# INTERVENTION AND THE RECOGNITION OF CUBAN INDEPENDENCE.*

In a former paper written in advocacy of the recognition by the United States of Cuban belligerency, which was published in the ANNALS for May, 1896,† I admitted that, strictly speaking, a recognition of belligerency by the United States was "the only possible way to assist Cuba which is legally permissible." I also said that "the favorite argument in the newspapers—'because the Spaniards are cruel, therefore we ought to recognize the belligerency of the Cubans'—is not based on any principle of international law;" still less would this be an argument for the recognition of Cuban independence.

Strictly or technically speaking, I am still ready to maintain that the above statements are correct. From the strict point of view of certain well-known principles of international law, it must be conceded that a recognition of the independence of Cuba, even at the present advanced and prolonged stage of insurrection, would be premature. Premature recognition, under ordinary circumstances, is a wrong done to the parent state, and in effect amounts to an act of intervention.‡

The correct rule or principle which, in ordinary cases, should govern the recognition of the independence of an insurgent community, undoubtedly finds its clearest and

[*The present paper was sent to the press before the President's Message on the Cuban situation was laid before Congress. Whether our relations with Spain and Cuba shall have entered upon a new phase or not before the paper reaches the public it will not lose its interest as a statement of the rules governing international action. Whether the judgment of the author coincides with such action as may be taken by the government is from the scientific point of view indifferent. As a contribution to the materials for forming a judgment as to the legal and moral justification for intervention, this statement of the principles underlying such action will doubtless be welcomed by the readers of the ANNALS.—EDITOR.]

†Vol. vii, p. 450.

‡ Hall's "International Law," pp. 89–90. All references to Hall are to the third edition.

most perfect expression in a communication addressed by Hon. John Quincy Adams, then Secretary of State, to President Monroe on August 24, 1818. He says:

"There is a stage in such (revolutionary) contests when the party struggling for independence has, as I conceive, a right to demand its acknowledgment by neutral parties, and when the acknowledgment may be granted without departure from the obligations of neutrality. It is the stage when the independence is established as a matter of fact, so as to leave the chance of the opposite party to recover their dominion utterly desperate. The neutral nation must, of course, judge for itself when this period has arrived; and as the belligerent nation has the same right to judge for itself, it is very likely to judge differently from the neutral and to make it a cause or pretext for war, as Great Britain did expressly against France in our Revolution, and substantially against Holland.

"If war thus results, in point of fact, from the measure of recognizing a contested independence, the moral right or wrong of the war depends upon the justice and sincerity and prudence with which the recognizing nation took the step. I am satisfied that the cause of the South Americans, so far as it consists in the assertion of independence against Spain, is just. But the justice of a cause, however it may enlist individual feelings in its favor, is not sufficient to justify third parties in siding with it. The fact and the right combined can alone authorize a neutral to acknowledge a new and disputed sovereignty."*

Hall, in his valuable treatise on international law, justly remarks that although

"States must be allowed to judge for themselves whether a community claiming to be recognized does really possess all the necessary marks (*i. e.*, of a state), and especially whether it is likely to live," nevertheless "great caution ought to be exercised by third powers in granting recognition; and *except where reasons of policy interfere to prevent a strict attention to law*, it is seldom given unless under circumstances which set its propriety beyond the reach of cavil."†

One of the most perspicuous and fair-minded writers on international law, T. J. Lawrence, in his recent admirable work on this subject, thus states the law which in normal cases should govern the recognition of independence:

*Wharton's Digest, Vol. i, p. 121.

† Hall, *op. cit.*, pp. 87–90. The *italics* are mine.

"The community thus recognized must, of course, possess a fixed territory, within which an organized government rules in civilized fashion, commanding the obedience of its citizens, and speaking with authority on their behalf in its dealings with other states. The act of recognition is a normal act, quite compatible with the maintenance of peaceful intercourse with the mother country, if it is not performed till the contest is either actually or virtually over in favor of the new community."

He rightly characterizes the recognition of the independence of the United States by France in 1778, "when the contest was at its height and the event exceedingly doubtful," as "an act of intervention which the parent state had a right to resent, as she did, by war." He justifies the recognition of the independence of the revolted Spanish-American colonies by Great Britain in 1824 and in succeeding years, and the recognition of Texas by the United States in 1837, on the ground that "no recognition was accorded in any case till she (the mother country) had ceased from serious efforts to restore her supremacy, though on paper she still asserted her claims."*

Dana, in an invaluable note to Wheaton on "Recognition of Independence," sums up the matter in the following language:

"Whether this final step is justifiable, depends upon the same tests: namely, the necessities of foreign states, and the truth of the fact implied, that the state treated with was, at the time, in the condition *de facto* of an independent state. . . . It is not necessary that the parent state or deposed dynasty should have ceased from all efforts to regain its power. On the other hand, it is necessary that the contest should have been virtually decided." †

We believe that the foregoing citations are among the best and most authoritative statements of the rules which, according to strict law, in ordinary cases and under normal conditions, should govern the recognition of the independence of insurgent communities or states.

*Lawrence's "Principles of International Law," pp. 87–88.

†Wheaton's "Elements of International Law" (Dana's edition), Note 16, pp. 41–42.

