project of intervention in Mexican affairs by France and England; and he asks how that will affect the great idea of free government on this continent, and exclaims: "Surely American statesmen should be awake to even a suspicion that such portentous events are possible." He reasons: "The towering ambition of Napoleon to regulate Europe, when it shall have been gratified in that quarter, will seek to dazzle the world by impressing upon this continent the idea of French glory and French supremacy." That wild suggestion is now history. Mr. Seward replied, August 24th, that "This government cherishes the actual independence of Mexico as a cardinal object, to the exclusion of all foreign intervention, * * yet the present moment does not seem to me an opportune one for personal reassurance of the policy of the government to foreign nations. Prudence requires that, in order to surmount the evils of faction at home, we should not unnecessarily provoke debates with foreign countries, but rather repair, as speedily as possible, the prestige which those evils have impaired." Wisdom would have dictated, what experience has sadly confirmed, that the national "prestige" would be best maintained by a frank and firm communication of our unalterable adherence to the positions of Mr. Monroe. Instead of which, Mr. Seward wrote on the same day to Mr. Adams, our minister to England, to ascertain if the British government will forbear hostilities against Mexico, on

condition that we should aid the latter in the payment of certain claims. A month later, Sept. 24th, he instructed Mr. Adams "to inform the government of Great Britain that this government looks with deep concern to the subject of the armed movement," then publicly talked of, and to ask "for such explanations of it as her Majesty may feel at liberty to give," but grounding the request, not on the positions of the Monroe Doctrine, but on "the intimations we have already given in regard to an assumption of the payment of interest on the Mexican debt." In a like spirit he wrote to Mr. Dayton, March 3d, 1861:

"We have acted with moderation and with good faith towards the three Powers which invited our co-operation in their combined expedition to that disturbed and unhappy country. We have relied upon their disclaimers of all political designs against the Mexican republic. But we cannot shut out from our sight the indications which, unexplained, are calculated to induce a belief that the government of France has lent a favoring ear to Mexican emissaries, who have proposed to subvert the republican American system in Mexico, and to import into that country a throne and even a monarch from Europe.

"You will intimate to M. Thouvenel that rumors of this kind have reached the President, and awakened some anxiety on his part. You will say that you are not authorized to ask explanations, but you are sure that if any can be made, which will be calculated to relieve that anxiety, they will be very welcome, inasmuch as the United States desire nothing so much as to maintain a good understanding and cordial relations with the government and people of France.

"It will hardly be necessary to do more in assigning your reasons for this proceeding on your part than to say that we have more than once, and with perfect distinctness and candor, informed all the parties to the alliance that we cannot look with indifference upon any avowed intervention for political ends in a country so near and so closely connected with us as Mexico." p. 218. Mexican Doc., April, 1862.

This deprecatory, apologetic, almost fawning approach to the British and French governments, contrasts with the manly tone of a better day. In the year 1825, the government of France sent a large fleet to the American seas without giving notice to this government, or any explanation of the object. Mr. Clay, then Secretary of State under President J. Q. Adams, instructed Mr. Brown, our minister, Oct. 25, 1825, to inform the French government that the President expects that "the purpose of any similar movement hereafter," should be frankly communicated to this government. And he added that "if any sensibility should be manifested to what the French minister may choose to regard

as suspicions entertained here," he was to disavow those suspicions, but at the same time recapitulate the circumstances that gave apparent force to our surprise as to the objects of the movement. Mr. Brown replied, Jan. 10, 1826, that he had, "in the most delicate and friendly manner, put it to the Baron de Damas," the French Secretary, that in case France should again send out an unusual force, "its design and object should be communicated to the government of the United States." The Baron de Damas explained the peculiar circumstances of the case, and promised, in behalf of France, that, "in future, the United States should be duly apprised of the objects of every such squadron sent into their vicinity." That promise has never been vacated, and its fulfillment should have been directly and categorically demanded by us on the first demonstrations towards the invasion of Mexico. . But no such demand was made. On the contrary, Mr. Dayton was directly inhibited from asking any explanations whatever. And he was directed, April 22d, 1862, to say that "M. Thouvenel's assurances on the subject of Mexico are eminently satisfactory to the President."

It is believed that our ministers abroad, Messrs. Adams, Dayton, Corwin, and Schurtz, did all that was becoming their station to do, to impress upon the administration the true objects of the coalition, the importance of our own interests that were imperiled, and the hollowness of the pretexts with which we were turned off. That it was the intention of the coalition to effect a change of government in Mexico, was notorious to all Europe. It was impossible for our ministers to shut their eyes upon facts so patent. We find Mr. Dayton, in a letter to Mr. Seward, June 5th, 1862, after some repetition of M. Thouvenel's fallacious disclaimers, adding with evident humiliation :

"It may be difficult to reconcile the published opinions of the commissioners acting for England and Spain in Mexico with these declarations of the French government ; but your original dispatch instructed me to say that I was not authorized to demand explanations, though the government would be happy to receive them. These explanations have been freely given ; if they conflict with what has been said and done elsewhere, I have not felt at liberty, under my instructions, to make such conflict the subject of comment.

"Were it supposed, however, that France proposed to change the form of government, and establish a monarchy in a republic next to and adjoining our own, it is not to be doubted that, upon every just principle of international law

or comity between states, we would have the right to demand explanations. Nor do I think that France would have felt disposed to contest such right. The explanations, however, such as they are, have been volunteered by them, not demanded by us."

The whole correspondence, as far as published, between our government and those of England, France, and Spain, makes upon us the impression of a most manifest desire on our part not to see anything objectionable in the proceedings of those Powers, and a very friendly willingness on their part to make general disclaimers of any improper designs. There appears an extreme readiness on our part to accept such ambiguous disclaimers for a great deal more than they expressed, and a careful avoidance of what was our obvious course if we were in earnest, which was, to ask the allied Powers what were their objects, and what they intended to do to attain them. This direct request was what we had a just right to make, and to insist upon a frank and full explanation. The treaty of London, for the invasion of Mexico, was signed on the 31st of October, and the ratifications were exchanged November 15th, 1861. The coalition agreed to send a combined naval and military force sufficient to seize and occupy the fortresses of Mexico, and for other operations suitable to the object; and they engage "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 form of its government." This carefully studied phraseology is to be interpreted by the results now passing before our eyes.

It would lead us over too much ground for the present purpose, to show by sample citations, that the coalition against Mexico had for its object the extinction of the Monroe Doctrine, by the actual establishment of the "political system of Europe" on this continent by military force, and that it was a matter of mutual expectation and calculation, that the effect of the invasion should certainly be the establishment of a government in Mexico, different from that in existence under President Juarez, and so far conformed to European models as to constitute, according to their ideas, "a stable government." M. Billaut's speech in the French Chamber, on the 26th of June, 1862, after expressing the determination not to treat with Juarez, exclaimed,—“Let this

Mexican government disappear before the force of France, or let it take a more serious form, which may offer some security for the future." And the Emperor, July 3d, 1862, in his personal instructions to General Forey, on the line of conduct which he was to follow in Mexico, directs him to "declare that everything is provisional," meaning that the existing government is to be considered only informal and temporary, and without permanent authority. And when he should have reached Mexico, he was to take measures "with the principal persons who have embraced our cause," "with the view of organizing a provisional government," composed, of course, of such parties only; the pretext being to "aid" the Mexicans in establishing "a government which might have some chance of stability;" and the assumption being, that it is not competent for a people to create such a government by their own will alone, unless it is granted to them by the emperor, or in some other way imposed and supported by military force. In the same letter, the Emperor gives the information of the ulterior object of the invasion; to head off the United States, and curtail the growing power of this republic, so that we may not "seize possession of all the Mexican Gulf, dominate from thence the Antilles, as well as South America, and be the sole dispenser of the products of the New World." And he anticipates that, "if a stable government is constituted with the assistance of France, we shall" have restored to the "Latin race on the other side of the ocean its strength and prestige," and "we shall have established our beneficent influence in the center of America." Coupled with all this is a special injunction as to the interests of religion;—by religion meaning the Church of Rome, which is the principal thing to be regarded in this whole programme of deceit and wrong.