Most writers, however, either in so many words or by inference, admit the existence of extraordinary or exceptional cases, where, as Hall says, "*reasons of policy interfere to prevent a strict attention to law;*" or which, as Lawrence observes, "*cannot be brought within the ordinary rules of international law.*" Each case of this sort, according to Lawrence, "must be judged on its own merits." Lawrence continues:

"There is a great difference between declaring a national act to be legal, and therefore part of the order under which states have consented to live, and allowing it to be morally blameless as an exception to ordinary rules. I have no right to enter my neighbor's garden without his consent; but if I saw a child of his robbed and ill-treated in it by a tramp, I should throw ceremony to the winds and rush to the rescue without waiting for permission.*

"In the same way, a *state may, in a great emergency, set aside every day restraints;* and neither in its case nor in the corresponding case of the individual will blame be incurred. But, nevertheless, the ordinary rule is good for ordinary cases, which, after all, make up at least ninety-nine hundredths of life. To say that it is no rule because it may laudably be ignored once or twice in a generation, is to overturn order in an attempt to exalt virtue. An intervention to put a stop to barbarous and abominable cruelty is a '*high act of policy above and beyond the domain of law.*' It is destitute of technical legality, but it may be morally right and even praiseworthy to a high degree."†

We would emphasize still more, if possible, the analogy, which, as Lawrence indicates in the striking passage quoted above, may be drawn between the rights and duties of states in their relations with each other and between individual rights and duties.

"It is postulated of those independent states which are dealt with by international law that they have a moral nature identical with that of individuals, and that with respect to one another they are in the same relation as that in which individuals stand to each other who

*Would any of us hesitate to defend the child even against the parent himself, especially if the life of the child were in serious danger?

†Lawrence *op. cit.*, pp. 120–21. The phrase which I have placed in *italics* is a citation from Historicus, "Letters on Some Questions of International Law," I.

are subject to law. They are collective persons, and as such they have rights and are under obligations."*

Not only are states endowed by political theorists with "a moral nature identical with that of individuals," and as such are said to possess moral rights and to be subject to moral obligations analogous at least in some respects to those of individuals; but German and even English publicists, including strict jurists like Hall himself,† find in the legal or moral consciousness of nations a fundamental source of international law.

While the habit of obedience to law, whether expressed in the commands of a superior in possession of authority, or found in customary rules and regulations, is the essential condition and source of all true liberty, every one certainly admits in practice, if not in theory, that there are occasions or circumstances which may justify him in acting independently, if not in direct violation, of positive law and custom. He does this either in deference to what he considers to be a higher law or sacred duty by virtue of his character and responsibility as a moral being; or he conceives that his own essential and permanent interests, or the ultimate interests of that portion of society of which he forms a part, or perhaps of humanity at large, operate to prevent a strict observance of the letter—it may be even of the spirit of the law. Reasoning by analogy we may say that in those rare and exceptional cases, where great international crimes are being perpetrated—where, *e. g.*, the extinction of a race is involved—or where essential and permanent interests of far-reaching importance are at stake, states may "set aside every-day restraints;" and, obeying the commands of the higher law, the promptings of the national or race-conscience, or the demands of a national

* Hall, *op. cit.*, p. 18.

† *Ibid.*, p. 6: "Another portion of international usage gives effect to certain moral obligations, which are recognized as being the source of legal rules with the same unanimity as marks opinion with respect to the facts of state existence."

policy, they may intervene in order to put an end to "barbarous and abominable cruelties," or advance their permanent and important interests.

Let us now examine a little more closely the doctrine of intervention both as laid down by writers on international law, and as it may be inferred from the practice of nations, especially during this century.

Intervention for the sake of self-preservation, and for the purpose of preventing or terminating illegal and unjustifiable intervention in the affairs of a fellow-member of international society, are perhaps the only cases upon which writers in general are willing to pronounce in favor of legal intervention with practical unanimity. Many of the older writers, *e. g.* Vattel, Wheaton, Bluntschli, Heffter, Phillimore, etc., attempt to justify intervention on the ground of humanity or to put a stop to religious persecution, etc.,—whether on legal or moral grounds is not always clear. Vattel* says,

"every foreign power has a right to succour an oppressed people who implore their assistance . . . . for when a people from good reasons take up arms against an oppressor, justice and generosity require, that brave men should be assisted in the defence of their liberties."

Bluntschli thinks that

"when the iniquitous conduct of a state constitutes a general danger, all the other powers are authorized to support the demands of the state directly menaced, and to contribute to the re-establishment of law and order."†

Amongst "acts of this sort which are a menace to universal public order," Bluntschli mentions, amongst others,

"the violent oppression of nations capable of freedom and independence (*peuples viable et indépendants*) and religious persecutions."‡

Wheaton favors intervention

"where the general interests of humanity are infringed by a barbarous and despotic government,"§

* Bk. II, cap. iv.
† § 471.
‡ § 472.
§ Pt. II, cap. i, § 69.

and Heffter,* while denying the right of intervention to repress tyranny, holds with Vattel † that

"whenever a civil war is kindled in a state, foreign powers may assist that party which appears to them to have justice on its side."

Calvo ‡ and Fiore § are of the opinion that states can intervene to put an end to crimes and slaughter. Woolsey || permits legal intervention where

"some extraordinary state of things is brought about by the crime of a government against its subjects."

Hall ¶ seems opposed to intervention on the ground of humanity in any case, but Lawrence ** admits that

"interventions on the ground of humanity have under very exceptional circumstances a moral, though not a legal justification."

The tendency on the part of recent writers seems to be to restrict intervention as a legal right to a very few cases. As Hall points out,†† it is perhaps

"unfortunate that publicists have not laid down broadly and unanimously that no intervention is legal, except for the purpose of self-preservation, unless a breach of the law as between states has taken place, or unless the whole body of civilized states have concurred in authorizing it. . . . . The record of the last hundred years might not have been much cleaner than it is, but . . . . international law would in any case have been saved from complicity with it."

Lawrence admits only three cases where intervention is *legally* justifiable: (1) Intervention to ward off imminent danger to the intervening power. (2) Intervention in pursuance of a right to intervene given by treaty, which, he says, is *technically* justifiable.‡‡ (3) Intervention

* § 46.
† Bk. II, cap. iv.
‡ § 166.
§§ 1, 446.
|| § 43.
¶ Pp. 286-88.
** P. 132.
†† P. 288.
‡‡ It does not seem to us that this is a case of justifiable intervention; for as Woolsey points out in a note (p. 44): "If the principles of intervention cannot stand, treaties of guaranty, which contemplate such intervention, must be condemned also; . . . . an agreement, if it involves an unlawful act, or the prevention of lawful acts on the part of others, is plainly unlawful."

to prevent or terminate the illegal intervention of another state.*

We have given a reason in the foot-note above for rejecting the second of Lawrence's categories, and if we consider that the right of self-preservation takes precedence of all law, and that it is in reality a fundamental law of our nature from whose operation we could not escape if we would, we have only one case left where intervention is, strictly and legally speaking, justifiable—*the case of intervention to prevent or terminate the illegal intervention of another state.*† Now inasmuch as the society of nations has failed to provide special organs or means to secure the enforcement and sanction of the rules of international law, and as each state is therefore in a certain sense the guardian and executive of these rules and assists in their enforcement, does it not follow that we are justified in reducing this sole remaining rule to, and identifying it with, the principle of non-intervention? If it be true that intervention is, strictly speaking, illegal, except in this one class of cases, our exception is more apparent than real. It resolves itself into a simple affirmation of the right and duty of each state to enforce a rule of international law—the rule of non-intervention.‡

* Lawrence, *op. cit.*, pp. 117–19.

† Hall, in the passage quoted above, seems to justify intervention where the "whole body of civilized states have concurred in authorizing it." But he admits (p. 292) that "if a practice of this kind be permissible, its justification must rest solely upon the benefits which it secures." Such intervention could never rest upon a purely legal basis, inasmuch as the consent of the state whose rights were interfered with could never be secured. If such consent were given it would not be an intervention.

‡ The principle of non-intervention as a rule of international law, although denied by many publicists, or often weakly defended by others, is a necessary corollary of the doctrine of the independence and legal equality of states—a fundamental dogma of international law ever since the time of Grotius. In denial of the doctrine of non-intervention, Lawrence says with much sense and discrimination, (p. 135). "If this doctrine means that a state should do nothing but mind its own concerns and never take an interest in the affairs of other states, it is fatal to the idea of a family of nations. If, on the other hand, it means that a state should take an interest in international affairs and express approval or disapproval of the conduct of its neighbors, but never go beyond moral suasion in its interference, it is foolish." But the doctrine of non-intervention means

But does not history teem with instances of intervention —the rule of non-intervention to the contrary notwithstanding? Were not the leaders of the French Revolution, who sought to elevate the principle of non-intervention into a rule of international law, among the first to violate the dogma? Has not intervention even since the Napoleonic period been undertaken on every possible pretext and been justified by the most diverse reasonings?

All writers on international law seem to feel and realize the great difficulty of laying down general legal principles which should govern intervention, but few seem to recognize the real reason for the divergence of opinion and practice which exists with regard to this matter. It seems to us to arise from the fact that we are here dealing with questions of international policy as distinguished from those of law. As a French work on international law, entitled to great authority and respect, expresses it:

"*Intervention is not a right; . . . . the government which intervenes performs a political act*" (*un acte de politique*).*

That there are large, and, it must be admitted, somewhat vague fields of international policy and international morality as distinct from international law and comity, where the dictates of interest, policy, morality and humanity prevail sometimes in direct violation of the rules of positive law and custom, is, we take it, more or less evident to every student of international relations; although very few writers seem clearly to recognize the fact. Practical statesmen and

neither the one nor the other. It is simply a negative statement of the fact that each state has a right to have its independence and sovereignty respected by others and that all states are equal before the law. As Lawrence goes on to say, "They (states) should intervene very sparingly, and only on the clearest grounds of justice and necessity." Intervention is a political or moral—never a legal right. It is in this respect analagous to the so-called right of the revolution of the citizen or subject against an oppressive and tyrannical government.