There is not in all history a more shameless disregard of professions made and pledges accepted, than the manner in which the Emperor of France has trampled on all that our administration credulously assumed as his promises of respect to the wishes of the people of Mexico, in any changes of government which he should promote. His general in command, in connection with the corrupt Saligny, the French minister resident, proceeded to create a new government of three persons by his own sole author-

ity and will; these summon an assembly of notables, chosen and designated only by themselves, without the shadow of a form of consulting the will of the Mexican people; and this assembly forthwith establishes a hereditary monarchy, designating Prince Maximilian as Emperor, who accepts the appointment, relying on the French army to support him in the throne. And this is now said by the Court Journal of Vienna, *Memorial Diplomatique*, to be the carrying out of a proposal which was made by the French Emperor, so long ago as October, 1861, in the dark days of this republic which followed the first defeat at Bull Run. The eagerness of most of the European governments to congratulate that of France upon the success of the invasion, attests the importance of the movement, and is a general recognition of its real object, the overthrow of the Monroe Doctrine, and the extension of the political system of Europe to this continent. As the case now stands, all Europe, except Russia, is virtually enlisted in this scheme. And thus far, the apparent success is complete. The republican government, instituted by the people, is overthrown, and in its place is a hereditary monarchy, imposed from without, and maintained by military force, dictated by the powers of Europe, and above all sanctioned by the Pope, and devoted to the interests of the Church of Rome. Says the London *Times* of August 22:

“Strictly speaking, the French army, though composed exclusively of French soldiers, did but represent what are called “troops of execution” in the administration of confederate Germany. The sentence of Europe had gone forth against Mexico, and she was put under the ban of Christendom. As regarded the actual judgment on her offenses, England and Spain were not only of one mind with France, but were originally engaged even in the execution of the sentence. It is not conceivable that under any government whatever the Mexican should fail of being better ruled than before, and if France and Austria can make Mexico a state in which life and property are secure, and public obligations respected, they will certainly leave Europe and Mexico their debtors.

The same paper had said on the 11th—

“The good or ill that may accrue to the Emperor Napoleon from his success must depend upon the motives which have guided him, and the manner in which he may use it, but it would be vain to deny that the feeling of the merchants of London is that on the whole, so far as the affair has proceeded, he has done a great service, both political and commercial, to the world—political, in confirming the previous action of Spain in extinguishing the Monroe Doctrine; and

commercial, in restoring the intercourse of nations with a territory which, from its geographical position and mineral wealth, can claim a general and almost exceptional importance."

It is not to be expected that the pages of a quarterly review should keep pace with the daily developments of a movement still in the height of its progress. Enough has already appeared to convince every intelligent American, and to determine the future judgment of impartial history, that the whole belongs to one scheme, that its design was hostile to the honor and safety of the United States, that its objects reached far beyond the security of the Mexican bonds, that it was a conspiracy of European powers to force the political system of Europe upon the American states, and establish here the same right of interference, dictation, and coercion over the feebler nations which has so long been maintained in Europe. Whether it shall yet be proved or not, that the original plot embraced and brought on the rebellion; there cannot remain a doubt that the coalition of England, France, and Spain, was determined on, and carried into effect, solely in consequence of the supposed inability of the United States at the moment to insist on the Monroe Doctrine. It is equally evident that the final success of the whole programme hinges upon the result of the first step, the breaking up of the American Union. If that fails, the whole fails. The apprehension of possible failure may explain the change in the policy of the Palmerston administration, in withdrawing the British forces from the actual invasion of Mexico, and allowing it to be extensively believed that the coalition is at an end, when in truth the treaty of London is still unbroken and in full force. Louis Napoleon, and Forey, and Almonte are but the agents of the coalition, in carrying out the "other operations" authorised and provided for in the treaty.* Both the English and American people ought to understand that the British government has with-

* "The commanders of the allied forces shall be, moreover, authorized to execute the other operations which may be considered, on the spot, most suitable to effect the object specified in the preamble of the present convention.

"All the measures contemplated in this article shall be taken in the name, and on the account of the high contracting parties, without reference to the particular nationality of the forces employed to execute them." Treaty, Art. I., Sec. 2 and 3.

drawn from the "execution" of the treaty, but not from the treaty—as the head burglar who forces the door may leave his agents to gather the plunder, while he retreats from the scene in order to plead an *alibi* hereafter, but still claiming his share of the spoils. If our prospects, as seen in Europe, should continue to brighten as they have for the past three months, we shall expect to see a still more manifest change in the tone of Earl Russell's letters. Already, instead of pushing directly for war, as in the Trent case, he contents himself with trying how far he can go in bullying and worrying without running into actual war. We may yet have to review his cordial compliments on the full re-establishment of the Union, with the most friendly assurances that this was what he always most wished to see, and what in fact he always confidently expected would be accomplished.

There are two dangers, lying back of those already considered, and therefore less obvious to the view, which we now only allude to, although each is well worthy of consideration in an article by itself. The first is the engrafting of a new principle upon the recognized laws of nations, in the right assumed by the Great Powers, of invading and occupying the territories of the feebler nations for the purpose of enforcing the payment of governmental bonds given to individual bankers, subjects or otherwise of the invading Powers. And this without reference to the equity of the case, as whether the bonds were given for a just consideration, or by a regularly constituted and responsible government. For the Jecker bonds, amounting to more than \$50,000,000, on which alone the French claim to interfere was grounded, were given by Zuloaga and Miramon, both usurpers, soon expelled by the people; they were sold at sums "varying from one-half of one per cent. to four or five per cent." of their nominal amount;* and the Jeckers were not French subjects at the time the bonds were given, but were naturalized during the subsequent negotiation, and for its purposes. If this is received as the law among nations, that the Great Powers may constitute themselves at once party, judge, and executioner, to enforce by arms the payment of bonds given to financiers, and without regard to the justice of the debt itself, then the smaller powers

* See Mr. Corwin's letter of June 29, 1861.

have lost their independent nationality, and subsist in form, not by any right in themselves, but solely by the permission of The Ring. And there never can be wanting a pretext for the coercion and subjugation of any one of them which may not square its conduct to the interest or the caprices of its superiors. And as the enslaver is always himself enslaved, it puts the Great Powers in their turn at the mercy and under the dictation of the lenders of money, who may demand their services at pleasure, in the humiliation or annihilation of a debtor state that dares to resist or offend the Money Power. In a word, it enthrones above all the governments of the civilized world, a supreme and dominant dictation, more cruel, heartless, and irresponsible than history ever recorded, controlling the industry and wealth of the world for its aggrandizement, and holding the forces of the world for its defense, and for the execution of its will; an *avatar* of "Associated Wealth," compared with which the "monster" national bank which Jackson slew, and even the confederated interest in slavery of a thousand millions now being annihilated, are but insect annoyances.

The other dangerous element in the case before us is the growing arrogance and strength of the Papal Power in connection with all the progressive developments of French ambition and conquest. It is curious to see how everything that France does or gains or aims at becomes subservient to the Papal Power, and turns to the disadvantage of religious liberty and of enlightened civilization. Beginning with the overthrow of the Roman Republic, and the still continued armed occupancy of Rome by a French army, as the only means of upholding the Pope in his throne as a temporal prince, we see in Cochin China, in Madagascar, in Turkey, in Spanish America, in Poland, and everywhere, that it is the support and favor of the Pope which constitutes Louis Napoleon's reliance in the last resort; and it is the extension and consolidation of the Papal Power which gives unity to all his aims, and the strength of a common interest to all his schemes. It is now clearly understood that the outbreak in Poland was but a plan for establishing in the center of Europe a Franco-Romish interest that should serve as a point of defense and aggression against Russia and the Greek Church. It is Po-

pery, struggling against the advance of freedom and civilization, that has for forty years kept the Spanish American States in turmoil, and kept them from consolidating their governments, or improving their conditions. In Venezuela, in Columbia, in Ecuador, everywhere, it is the Priests' Party against the body of the people; the people striving to recover the right of governing for themselves, and the Priests, aided by a few bigots, a few rich men, a few European Know-nothings, and a good many reckless and marauding brigands, trying to keep the power of the government in the hands of a class, and subject the many to the control of a few. This power has at length been happily put down, at least for the present, by the gallant and patriotic President Mosquera in Colombia. It has succumbed, at least temporarily, to a compromise in Venezuela; while, in the adjoining republic of Ecuador, it has apparently achieved an absolute triumph, in the treaty which was concluded in April last, by President Moreno with Cardinal Antonelli in the name of the Pope.* And one of the chief ends of the conquest of Mexico

* This treaty, which has been published in *El Nacional*, the official journal of Ecuador, contains the following articles, which serve to illustrate the Pope's ideas of religious liberty, where he has things in his own way :

"1. The Roman Catholic and Apostolic religion is the religion of the Republic of Ecuador. Consequently, the exercise of any other worship, or the existence of any society condemned by the Church, will not be permitted by the Republic.

"2. The education of the young in all public and private schools shall be entirely conformed to the doctrines of the [Roman] Catholic Religion. The teachers, the books, the instructions imparted, &c., &c., [the provisions are given in a very condensed form], shall be submitted to the decision of the bishops.

"3. Government will give its powerful patronage and its support to the bishops in their resistance to the evil designs of wicked persons, &c.