* See "*Prêcis du Droit des Gens*," by Funck-Bretano and Albert Sorel, Second Edition, 1887. Pp. 212-16. We do not however agree with these publicists in their specious claim that nations are guided in this matter with sole reference to their interest, and that there is no real or practical difference between the principle of intervention and that of non-intervention—the latter being, as they claim, merely a disguised form of intervention.

men of the world are perhaps more apt to realize this than students of books and documents, who do not always fully realize that international, as well as any other species of politics, is an art as well as a science, and is surrounded with a wider horizon than that of organized facts and established principles.

To these vague and partially unexplored regions of international policy and international ethics belong the cases of political intervention with which the international annals of Europe are filled ever since the Reformation.

An examination of a large number of cases of intervention in Europe and America during the last three centuries would show us how various the grounds and how diverse the reasonings on which statesmen have justified their action in this respect. Impediments to commerce, burdensome measures of protection and repression, requests to interfere,* the danger of effusion of blood, humanity, evils of all kinds, the repose of Europe, the maintenance of political equilibrium or political influence, the protection of persons and property, the collection of debts due to subjects, etc., etc., are some of the reasons given for intervention. Very few of these reasons are admitted by the writers on international law as valid or legal grounds for intervention.†

*There have been in Europe since the close of the Napoleonic wars in 1815, many cases of forcible intervention on the part of the Powers for or against the efforts of a people to attain its independence. Examples are (1) The intervention of England, France, and Russia in favor of Greece in 1827; (2) Of the five Powers in favor of Belgium, 1830; (3) Of Russia against Hungary in 1849; (4) The numerous cases of intervention in cases of revolt against Turkey. Not only Greece, but Roumania, Bulgaria, Roumelia, Crete and Servia owe their partial or absolute independence in part at least to such intervention.

†A good example of the variety of motives which sometimes govern intervention is that which has led to the present occupation of Egypt by the British. "It involves for Great Britain questions of self-interest with regard to the Suez Canal, questions of national honor with regard to the promises made to Tewfik Pasha in 1879, questions of good government with regard to the suppression of the Arabist movement and the reforms of the administration, questions of finance with regard to the Egyptian debt, and questions of the rights of other states in connection with the dual control which was shared with France, and the suspension of the Law of Liquidation, which was signed by no less than fourteen Powers." Lawrence's "International Law," p. 133. See also Holland on the "European Concert in the Eastern Question," pp. 293-301.

One of the leading ideas of European diplomacy since the Peace of Westphalia in 1648, has been the preservation of the balance of power in Europe—an idea now superseded in certain respects by that of the European Concert. For the majority of interventions, perhaps, this idea has served as one of the real grounds or pretexts. But as one of its advocates asserts,

"Its right to exist cannot be deduced from any principle of international law, unless the state system of Europe be regarded as a kind of alliance or confederation, having for its purpose the maintenance of peace and the prevention of useless and unnecessary wars."*

Since the year 1827 intervention in the affairs of the Ottoman Empire has been so constant as to create, in the opinion of some writers, a body of jurisprudence and a long series of treaties by which the affairs of southeastern Europe are almost entirely regulated.†

"Over the groups of problems which we call the Eastern Question," says Lawrence, "the authority of the powers is absolute and complete. There is scarcely a detail which they do not settle by agreement among themselves."

"There are," Lawrence continues, "other questions, such as the security of the neutralized states of Europe, which they deem matters of common concern. . . . The authority of the European Concert is limited, its jurisdiction rudimentary, and its procedure indefinite and uncertain. But it exists, and is one of the great factors in the international politics of the civilized world." ‡

We would also note, in passing, that the entire fabric of European supremacy in Asia, *e. g.*, in India, Siam, Persia,

*Davis "International Law," p. 78.

†M. Rolin Jacquemyns in the *Revue de Droit International* (Vol. xviii, p. 603) expresses the opinion "that the Eastern Question constitutes a case apart, and that within the area of the Turkish Empire, and the small states adjoining, there exists a collective authority, historically and judicially established; that of the Great Powers,'"—cited by Hall, pp. 292–93, note. It may be that with regard to the Eastern Question and a few other matters of international administration, international policy has hardened into principles of international law and that rudimentary principles of jurisprudence have been established; although, if so, they have never been officially declared. Hall adopts the contrary opinion and holds that "such interference must still be justified on each occasion by the necessities of the moment," *i. e.* on grounds of policy.

‡Lawrence, *op. cit.*, pp. 245–46.

Afghanistan, and China, rests upon the exercise of the power of political intervention.

A primacy similar in kind, if not equal in degree, which is wielded by the United States alone, exists in America. Though the extent and method of control be different from that exercised by the concert of the Great Powers in Europe, the kind of control is essentially the same. It is a political primacy, which has no legal basis whatever, but which rests upon certain well-known maxims of policy originally enunciated by President Monroe in his famous message of December 2, 1823, and developed by usage or repeated application to actual events. Although no

"President has gone to the length of assuming the powers exercised by the European Concert in dictating territorial arrangements or calling new states into being, . . . there can be no doubt that very large powers of supervision have been claimed for certain definite purposes which tend rather to increase in number than to decrease." *

We do not wish to enter upon any extended discussion of the Monroe Doctrine, and shall merely refresh the memory of the reader by reminding him that the doctrine as stated by President Monroe contains two important principles. (1) The assertion that the United States would consider any attempt on the part of European powers "to extend their system to any portion of this hemisphere as dangerous to our peace and safety." (2) That the American continents "are henceforth not to be considered as subjects for future colonization by any European powers." Together with Washington's policy of non-interference in the affairs of Europe, as outlined in his "Farewell Address," the Monroe Doctrine constitutes the basis of our international policy and diplomatic history. The sum and substance of our whole foreign policy is contained in the famous letter of Jefferson to Monroe of October 24, 1823:

"*Our first maxim should be, never to entangle ourselves in the broils of Europe. Our second, never to suffer Europe to intermeddle in cis-Atlantic affairs.*"

* Lawrence, *op. cit.*, pp. 247–48.

American statesman, *e. g.*, President Cleveland in his Venezuelan message of a few years ago, have sometimes opened themselves to sound criticism and easy attack on the part of foreign diplomatists by insisting that the Monroe Doctrine was part and parcel of international law. I think we have sufficiently demonstrated the fallacy of any such a claim. *The Monroe Doctrine is above and beyond the domain of law; it is a policy* which we have maintained in the face of a colonizing and intervening Europe for the best part of a century, and which we shall continue to maintain in the face, if necessary, of a united and hostile Europe. We have all to gain and nothing to lose by frankly announcing it as such to the world.

Although the United States is under no pledge to intervene in any particular case, and is sole judge of the justice and expediency of every cause which may seem to call for intervention, and although the Monroe Doctrine has never received the formal sanction of either branch of our national legislature, nevertheless the executive department of our government has repeatedly acted upon its principles, and will continue to maintain them, if true to its trust, as long as the present political conditions in Europe and America remain essentially unchanged. As long as the leading states of Europe continue their present policy of aggression and colonization, and as long as the Latin-American states of this continent need a protector, the United States, for the sake of her own interests as well as for those of her weaker sister-republics, must remain the principal bulwark against such spirit of aggression and policy of colonization.* The Monroe Doctrine forms a fundamental article in the creed of every patriotic American, and hardly a president since the days of Monroe has failed to refer to it in words of approval.

*That the principle of the Monroe Doctrine, directed against colonization, is not dead, is shown by the most recent application of the doctrine against British aggression in Venezuela—clearly a case of attempted colonization as well as territorial aggrandizement.

"It has been persistently asserted by the majority of American statesmen; and to declare that it cannot obtain as a universal obligation is practically to throw discredit upon Washington's Farewell Address, whose recommendations, though never embodied in statutes or approved by resolution of Congress, have frequently shaped the foreign and domestic policy of the government."*

In short, as has often been stated, the *Monroe Doctrine is to America what the balance of power is to Europe.*

It may be urged with some degree of plausibility by those who cling to its letter rather than to its spirit, that the Monroe Doctrine, if it applies to Cuba, commits us to a policy of non-intervention with regard to that island as long as Spain continues even in nominal possession. In his famous message of 1823, President Monroe says:

"With the existing colonies or dependencies of any European power we have not interfered and shall not interfere; but with the governments who have declared their independence and maintained it, and whose independence we have on great consideration and on just principles acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, by any European power, in any other light than as the manifestation of an unfriendly disposition towards the United States."

At the time that this declaration was made, Cuba was still comparatively peaceful and prosperous. Nothing but a ripple or two had disturbed her peaceful relations with Spain,† and a period of unusual prosperity had characterized the preceding fifty years. During the Spanish wars against Napoleon, the Cubans remained stubbornly faithful to the Spanish Bourbons, and had earned for Cuba the title of the "Ever-faithful Isle." Their loyalty was, however, rewarded by the promulgation on March 28, 1825, of a royal decree which established on the island a military despotism of the most pronounced Oriental type. This decree remains, with slight modifications, the fundamental law of Cuba. It grants to His Excellency, the Captain-General, "the fullest

* Tucker's "Monroe Doctrine," p. 130.

† An attempted insurrection by the *Soles de Bolivar* in 1823 had been nipped in the bud and had never reached maturity.

authority," bestowing upon him "all the powers which by the royal ordinances are granted to the governors of besieged cities." * It seems that the loss of Spanish America, the declaration of its independence by Santo Domingo in 1821, and possibly the purchase of Florida by the United States in 1819–21, were the causes which led Spain to adopt this oppressive and fatal policy. Ever since 1825, therefore, Cuba has not only been governed by martial law, but may be said to have been in a perpetual "state of siege." † It is the boast of the Cubans during the present insurrection that they have "limited the territory of the operation of martial law." ‡ "In fine," as a prominent writer who visited the island in 1859 puts it, "what is the Spanish government in Cuba, but an armed monarchy, encamped in the midst of a disarmed and disenfranchised people?" §

Ever since the establishment of this permanent dictatorship in 1825, Cuba has been almost constantly in a state of insurrection and revolution. We will merely refer in passing to the Bolivar project of 1826, the "Black Eagle" insurrection of 1827–9, the disturbances of 1835 and 1844, the famous Lopez and Crittenden expedition of 1850, which created so much excitement in the United States, the abortive attempt at revolution in 1854, the prolonged and desperate ten years' struggle from 1868 to 1878, and finally the present revolution, inaugurated a little over three years since, on February 24, 1895.