"4. All matrimonial causes, and all those which concern the faith, the sacraments, the public morals, &c., are placed under the sole jurisdiction of the ecclesiastical tribunals, and the civil magistrates shall be charged to carry them into execution. The priests shall confine themselves to consulting the lay judges, if they think proper to do so.

"6. The privileges of churches [the ancient right of asylum in consecrated buildings] shall be fully respected."

The Philadelphia *Catholic Herald and Visitor*, August 5th, exults :

"A most satisfactory Concordat has been concluded between the Holy See and the Republic of Ecuador, in South America. In that exclusively Catholic country, the public exercise of no other worship than the Catholic is to be allowed. The bishops are to have the control of the education of youth, and to propose three

by France, is announced to be the ascendancy of the Latin race, and the restoration of the Church of Rome to its ancient honor and power in the country. The confiscation already begun of the estates of all Mexicans guilty of the crime of supporting their own constitutional government, will prepare the way for the restoration of the estates of the Church, valued at a hundred millions of dollars, heretofore sequestered for the uses of the state.

In former days, the civilized world has been accustomed to rely for protection against any unwarrantable aggressions of Rome, upon the vigilance and strength of the two great Protestant Powers, Prussia and England. And it is a most unfortunate coincidence, that just at this time, when the Papal Power is so rapidly consolidating itself, and extending its influence over many countries, Prussia is well nigh powerless for any good purpose, by the insensate relapse of the present monarch into the wildest madness of absolutism; while the government of England is under the administration of a chief who seems to have become, practically, but a mere satrap of Louis Napoleon. Mr. Kinglake, in his remarkable volume on the Crimean War, before referred to, has described the process by which Great Britain was drawn, wholly beyond her intentions and against her interests, into that most bootless conflict. And there is no reason to expect that the same fallacious *entente cordiale* will not be made available to draw her onward, *volens volens*, into whatever ulterior national embroilments the conquest of Mexico may lead to, in the interest of Popery and Absolutism.

In these frank and honest animadversions on the conduct of our affairs, we would not be understood as affirming that these evils, felt and feared, might have been prevented by a more open, and firm, and earnest maintenance of our point of honor before Europe; or that the conspiracy of crowned heads against republican liberty could have been broken up in the year 1861, as it was in 1823, by the mere utterance of the magic words of the

candidates for the vacant episcopal sees to the selection of the President and of the Pope. No *Exequatur*, no Piedmontism, no Gallicanism, no shortcomings. The Hispano-American population, in the State of Ecuador, mean to be *truly and generously Catholic!*"

Monroe Doctrine. Things are not as they were forty years ago in many particulars, as we have too much reason to know. But we are quite confident that, if there had been in 1861 a firm and fearless reaffirmation of the Monroe Doctrine, in its plain meaning, as a long established principle from which the United States could never depart under any circumstances, and had our government put to each of the governments concerned in the coalition against Mexico, a direct and categorical question as to the objects of the invasion and the methods proposed for their attainment, with the intimation that we expected a frank and explicit answer, our title to which had been recognized in years long gone by—it might not have defeated the plot, but it might have caused a hitch in the progress of the negotiations; and it would, at any rate, have placed us right on the record before Europe whenever the crisis should come, as come it must. And it would have given proof to the world of our continued confidence in the stability of our institutions, and in the inherent strength of our government to maintain itself, which might have helped to change the course of public opinion on that continent among all that are capable of forming an intelligent judgment as to political causes and effects. A single sentence of plain Saxon English, at that juncture, would have done more for us, than whole quires of flashy oratory and glowing prophecies always made ridiculous by events. The world would have seen by such a declaration in advance of the victories of our arms, that the spirit of the republic was wholly unbroken, and that we exacted from other nations the same respect and deference, which they were ready enough to pay us in the glorious days of President Monroe. They would have felt that the determination to ask nothing but what is right, and to submit to nothing that is wrong, is just as indomitable under President Lincoln as it was under General Jackson. A nation that is always sensitive to its point of honor, is always respected among nations, if it has any force whatever. And we might have been spared many a supercilious affront from Palmerston, and many an insolent rebuke from Russell, and many an impertinent offer of interference from Louis Napoleon, if, at the lowest point of our disasters, we had taken that occasion to re-assert our highest self-respect as the leading republic of

the New World, and the ready representative of the Political System of America, with which European politics had no business to interfere.*

But the Monroe Doctrine is not dead. It will not die, for truth never dies, and the Monroe Doctrine is an axiomatic truth in political science. It is as true now as it was when Washington issued his Farewell Address, that "Europe has a set of primary interests, which to us have none or a very remote relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns." It is as true now as it was when Mr. Monroe issued his Declaration, that "any attempt on the part of European powers to extend their system to any portion of this hemisphere," IS "dangerous to our peace and safety." And we of this day have been brought at length by the cogent force of events, to see as clearly as that golden administration saw, that "any interposition" with any of the American nations, "by any European power," for the purpose of "controlling their destiny," IS "the manifestation of an unfriendly disposition towards the United States." Those who have doubted, now see it plainly. The efforts for forty years, of selfish partisans, of timid statesmen, of political sciolists, of venal scribblers, or of covert reactionaries, to make it out that the Monroe Doctrine was a *brutum fulmen*, which struck no blow and made no mark, and then vanished into thin air, are all blown to the winds. The clouds which temporarily shrouded it from general view, have been rolled away by the winds from Mexico and South America, and the Doctrine shines forth as the political cynosure by which we are to steer our national course through this sea of difficulties, until the Imperial Republic shall resume her proper honors, and take the foremost place among the nations, as a light to oppressed millions, and the political regenerator of the world.

What is next to be done, is not for us to prescribe. By what

* In the maintenance of a professed neutrality between Mexico our friend, and France our enemy, we seem to have followed the American rule where it went against Mexico, and the European rule where it favored France—prohibiting the export of arms, which the former was destitute of, and allowing that of mules to the latter.

steps or through what struggles on our part the Monroe Doctrine is to be restored to its ancient respect in the counsels of European dynasties, will depend more upon the wishes of those Powers than on our own. The United States have long ago reached that condition of conscious strength anticipated by Washington, when under any European intrusion "we may choose peace or war, as our interest, guided by our justice, shall counsel."* Should the European Powers receive the lessons of our recent successes, and speedily withdraw their criminal aggressions on a neighboring republic, thus paying their old homage to the Monroe Doctrine, that is well. Should they make open war upon us, we shall meet them as best we may, notwithstanding our embarrassments with the rebellion. Such a country as this, inhabited by such a people, and blessed with such institutions and such a history, is worth a struggle of a hundred years against the world in arms, before we allow the Political System of Europe to be extended over us by all the military force that can be brought against us. Should they merely continue their intrusions and impertinencies, we can afford to consult our own convenience, and choose our own time for appealing to the last resort of injured nations for redress of the wrong.

And if the European Powers should see fit to press the matter to its ultimate issue, we shall not shrink from our proper responsibility, as a free people and the friends of free institutions. And the Powers may be sure that we shall not stand wholly on the defensive. We will say no word and do no act implying an admission that the Political System of America is less honorable than that of Europe, or less true, or less beneficent, or less worthy of heroic sacrifices in its cause, or less deserving of universal adoption. The question will then lie between the European System for America, and the American System for Europe. If, by their machinations or aggressions, we are once involved in their conflicts against our will, there will be no more peace for us or for them, until the American ideas of national independence and responsibility have been spread over the countries of the Old World, and the doctrines of national interference and

*Farewell Address.

the Balance of Power have been cast among the rubbish with the systems of absolutism and popular ignorance which they were devised to support. And let God give the victory to the right!

ADDITIONAL NOTE.

Since this article was written, a letter has appeared from Mr. Everett, the object of which is to show that the English government originated the Monroe Doctrine, and urged its adoption, quoting in proof the account of Mr. Canning's negotiations with Mr. Rush, as narrated by the latter. It is true that the British government and nation welcomed the announcement by Mr. Monroe, as a seasonable help, and is therefore justly bound by its own consistency not to complain of our continued adherence to the same principle. But a careful perusal of the whole of Mr. Rush's account will show a material difference between what Mr. Canning asked and what Mr. Monroe did. Mr. Canning's object was a British advantage—to bring in the United States as an auxiliary to British negotiations. What Mr. Monroe did was for American honor, placing the United States on the high vantage ground of national equality, and of independent impartiality towards all nations. It is the difference between patronage and manly equality, between a measure and a principle, between a temporary expedient in aid of England, and a system of policy for the paramount welfare of the American Continent. Yet Mr. Canning's representations are well worthy of being deeply pondered by both continents:

Mr. Rush having stated that it had been the traditional rule of the Government of the United States not to interfere with European politics, Mr. Canning replied:

“However just such a policy might have been formerly, or might continue to be as a general policy, he apprehended that powerful and controlling circumstances made it inapplicable upon the present occasion. The question was a new and complicated one in modern affairs. It was also full as much American as European, *to say no more*. It concerned the United States under aspects and interests as immediate and commanding as it did or could any of the States of Europe. They were the first Power established on that Continent, and confessedly the leading Power. They were connected with Spanish America by their position, as with Europe by their relations; and they also stood connected with these new States by political relations. *Was it possible that they could see with indifference their fate decided upon by Europe?* Could Europe expect this indifference? Had not a new epoch arrived in the relative position of the United States toward Europe which Europe must acknowledge? *Were the great political and commercial interests which hung upon the destinies of the new Continent to be canvassed and adjusted in this hemisphere, without the coöperation or even knowledge of the United States?* Were they to be canvassed and adjusted, he would even add, without some proper understanding between the United States and Great Britain, as the two chief commercial and maritime States of both worlds? He hoped not, he would wish to persuade himself not.”

LOYAL PUBLICATION SOCIETY,
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No. 34.

THE MONROE DOCTRINE,
BY EDWARD EVERETT.

LETTER OF JOHN QUINCY ADAMS.
BALANCE OF POWER IN EUROPE.



NEW YORK, OCT., 1863.



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No. 34.  
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THE MONROE DOCTRINE.

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PAPER BY EDWARD EVERETT.
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In an elaborate article in the *London Quarterly Review* for January, 1862,* among the facts adduced to prove that the United States had pursued for fifty years an offensive course toward Great Britain, showing herself "not a loyal friend, but a grasping and bullying enemy," it was mentioned that President Pierce, on occasion of the negotiation between the two countries, relative to Central America, had "avowed his adherence to what is called the Monroe doctrine." At the close

* NOTE.—In this article on the *Trent* affair, it was maintained, that the capture of Messrs. Mason and Slidell was but one of a series of studied insults offered by the United States to Great Britain during the last fifty years, and these alleged insults were briefly enumerated and commented upon by the reviewer. In a series of articles in the *New York Ledger*, commenced in 1862 and continued during the present year, these so-called insults have been carefully examined by Mr. Edward Everett. We understand that his articles will be published in a collective form. In the meantime, we have obtained permission to reprint the last of them, which is on "The Monroe Doctrine," as one of the tracts of the "Loyal Publication Society of New York." It appeared originally in the *Ledger* for the 3d October last.

of the article I observed, that, as far as the so-called Monroe doctrine "bore upon the affairs of Spanish America, it had the concurrence and warm approval of the British Secretary of State for Foreign Affairs, Mr. George Canning."

It was hardly to be expected that, so soon after Mr. Canning's time, the Monroe doctrine should so far have lost favor in England, that it should be characterized by a leading journalist as a national insult, and the act of a grasping and bullying enemy, for an American President to adhere to it. Even if the English government had wholly changed its own views on this subject (of which I have seen no proof), it was surely no matter of offense that an American President adhered to a declaration of one of his predecessors, made not merely with the approval of the British Minister for Foreign Affairs, but, as I shall presently show, at his earnest and persevering solicitation.

But though the British government, as far as I am aware, has given no intimation that it has changed its views on this subject (unless such an intimation is found in the lately repeated remark of Lord Palmerston, that perfect harmony exists between France and England as to the foreign policy of the two powers), it is confidently stated that the merchants of London "are well pleased with the course pursued by Louis Napoleon in Mexico." The following statement is found in the *City Article* of a recent number of the *London Times*: "It would be vain to deny that the feeling of the merchants of London is that, on the whole, so far as the affair has proceeded, the Emperor Napoleon has done a great service, both political and commercial, to the world—political, in confirming the previous action of Spain in extinguishing the Monroe doctrine; and commercial, in restoring the intercourse of nations with a territory which, from its geographical position and mineral wealth, can claim a general and almost exceptional importance."

It is very likely that individual "merchants of London,"

concerned in running the blockade, or in speculating in the Confederate loan, may be pleased with any event which may make difficulty between France and the United States, but I greatly doubt that the "merchants of London," as a body, are delighted to have either the commerce or politics of Mexico controlled from the Tuileries. As for the statement just quoted, it contains a grave error of fact. Spain has never, that I am aware of, attempted "to extinguish the Monroe doctrine." On the contrary, from the moment she recognized the independence of her revolted colonies, she acquiesced in that doctrine, which, as far as concerned those colonies, was, that the United States would not be indifferent to any attempt of France and the Holy Alliance to aid Spain in subjugating them.

Not only has Spain made no attempt to "extinguish" the Monroe doctrine, but, conjointly with England, she withdrew from the expedition lately undertaken in concert by the three powers, as soon as she found that France intended to conquer and occupy the country. It remains to be seen how far Spain, a proud and sensitive power of the Latin stock, will rejoice at having her ancient colonial kingdom of New Spain turned into an empire, for the benefit of a German prince, by the *fiat* of the sovereign of France, and with remainder to any other candidate to be named by him, if the Archduke Maximilian should decline.

The point, however, which I propose at present to illustrate is, that the doctrine, whose extinguishment is now considered by "the London merchants" so great a political and commercial benefit, was announced by President Monroe, not merely with the approval of the British Minister of Foreign Affairs, *but at his earnest and often repeated solicitations.*

B In December, 1822, the dominion of Spain over her former colonies on the continent of America being manifestly at an end, England determined so far to recognize them as to send consuls

to some of the principal ports. In March following (1823), Mr. Canning, at that time Minister of Foreign Affairs, addressed a despatch to the British Minister at Madrid, in which, while he disclaimed, on the part of Great Britain, all intention of appropriating to herself the smallest portion of the late Spain colonies, he intimated at the same time, his conviction, that "no attempt would be made by France to bring under her dominion any of those possessions, either by conquest or cession from Spain." France, it will be remembered, was at this time invading Spain for the purpose of putting down the constitutional government and restoring Ferdinand Seventh to absolute power. As the invasion drew near to a successful issue, symptoms began to appear of a design on the part of the French government, to reimburse themselves for the expenses of the expedition out of the American colonies, and in order to paralyze the expected opposition of England, to call a congress of the continental powers forming the "Holy Alliance." They were depended upon to sustain France in this movement, because the Spanish colonies were regarded by the members of the Holy Alliance as rebellious subjects, setting at defiance the authority of their legitimate sovereign.

The great object which the British government now proposed to itself, under the auspices of Mr. Canning, was to baffle these designs of France and the Holy Alliance on the Spanish colonies, and for this there were three motives: 1. To avenge the affront offered to Great Britain by the invasion of her ally, Spain; 2. To "redress the balance of power disturbed in the East by calling into existence a new world in the West;" 3. To procure for England the benefit of an unrestricted commerce with the American colonies. Fearing, however, that a formal recognition of the independence of those colonies would involve England in a war with the continental powers, Mr. Canning determined to try the efficacy of an "open, straightforward

declaration of his future intentions." His first step, in order to give added weight to such a declaration, was to solicit the co-operation of the American government. Accordingly, on the 16th of August, 1823, in an interview with Mr. Rush, he inquired whether the United States would not join Great Britain in such a declaration, adding that if France entertained designs on Mexico, he (Mr. Canning) "was satisfied that the knowledge that the United States would be opposed to it as well as England, could not fail to have its decisive influence in checking it." Mr. Rush, being without instructions, could make no reply to this overture, except that he would communicate it to his government.

On the 22d of the month, being about to leave town, Mr. Canning addressed an unofficial and confidential note to Mr. Rush, renewing the overture for a joint declaration to be made by the United States and Great Britain, to the effect that, while they aimed at the possession of no portion of the Spanish colonies for themselves, and would not obstruct any amicable negotiations which Spain, as the mother country, might attempt with them, "they could not see the transfer of any portion of them to any other power with indifference."

Four days later, being then at Liverpool, Mr. Canning wrote a second letter to Mr. Rush, urging the joint declaration, on the ground that information had reached him that, as soon as France had effected her military objects in Spain, a proposal would be made for a European congress to settle the affairs of Spanish America.

Five days later (31st August) Mr. Canning addressed a third letter to Mr. Rush from the country, intimating that events might make it necessary for him to act without waiting for the co-operation of the United States. On his return to town on the 18th of September, he had another conference with Mr. Rush on the same subject, in the course of which he pressed

upon the American Minister, *to the point of importunity*, the expediency of the proposed declaration. In case a congress of the European powers should be called to dispose of the affairs of Spanish America, he stated that he should insist on the United States being represented. Mr. Rush yielded so far to Mr. Canning's urgent solicitations as to promise at length, if Great Britain would at once recognize the Spanish colonies, that he would take the responsibility, even without instructions, of joining in the declaration.