* A translation of this decree may be found in Rowan and Ramsey's "Island of Cuba," pp. 101–2. The decree of 1825 was revoked in 1870, but the Captain-General retains in all essentials all his previous functions. He is far more absolute than the Czar of Russia. He can overrule the decision of any court and even suspend the execution of any order from Madrid.

† Dana, "To Cuba and Back," p. 232.

‡ Murat Halstead's "Story of Cuba," p. 23. Halstead observes with much force and penetration (p. 315), "The answer that should be made to the assertion that the Cubans have no civil government, is that they have as much authority of a civic character as the Spaniards, for there is nothing but martial law in the island. The fight of Spain is to continue martial law, and the Cubans are in arms to overthrow the Spanish law, which is administered by soldiers by force of arms."

§ Dana, *op. cit.*, p. 235.

The causes of these repeated insurrections are not difficult to find. They are known to all the world. The history of Spanish rule and warfare in Cuba during the greater portion of this century has been a history of economic and political blunders and crimes so great and fearful that their parallel can only be found in the extortions of Roman provincial governors during the latter days of the Roman Republic or in the bloody annals of Spanish warfare in the Netherlands under the Duke of Alva in the sixteenth century.

Owing to her numerous wars in Europe and America during this and previous centuries and to revolution, poverty, exhaustion and financial mismanagement at home, Spain has accumulated a national debt which in 1891 had attained the enormous sum total—enormous for a country like Spain—of $1,211,453,696. Cuba, being the richest jewel in the royal crown, has been forced to contribute about twice her proportionate share to the payment of the interest on this debt.* The annual revenue raised in Cuba in 1868 approximated $26,000,000. The revolution which broke out during that year frustrated an attempt to raise it to over $40,000,000. The revenues of Cuba have repeatedly been pledged for the debts of Spain.

This large revenue has been raised by means of a system of taxation extremely burdensome and oppressive. The Cuban tariff schedule covers forty-two printed pages and contains a list of 417 dutiable articles or classes. When we remember that Cuba relies almost exclusively on imports for many articles of prime necessity and that the tariff is one for revenue rather than protection, the rates will strike us as intolerably excessive, and in many cases must be almost

* The annual payment for interest and sinking fund on this debt in 1891 was $67,187,538, of which Cuba's share amounted to $10,187,538, or considerably more than one-seventh. The population of Cuba in 1887 was 1,631,687; that of Spain, 17,565,632. This debt has now increased to over $1,500,000,000. Newspaper statistics, which I hesitate to accept, place it at over $1,700,000,000, at least $300,000,000 have been added as a result of the heroic efforts which Spain has made to put down the present insurrection.

prohibitive.* Import duties, however, furnish considerably less than one-half the revenue. There are also export duties; heavy port dues; taxes on real estate, passenger fares, trades and professions, stamps, lotteries (an important item), rents and sales of public property; an excise on liquors, sugar (now abolished), tobacco and petroleum, besides minor sources of income.

This large revenue which has been raised in such an oppressive and burdensome manner is spent in the most inequitable and unjustifiable fashion. Over $10,000,000 went in 1895–96 toward the payment of interest on the national debt of Spain; enormous salaries were paid to the great civil and ecclesiastical dignitaries of the island;† nearly $7,000,000 was devoted to the support of the army and navy; over $2,000,000, to the payment of pensions; over $4,000,000, for the maintenance of the executive and police force; and $385,000 to the support of the Established Roman Catholic Church. We should, however, not forget to note the appropriation in 1893–94 of $137,760 for higher educational purposes (not for common schools) in a country where education is nominally compulsory, and the setting aside of $20,000 annually "for the secret expenses of the legation at Washington and consulates in the United States." About $700,000 was applied to internal improvements in the island.‡

It is a matter of common knowledge that these taxes, so

* Building stone. *e. g.*, is taxed at the rate of $10.50 per ton; salt, $10.00 per bbl.; petroleum, 14 cents per gallon, gunpowder, 60 cents per pound; books, 78 cents per pound; agricultural implements, $1.13 per cwt.; pianos and carriages, $82.00 and $198.00 each respectively; and steam machinery, $3.18 per cwt. Flour is burdened with duties so heavy that wheaten bread as early as 1868 ceased to be an article of common food. See Rowan and Ramsey's "Island of Cuba" for tables, pp. 198–201 and p. 116.

† The Captain-General received in 1868 an annual salary of $50,000; the governor of each province, $12,000; and the Archbishop of Santiago de Cuba and the Bishop of Havana, each $18,000. Presumably these salaries have not been reduced since that date.