Eight days after this interview, another conference took place between Mr. Rush and Mr. Canning, at the request of the latter, still earnestly soliciting the co-operation of the United States. Mr. Rush having made the recognition of the Spanish colonies by England a condition precedent, Mr. Canning now asked if he would not join in the declaration, provided England would promise to recognize the colonies *hereafter*. The subject was discussed at two other interviews between Mr. Canning and Mr. Rush, in the course of the autumn, and the reader will perhaps be pleased to see a specimen of the arguments by which the former urged the adoption by the United States, in conjunction with England, of the Monroe doctrine. Mr. Rush having stated that it had been the traditionary rule of the government of the United States not to interfere with European politics, Mr. Canning replied :

“However just such a policy might have been formerly, or
 “might continue to be as a general policy, he apprehended that
 “powerful and controlling circumstances made it inapplicable
 “upon the present occasion. The question was a new and com-
 “plicated one in modern affairs.’ It was also full as much Ameri-
 “can as European, *to say no more*. It concerned the United States
 “under aspects and interests as immediate and commanding, as it
 “did or could any of the states of Europe. They were the first
 “power established on that continent, and confessedly the leading
 “power. They were connected with Spanish America by their po-

“sition, as with Europe by their relations ; and they also stood connected with these new states by political relations. *Was it possible that they could see with indifference their fate decided upon by Europe?* Could Europe expect this indifference? Had not a new epoch arrived in the relative position of the United States toward Europe which Europe must acknowledge? *Were the great political and commercial interests, which hung upon the destinies of the new Continent, to be canvassed and adjusted in this hemisphere, without the co-operation, or even knowledge of the United States?* Were they to be canvassed and adjusted, he would even add, without some proper understanding between the United States and Great Britain, as the two chief commercial and maritime states of both worlds? He hoped not, he would wish to persuade himself not.”

Such was the vehemence with which Mr. Canning urged the United States to assume the ground of the Monroe doctrine. Mr. Rush, of course, communicated these overtures from time to time to his government. His first despatches on the subject were received in Washington by the end of August, 1823. The subject immediately engaged the attention of Mr. Monroe and his cabinet. In addition to the counsel of his official advisers, the President sought that of Mr. Jefferson, to whom he sent copies of Mr. Rush's letters. Mr. Jefferson warmly recommended the step proposed by Mr. Canning, and encouraged Mr. Monroe to make the desired declaration. His cabinet concurred in the advice, and accordingly, in his message at the opening of the next session of Congress, the President, after alluding to the radical difference of the political systems of Europe and America, expressed himself as follows :

“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 a manifestation of an unfriendly disposition toward the United States.”

Such, as far as Spanish America is concerned, was this celebrated declaration to which Mr. Canning had so importunately urged the United States. In another part of the same message, and in reference to the negotiation with Russia, relative to the boundaries of the two powers on the north-western coast of the continent, President Monroe observed that,

“ In the discussion to which this interest has given rise, 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 power.”

These two statements of principle, in parts of Mr. Monroe's message, remote from each other and relating to totally different subjects, from what is usually called the Monroe doctrine. Much confusion of ideas has existed with reference to its purport and intended application, which I shall not attempt on this occasion to explain. I will only observe that it has never, in any acceptance, received a legislative confirmation; that it rests upon its original basis, as an executive declaration, wise and seasonable at the time it was made, creditable to the administration from which it proceeded, and beneficial to the country and the cause of free government throughout the world.

The message containing these declarations of President Monroe reached England, while the correspondence between Mr. Canning and the Prince de Polignac, the French Ambassador at London, was in progress. "Fortunately," says Mr. Stapleton, the private secretary and biographer of Mr. Canning, "just at the moment when these discussions were being carried on, the message of the President of the United States to their Congress arrived in Europe, in which document it was stated 'that any interference on the part of the great powers of Europe for the purpose of oppressing or controlling the destinies of the Spanish American states which had declared their independence, would be dangerous to the peace and safety of the United States, and would be considered as the manifestation of an unfriendly disposition towards them.'" Mr. Stapleton then claims that the correspondence of Mr. Canning with Mr. Rush, "mainly encouraged, if it did not originate to the government of the United States the idea of taking so firm and decisive a tone," and adds that, "when coupled with the refusal of Great Britain to take part in a congress, it effectually put an end to the project of assembling one similar to those which had met at Vienna, Aix-la-Chapelle, Laybach and Verona."

The reception of the presidential declaration by the English public in general and in parliament might be called enthusiastic. Mr. (now Lord) Brougham said "the question with regard to South America now was, he believed, disposed of or nearly so; for an event had recently happened, *than which no event had ever dispersed greater joy, exultation, and gratitude over all the freemen of Europe*; that event which was decisive on the subject, was the language held with respect to Spanish America, in the speech or message of the President of the United States to the Congress."

Mr. Stapleton, in quoting this remark of Lord Brougham, asks, "but was not that language which, in Mr. Brougham's

opinion, was decisive on the subject, in a very great degree, if not wholly, the result of Mr. Canning's overture to Mr. Rush?"

Sir James Mackintosh, alluding to the message, said :

“That wise government, in grave but determined language, and with that reasonable but deliberate tone that becomes true courage, proclaims the principles of her policy and makes known the cases in which the care of her own safety will compel her to take her up arms for the defence of other states. I have already observed its coincidence with the declarations of England, which, indeed, is perfect, if allowance be made for the deeper, or at least more immediate interest in the independence of South America, which near neighborhood gives to the United States. This coincidence of the two great English commonwealths (for so I delight to call them, and I heartily pray that they may be forever united in the cause of justice and liberty), cannot be contemplated without the utmost pleasure by every enlightened citizen of the earth.”

Would that words like these were oftener heard in the British parliament !

There was one point only in this part of the President's message to which Mr. Canning excepted. He understood it to deny not only the right of other foreign powers to interfere for the recovery of the Spanish American Colonies, but the right of the mother country to continue her efforts for that purpose. He thought it necessary to declare that he did not assent to that principle, and it is quite doubtful whether Mr. Monroe, though he used the phrase “*any* European power,” meant to interfere between Spain and her former colonies. Lord John Russell, however, urged that if, after the invasion of Spain by France, a Spanish army were sent by Ferdinand to re-subjugate the colonies, inasmuch as such Spanish army would have been set at liberty by the French occupation, the expedition should be regarded as virtually French, and as such resisted by England.

Such, as far as Mexico is concerned, is the Monroe doctrine; such its origin, such its significance, such its history; urged, all but forced on the United States by the importunity of England hailed with rapture in her parliament on its announcement, claimed on behalf of Mr. Canning as the work of his hands, admitted to have been decisive of the leading measure of his administration, now quoted among the studied insults which the United States have for fifty years been offering to Great Britain; another proof that instead of being a loyal friend to that country, she has shown herself to be a "grasping and a bullying enemy;" and the "merchants of London" are rejoiced that a French invasion, the precise movement which Mr. Canning in 1823 urged the United States to join him in forbidding, has succeeded in trampling in the dust the policy which England then had so much at heart, and to which it is as much her interest now as ever to adhere!

Boston, 2d September, 1863.



LETTER OF JOHN QUINCY ADAMS,

ON THE MONROE DOCTRINE.

Reprinted from the Providence Journal.

QUINCY, August 11, 1837.

Rev. Wm. E. Channing, D. D., Newport, R. I. :

MY DEAR SIR : * * * I rejoice to learn that you have it in contemplation to give the public your ideas on the appearance in the political world of the new republic of Texas.

Mr. Tuckerman wrote to me as you had requested, and I answered his letter, but he had mistaken the time when the transactions to which you desired reference to be had, occurred, and supposed they had happened during the administration of my father. My answer, therefore, must have been unsatisfactory to the object of your inquiries.

It was in September, 1822, that the events, to which I alluded in my speech in the House of Representatives of the 25th of May, 1836, took place. It was the time when the Spanish government of the Cortes was overthrown by the French invasion under the Duke d'Angouleme. Great Britain became alarmed lest, under the shelter of that revolution, the Island of Cuba should pass into the possession of France. The French government fabricated or was imposed upon by a report that the British cabinet had determined to send a squadron and take possession of the island. The people of Havana, divided into parties between the Cortes and the King, were terrified by

premonitory symptoms of negro insurrection, and looking round for a protector. There was a party for resorting to Great Britain, a party for adhering to Spain, and a party for seeking admission to the North American Union—the last of which was the strongest. A proposition was then made by a secret agent from them to Mr. Monroe, to this effect—that they, by a popular movement, of the success of which they had no doubt, would declare the island independent of Spain, if the government of the United States would promise them protection and admit them into their Union under a state constitution, on the model of those of our Southern states, and with the understanding that as the population of the island should increase, they should be at liberty to divide themselves into two states, and have that proportion of representation in the Congress of the United States. As the inducement to the American government to pledge their protection, they were assured that the alternative would probably be the prevalence of the party in the island for the colonial connection with Great Britain, and a resort to her for protection. While this proposition was under consideration of Mr. Monroe and his cabinet, the French Minister at Washington, by a verbal, irresponsible communication, not to the Secretary of State, the only medium of *official* intercourse between foreign ministers and the government of the United States, but to Mr. Crawford, the Secretary of the Treasury, asseverated that the French government had secret but positive information that the British government had deliberately determined to take possession of Cuba.