‡ For these and many other valuable facts see Rowan and Ramsey, *op. cit.*, Pt. III, especially p. 202. At least two-thirds of the Cuban revenue immediately or ultimately finds its way back to Spain.

unjustly levied and so unwisely spent, do not tell the whole story of Spanish extortion in Cuba. In addition to these authorized levies, there are "incident to all offices, civil and ecclesiastical, from the highest to the lowest," perquisites and peculations estimated by a competent and conservative authority at $10,000,000 or more per annum.*

The economic sins of Spain against Cuba have been sins of omission as well as of commission. Between these the economic ruin of Cuba was rapidly being accomplished even before the recent devastation and destruction for military ends, of which the insurgents and Spaniards have been equally guilty. Spain has utterly failed to meet the demand of Cuba for the protection of her leading article of export—cane sugar—by means of bounties and import duties which were necessary in order to meet the competition of beet sugar, and the consequent diminishing price of her favorite article of export in the markets of the world. On the contrary,

"the Cuban planter had to contend with a heavy tax on his crop, a heavy duty on the machinery for preparing it, a light export duty, and a duty at the port of destination. . . . . Under the present trend of events, taxation remaining the same, it would not be long before Cuban sugar would be excluded from the markets of the world."†

Cuban tobacco has suffered almost as much as Cuban sugar. The great and steady decline of the export of cigars during recent years has been "due to general taxation, an export duty of $1.80 per 1000, and increasing competition with other countries, especially the United States."‡

The political as distinct from economic grievances of Cuba have already been touched upon.

* *Ibid.*, pp. 113, 203. General Pando, in a speech delivered in the Congress of Deputies at Madrid in 1890, charged embezzlements and defalcations of $40,000,000. In 1891 it was stated in the same House that there were "350 persons employed in the custom house and the administration against whom proceedings have been taken for fraud," and not one of whom had been punished. Another Deputy (Deputy Dalz) alleged in 1895 that the custom-house frauds in Cuba since 1878 amounted to $100,000,000. *Ibid.*, pp. 144-45. The travelers to Cuba, although naturally they do not cite figures, all bear witness to the corruption of Spanish officials, high and low, in Cuba.

† *Ibid*, pp. 146-49.

‡ *Ibid*, p. 149.

"Since 1825, vestiges of anything approaching popular assemblies, juntas, a jury, independent tribunals, a right of voting, or a right to bear arms, have vanished from the island."*

It is true that the right of Cuban representation in the Cortez was restored after a lapse of over half a century in 1878. But the circumstances under which this right is exercised deprive it of all real value. †

The so-called political reforms of 1878 do not merit discussion. The provincial assemblies, the council of administration, and the "council of authorities" in no wise restrict the arbitrary and despotic authority of the provincial governors and the captain-general. "There has been an improvement of legal phraseology, but the system is the same."‡ Besides, practically, all the civil and ecclesiastical, as well as military positions of any importance whatever are filled by native Spaniards, who return to Spain sooner or later with their ill-gotten as well as their legitimate gains.§

Of liberty in the Anglo-Saxon, or even in the Continental sense of the term, there is and can be none in Cuba as long as Spain maintains her foothold on the island. The censorship of the press is exercised with the utmost capriciousness and rigor. There is no right of public meeting, voluntary association, or even of private assemblage.‖ In times of peace the Cuban may be arrested, imprisoned or deported without public trial or process of law. The rebel as well as the criminal is treated with the utmost barbarity and cruelty. The use of torture even is not extinct. To her

*Dana, *op. cit.*, p. 233. This statement, made in 1859, remains substantially correct to-day.

†Under the peculiar electoral law in Cuba, the Cubans, who constitute about four-fifths of the white population of the island, manage to secure ordinarily three or four representatives in the Cortez. In 1896 they secured one.

‡Murat Halstead's "Story of Cuba," p. 67. See, also, Rowan and Ramsey *op. cit.*, pp. 183-89.

§Even the Cuban volunteers, now 63,000 strong, are mostly Spaniards who serve in the Cuban militia for three years in order to avoid the five years' conscription in Spain.

‖A permit is even necessary to hold a private reception of a purely social nature.

other mediæval abuses Spain adds that of religious intolerance. The Roman Catholic is the only religion tolerated.*

We hope that the student of international relations who has accompanied us thus far is now prepared to accept our conclusion that Spain, by reason of her ruinous economic policy as well as her corrupt and despotic government of Cuba, has forfeited all moral right to that island. Not even a prescriptive title of four hundred years will prevail in international morality against seventy-five years of such oppressive tyranny and criminal exploitation perpetrated in the broad daylight of nineteenth century civilization at the very doors of a nation which prides itself upon its love of liberty and hatred of oppression. Spain's record in Cuba is not one of occasional acts of misgovernment or mere economic blundering. She has doubtless sinned through ignorance, but it is through an ignorance based on a deliberately selfish policy—a Bourbon ignorance which refuses to profit by the lessons of experience and the repeated warnings and