The answer of Mr. Monroe to the proposition from the Havana was, that the friendly relations existing between the people of the United States and Spain did not permit them to promise countenance or protection to any insurrectional movement against her authority: Their advice to the people of Cuba was to adhere as long as possible to their allegiance to Spain—that an

attempt of either Great Britain or France to occupy the island would present the proposal from the Havana under a different point of view, concerning which the President was not authorized to pledge prospectively the action of the United States, but that the people of the Havana might be assured of the deep interest, which, under all the circumstances which might occur, the American Government would take in their welfare and their wishes.

It was the opinion of at least one member of Mr. Monroe's administration that the occupation of the Island of Cuba by Great Britain should be resisted, even at the cost of a war. Their unanimous opinion was, that a very explicit though confidential communication should be made to Mr. Canning, that the United States *could not see with indifference* the occupation of Cuba by any European Power other than Spain—and that *rumors* had reached the American government that such an intention was entertained by the British cabinet, which made it necessary to ask an explanation of their views.

Mr. Rush was instructed accordingly. Mr. Canning disavowed emphatically all intention on the part of Great Britain to take possession of the island; but avowed her determination *not to see with indifference* its occupation either by France or the United States, and he told Mr. Rush of the squadron dispatched by Louis XVIII. to the West Indies, without notifying *him* of expedition, and of the schooling he had ordered the British Ambassador at Paris to give the French cabinet for that sin of omission. Mr. Canning then proposed that, by a mutual understanding between the British, French and American Governments, without any formal treaty or convention, Cuba should be left in the quiet possession of Spain, without interference in the government of the island. This was precisely the policy which Mr. Monroe believed to be best adapted to the interests and the duties of the United States, and he cheerfully assented to it.

There was no further communication between him and the French government on the subject. So far as France was concerned, the arrangement was left to be concerted between her and Great Britain. The people of the Island of Cuba submitted to the government of Ferdinand, restored by the Duke d'Angouleme, and received a viceroy and captain-general in the person of Gen. Vives, who had been minister from Spain to the United States—one of the most upright and honorable men with whom it has ever been my fortune to hold political relations. He was precisely the man to tranquilize and conciliate the submission of the people of the island to their old government, and he so effectually accomplished that purpose that the government of the United States heard nothing further of intended insurrection in Cuba, during the remainder of Mr. Monroe's administration and the whole of mine.

All these transactions were at the time profoundly secret. The first public allusion to them ever made was by me, in the speech of the 25th of May, 1836, to the House of Representatives. The circumstances of the times no longer required absolute secrecy. France, Spain and Britain had all undergone political revolutions, and the abolition of slavery in the British colonies of this hemisphere had added tenfold terrors to *her* occupation of Cuba, for the meditation of our Southern statesmen. I partly raised the veil, therefore, from the negotiations of 1822, to stay the frantic hand of the Southern slaveholder, rushing from the terror of an avenging conscience into the arms of sympathizing Slavery in Texas.

* * * * *

I am, of course, your unalterable friend,

J. Q. ADAMS.

THE BALANCE OF POWER IN EUROPE.

Extract from a Speech of the Right Hon. George Canning on the Relations of Portugal, in the House of Commons, December 12th, 1826.

“Again, sir, is the Spain of the present day, the Spain of which the statesmen of the times of William and Anne were so much afraid? Is it indeed the nation whose puissance was expected to shake England from her sphere? No, sir; it was quite another Spain. It was the Spain within the limits of whose empire the sun never set—it was Spain ‘with the Indies,’ that had excited the jealousies and alarmed the imaginations of our ancestors.

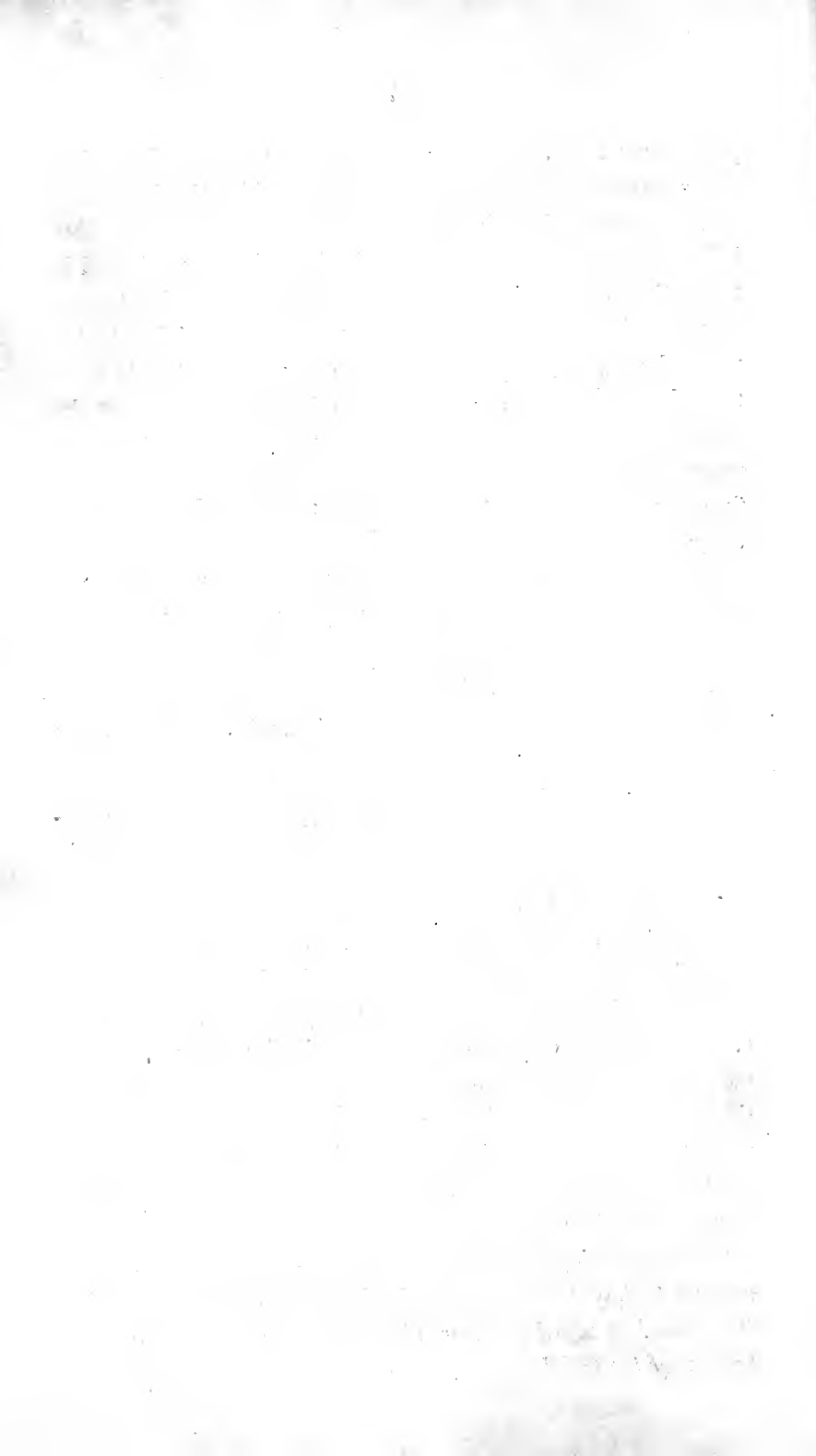
“But then, sir, the balance of power! The entry of the French army into Spain, disturbed that balance, and we ought to have gone to war to restore it! I have already said, that when the French army entered Spain, we might, if we chose, have resisted or resented that measure by war. But were there no other means than war for restoring the balance of power? Is the balance of power a fixed and unalterable standard? Or is it a standard perpetually varying as civilization advances, and as new nations spring up and take their place among established political communities? The balance of power, a century and a half ago, was to be adjusted between France and Spain, the Netherlands, Austria and England. Some years afterwards, Russia assumed her high station in European politics. Some

years after that again, Prussia became, not only a substantive, but a preponderating monarchy. Thus, while the balance of power continued in principle the same, the means of adjusting it became more varied and enlarged. They became enlarged in proportion to the increased number of considerable states—in proportion, I may say, to the number of weights which might be shifted into one or the other scale. To look to the policy of Europe, in the times of William and Anne, for the purpose of regulating the balance of power in Europe at the present day, is to disregard the progress of events, and to confuse dates and facts, which throw a reciprocal light upon each other.

“It would be disengenuous, indeed, not to admit that the entry of the French army into Spain was, in a certain sense, a disparagement—an affront to the pride—a blow to the feelings of England. And it can hardly be supposed, that the government did not sympathize, on that occasion, with the feelings of the people.

“But I deny that, questionable or censurable as the act may be, it was one that necessarily called for our direct and hostile opposition. Was nothing, then, to be done? Was there no other mode of resistance, than by a direct attack upon France, or by a war, to be undertaken on the soil of Spain? What if the possession of Spain might be rendered harmless in rival hands—harmless as regards us, and valueless to the possessors? Might not compensation for disparagement be obtained, and the policy of our ancestors vindicated by means better adapted to the present time? If France occupied Spain, was it necessary, in order to avoid the consequences of that occupation, that we should blockade Cadiz? No. I looked another way. I sought materials for compensation in another hemisphere.

“*Contemplating Spain, such as our ancestors had known her, I resolved that, if France had Spain, it should not be Spain ‘with the Indies.’ I called the New World into existence to redress the balance of the Old.*”



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St. Libre

with Mr. Jay's regards

MR. JAY'S LETTER

ON THE RECENT

RELINQUISHMENT OF THE MONROE DOCTRINE.

DR. H. EDMUND J. KOCH,

Chairman of the Ex. Com. of Adopted Citizens, &c.

SIR: I cordially thank your Committee for the honor they have done me in asking my assistance at the meeting, on the 31st instant, "for the purpose of supporting our Government in reaffirming the Monroe doctrine, and for a strict execution of the Emancipation Proclamation of President Lincoln by the military and civil authorities of the United States." The unconditional loyalty and love of country that characterize your preamble and resolutions command my heartiest approval.

Amid the excitement caused by domestic rebellion we have permitted the Government, without public remonstrance, to drift from its ancient moorings in reference to European influence on the American continent; and now that the determination and the ability of the American people to restore in its completeness the national unity, the national integrity, and the national supremacy, are, as we believe, definitely settled, it is proper that we should recall our olden principles, and take care that, in our intercourse with foreign powers, there be no relinquishment of our rightful claims, no yielding to foreign pretensions in derogation of our honor or our rights. Let me add, that no class of our people are better fitted to appreciate the importance of preserving unimpaired the Monroe doctrine in reference to the neighboring territory of Mexico

and the Antilles than our adopted fellow-citizens of European birth. Nor has the discussion of the question which you have introduced been commenced a moment too soon. The *National Intelligencer*, at Washington, has, within the last few days, made the startling announcement that the Monroe doctrine "no longer exists, save as a presidential precedent, which Congress declined to endorse;" and the recent diplomatic correspondence of the State Department shows, with the utmost frankness, that, in the part we have acted towards Mexico, when attacked by the triple alliance of England, France, and Spain, the Monroe doctrine has been as completely ignored as though it had never received the sanction of American statesmen nor the hearty approval of the American people.

The Monroe doctrine embraced these three points: first, that the American continents, in view of the free and independent condition they have assumed, ought not to be considered as subjects of future colonization by any European power; next, that we should consider any attempt by those powers to extend their system to this hemisphere as dangerous to our safety; and, lastly, that we could not view any interposition by European powers for oppressing the American Governments, or controlling, in any manner, their destiny, in any other light than as the manifestation of an unfriendly disposition towards the United States.

I believe that, so far as the North American continent is concerned, and especially that part of it that lies between Texas and the Isthmus, the Monroe doctrine, as thus declared, in all three of its points, is approved by an overwhelming majority of the loyal citizens of our Republic.

Now, what has been the course of our Government in regard to the triple armed expedition against Mexico? It appears, from a letter of Mr. Dayton, dated June 5, 1862, that he had been forbidden even to demand an explanation of its aim and object, but simply to say that our Government would be happy to receive such explanations if voluntarily tendered. Upon this polite announcement, Mr. Thouvenel volunteered explanations to this effect: that the French troops did not go to Mexico to interfere with the existing form of Government, nor to ac-

quire an inch of territory, nor to remain indefinitely in the country; and, thereupon, Mr. Dayton was advised from Washington that "Mr. Thouvenel's assurances were eminently satisfactory to the President."

Even then there were warnings that might have modified that eminent satisfaction. Mr. Dayton frankly declared that it would be difficult to reconcile the published opinions of the commissioners of the three powers with those declarations of the French Government; and our minister to Mexico, Mr. Corwin, had written, on the 24th March, 1862, expressing his fears that if the allies should take the field to establish a government, or if they should get control of the public lands, "Mexico would thenceforth be an European colony."

Now recall the fact, patent to the whole world, that the inevitable result of the joint attack on Mexico, if not its evident intent, must be to control in some manner its destiny; and apply to that fact the language of President Monroe, that we could not view such an interposition on the part of any European power "in any other light than as the manifestation of an unfriendly disposition towards the United States;" and it would seem as if these words, uttered in 1823, had been spoken in direct reference to the present emergency; for after England and Spain had retired from the alliance—with what degree of fairness, of honor, or of glory, it is not now necessary to inquire—the French Emperor, writing from Fontainebleau, on the 3d of July, 1862, to General Forey, gave him his explanation of the matter, which differs materially from those which, when given by Mr. Thouvenel to Mr. Dayton, were so eminently satisfactory at Washington. The Emperor says: "We have an interest in this—that the republic of the United States be powerful and prosperous; but we have none in this—that she should seize possession of all the Mexican Gulf, dominate from thence the Antilles, as well as South America, and be the sole dispenser of the products of the New World."

Here we have, somewhat late in the day, but expressed with admirable distinctness, one, at least, of the motives of the French Emperor; and however excellent an argument may be made to prove his right to feel an interest in the future of

this continent, and to exert his skill and his power to circumscribe the boundaries and limit the influence of the American republic, it is clear, without any argument at all, that the scheme of Louis Napoleon, now being carried out in Mexico, without, so far as we know, one word of remonstrance from the State Department, is a matter of the profoundest interest to the American people, and especially to those of them who believe that when this rebellion is crushed and slavery abolished there is before us a career of national greatness and prosperity that may gather to us, not by war and conquest, but of their own accord and by the attraction of self-interest, the territories that adjoin us on the north and on the south, and make us more completely than at present an ocean-girt republic.

From a diplomatic correspondence with Mexico, not long since published in our newspapers, it would appear that at that time Mexico thought she had reason to complain, not of a want of friendly sympathy, but of much more than that—of a disregard of impartial neutrality; that she complained that we were permitting the French Emperor to ship warlike stores from New York to assist him in the conquest of her territory, in dereliction of the very principles which we had complained that England had violated toward ourselves.

Whether these complaints of Mexico were in any respect well founded, I do not know; but the fact that such complaints were warmly urged seemed to indicate that our position in regard to her invasion by France has been one, at least, of cold indifference.

If such indifference had been the imperative result of our own exigencies in regard to the rebellion, the American people might be justly content that the welfare of our own republic should not be hazarded by an ill-timed adherence to the Monroe doctrine at a critical moment. But this idea is contradicted by the fact that, while the preparations of the triple alliance were being made, repeated assurances were given by the State Department to our ministers abroad, that “the end of the war was in sight;” that “there would be a short and rapid series of successes over a disheartened conspiracy, and then all

would be over." And the very letter (April 22, 1862) that conveyed to Mr. Dayton the satisfaction of the Government at the assurances of Mr. Thouvenel, advised him of the most gratifying indications of the early restoration of the peace of the country.

Mr. Dayton had been recently assured also by the Secretary, on the 26th March, that "Charleston cannot long hold out, and the fall of Savannah is understood to be a question of days, not of weeks. Mobile cannot stand after the fall of these and New Orleans."

It is clear from these reiterated assurances, enforced as they were by elaborate reviews of our military position, that the standard of our nationality was not lowered, that the Monroe doctrine was not given to the winds, and that Mr. Dayton was not forbidden to demand explanations of the meaning of the expedition against Mexico from any real conviction on the part of the Secretary that the necessities of our position compelled us to don the mantle of humility, and to advise Louis Napoleon, with bated breath, that we awaited in silence his imperial pleasure, and would receive with gladness such explanations as he might be pleased to offer. The explanations he condescended to give, which did not satisfy our minister—the eminent satisfaction they afforded at Washington, notwithstanding the fears of Mr. Corwin—and the real explanation as subsequently given by the Emperor to Gen. Forey—constitute a page in our history which, happily, is without a precedent in the past, and should be without a counterpart in the future.

The Monroe doctrine does not imply, as some seem to suppose, any interference with the just rights of foreign powers, but simply a due regard to our national welfare. Our honorable and gallant fellow-citizen, Gen. Clay, whose bravery in the defence of free speech in Kentucky in olden times will always command admiration, recommended, in a well-known diplomatic letter, published by the State Department—a letter in which some passages were omitted, but this recommendation carefully retained—that "money and men should be sent into Ireland, India, and all the British dominions all over the world, to stir up revolt," &c.

Of such a recommendation, notwithstanding the significant sanction it then received by its official promulgation, and notwithstanding the yet more significant sanction it has very recently received in his reappointment, I believe the American people, almost to a man, will disapprove, as in utter violation of the Laws of Nations, and at variance with the dignity and the principles of a Christian people. But a recognition of the Monroe doctrine involves no such grievous wrong to a foreign nation to be secretly inflicted in time of peace; it requires only an open and honorable avowal of principles that for forty years have been regarded as a component part of American policy, and which we believe cannot now be surrendered, as they have been in the case of France and Mexico, without a diminution of our national dignity, and a derogation from that international respect which we have been accustomed to command in Europe.

It is the aim of the rebel sympathizers in our midst—of the party that has adopted the name and the symbol of Copperheads—to impair and destroy, as far as possible, that pride of nationality which, from the birth of our republic, Americans have been taught to cherish. How completely they have succeeded in extinguishing all pride of country and every sentiment of honor in their own breasts, has been disclosed to-day in the remarkable letter of Lord Lyons. The leaders of the Peace Democrats in New York gathered around the aristocratic representative of the British Government, not to protest against the burning of American ships by English pirates, but to invoke his lordship's assistance in a plot for foreign intervention in our domestic affairs, anticipating the humiliation and dismemberment of the republic. Well may the Southern rebels, waging open war against the Government, recoil with scorn from the mean treachery of their cowardly allies at the North! But it becomes the Administration, in view of so pitiable an exhibition of American degeneracy, to maintain with the more earnest fidelity, at home and abroad, that high national tone which befits the dignity of a nation, the brightness of whose career, temporarily checked by internal treachery and what is now termed "foreign neutrality," will yet culminate in a splendor that shall indicate to the world the star of empire.

I have left myself, sir, no room to touch upon the other topic of your meeting—the President's Emancipation Policy—upon which I will only remark that I doubt the expediency of discussing it. With or without the Proclamation, in a war waged by slavery against the life of the nation, slavery was bound to die, in accordance with the warning once eloquently given by Mr. Seward when, admitting that, under the bond of the Constitution, it was entitled to its pound of flesh, he declared that, if it drew one drop of blood, its life was forfeit.

Not by single drops, nor on a single battle-field, but from the Atlantic to the Mississippi, and from the Potomac to the Rio Grande, has slavery shed, in torrents, the life-blood of our best and bravest. I agree with Mr. Seward that its life is forfeit and that slavery must die. With that conviction, clearly foreseen and warningly declared by many slaveholders in advance of the rebellion as its inevitable result, I am content, without caring to discuss the questions raised by sympathizers with rebellion, upon the terms of the Proclamation.

Tens and hundreds of thousands of our brave soldiers are fighting to preserve the life of the republic, and the peace and prosperity of their children's children; and although in our opinion, and in that of Southern statesmen before the war began, "the end will be abolition," it is a wicked device of our enemies to pretend that abolition is the object of the war. I am aware that this doctrine, although absolutely refuted by the President in his Messages and in his letter to Mr. Greeley, has been apparently sanctioned by the official utterances of Mr. Thurlow Weed, who, while a commissioner in Europe, accredited from the State Department, is reported to have said, in London, so long since as 3d February, 1862:

"As to the prospects of the future, the Administration not only desired, but expected, emancipation as the fruit and result of the war; slavery was and would be burned out of every acre and rood of territory conquered from the rebels, so that, by process of war and by legal enactments, if the United States Government were successful, slavery would cease to exist."

Such utterances, although made with high official sanction, are calculated to mislead the people, and seem—without, as I

believe, the shadow of justice—to convict the President of insincerity, by intimating that a desire for emancipation was influencing his conduct of the war for long months prior to the adoption of the Proclamation as a matter of pure military necessity. The war is prosecuted by the President in fulfillment of his Constitutional oath to preserve the unity and enforce the laws of the republic; and if, when our national integrity is restored, it shall be found that slavery has received its death blow, we need not seek for the cause of its overthrow in the cabinet of Mr. Lincoln, but recognize the truth proclaimed, in 1850, by the Hon. Mr. Boyce, of South Carolina, that if the slaveholders should secede from the Union the institution of slavery would be doomed, and that the great God, in their blindness, would have made *them* the instruments of its destruction.

I have the honor to be, sir,

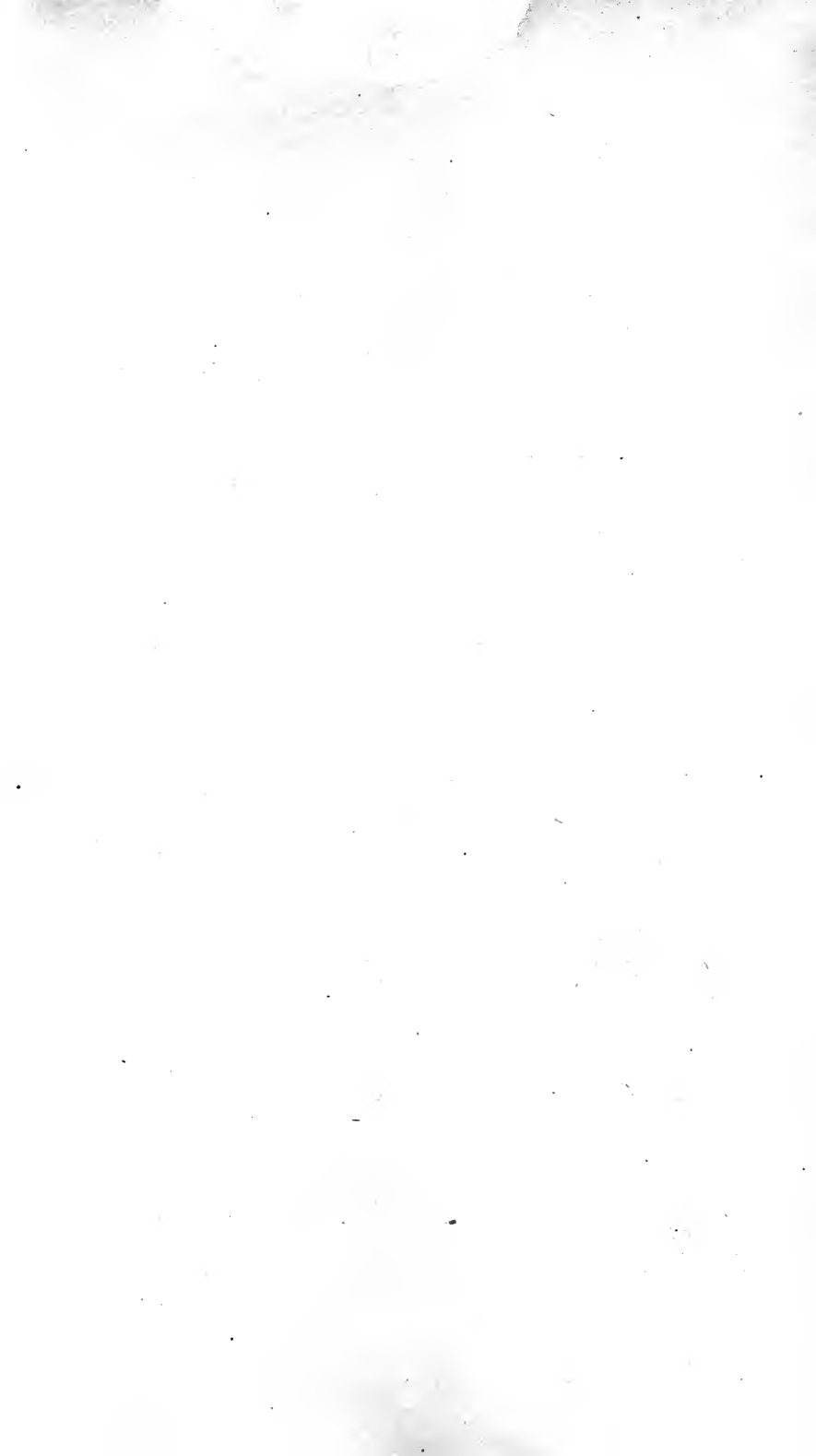
Your most obedient servant,

JOHN JAY.

194 FIFTH AVENUE, }
NEW YORK, March 30, 1863. }







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