*The following forcible and just parallel is drawn by Señor Palma between the grievances of our revolutionary fathers and those of Cuba, and is justly characterized by Mr. Halstead as a masterpiece: "We Cubans have a thousand-fold more reason in our endeavor to free ourselves from the Spanish yoke than the people of the thirteen colonies when, in 1775, they rose in arms against the British government. The people of those colonies were in full enjoyment of all the rights of man; they had liberty of conscience, freedom of speech, liberty of the press, the right of public meeting, and the right of free movement. They elected those who governed them, they made their own laws, and, in fact, enjoyed the blessings of self-government. They were not under the sway of a captain-general with arbitrary powers, who, at his will, could imprison them, deport them to penal colonies, or order their execution even without the semblance of a court-martial. They did not have to pay a permanent army and navy that they might be kept in subjection, nor to feed a swarm of hungry employes yearly sent over from the metropolis to prey upon the country. They were never subjected to a stupid and crushing customs tariff which compelled them to go to the home markets for millions of merchandise annually, which they could buy much cheaper elsewhere; they were never compelled to cover a budget of twenty-six or thirty million dollars a year without the consent of the taxpayers, and for the purpose of defraying the expenses of the army and navy of the oppressor, to pay the salaries of thousands of worthless European employes, the whole interest on a debt incurred by the colony, and other expenditures from which the island received no benefit whatever, for out of all these millions only the paltry sum of $700,000 was apparently applied for works of internal improvement, and one-half of that invariably went into the pockets of the Spanish employes." Murat Halstead's "Story of Cuba," pp. 345-46.

protests of a friendly nation.* Surely the spirit of the Monroe Doctrine, which was especially launched against the introduction of oppressive and despotic government on this hemisphere, may be invoked to justify intervention against Spain in behalf of Cuba by the recognition of her independence.

The people and leading statesmen of the United States have manifested a great and particular interest in the future welfare of Cuba ever since the early part of this century.† The Monroe Doctrine has upon several occasions been applied in order to prevent the acquisition of Cuba by any other European power, and it is a well-known and settled policy of the United States "that we could not consent to the occupation of these islands (Cuba and Porto Rico) by any other European power than Spain under any contingency whatever."‡ We have even threatened to go to war, if necessary, in order to uphold this policy.§

Intervention in Cuba by the United States, although an undoubted violation of the territorial sovereignty of Spain, and therefore, on the face of it, a gross affront to the Spanish nation, would in reality be an act of the greatest kindness to Spain. Separation from Cuba would be the greatest blessing which could fall to the lot of that misguided and unhappy nation. Spain

"cannot regain her health as long as she is wasting blood and treasure in Cuba. Unless the amputation of the Cuban limb takes place, the whole body of Spain will be poisoned." ‖

* A fair-sized and interesting volume of such warnings and remonstrances, on the part of the United States, might be compiled by consulting our diplomatic correspondence with Spain.

† Another useful volume might be filled with expressions of opinions of our leading statesmen, and with planks of our party platforms on this subject. See the writer's paper on the "Recognition of Cuban Belligerency," for a few such expressions of opinion, in ANNALS for May, 1896, Vol. vii, p. 750.

‡ Mr. Clay to Mr. Brown, United States Minister to France, October 25, 1825. Wharton's "Digest," Vol. i, p. 367.

§ In 1840, *e. g.*, when British aggression was feared, assurance was given to Spain that she might "securely rely upon the whole naval and military resources of the United States to aid her in preserving or recovering" Cuba.

‖ See London *Spectator* for February 12, 1898.

During the ten years from 1868–78, Spain lost, according to official statistics, 81,098 men out of 155,298. The cost of that war was at least $150,000,000. During the present struggle the

"area of strife is extended, and the destruction of life and property has been vastly augmented. Then but three of the six provinces were partially laid waste, now the whole extent of the island is devastated. Both armies have in numbers been multiplied by three, and the insurgents have gained in confidence, and in the freedom with which they apply the torch."*

The cost of the present war to Spain has been at least 100,000 men, including invalids, and $300,000,000 in bonds.

How stands the account between Spain and the United States with regard to Cuba? How has Cuba under Spanish rule been able to acquit herself toward the United States in respect to her obligations as a neighbor and customer? For the five years ending June 30, 1895, Cuban importations *to* the United States amounted to $346,902,092, or an average of $69,380,418 per annum; Cuban importations *from* the United States, $87,269,138, or an average of $17,453,828. The balance of trade in favor of Cuba during these five years was therefore $259,632,954, or an average of $51,926,585.† During this same period the United States shipped $87,544,830 in gold to Cuba, the remaining obligation of $172,088,124 having been met in other ways. Our trade with Cuba has therefore suffered during the past three years of warfare to the extent of nearly $87,000,000 per annum. The destruction of the sugar and tobacco crops in Cuba and the loss of our commerce, is a great deprivation to our people.

* Murat Halstead, *op. cit.*, p. 49. The statistics available do not bear out Halstead's estimate. The Spanish forces in Cuba probably have never much exceeded 200,000. Halstead gives a Spanish list (p. 303) of plantations destroyed by the insurgents and (pp. 304–5) a list of forty-two towns charged by the Cubans to the Spaniards.

† Spain by means of differential duties has been able on the contrary to secure a large balance of trade in *her* favor. For the year ending June 30, 1894, Spanish exports *to* Cuba amounted to $23,412,376; Spanish imports *from* Cuba, $7,528,622—a difference of $15,883,754 in favor of Spain. Rowan and Ramsey, *op. cit.*, p. 212. See, pp. 210–11 for very interesting tables showing by way of comparison our trade relations with other West India Islands.

The large balance of trade against us only shows that we have been forced to trade with Cuba under very unfavorable conditions. It must be assumed that the benefits which we have derived from Cuba as a purchaser are as great as those which we have enjoyed as a seller. It is not that our purchases have been too great, but our sales or exports have been too small.

Cuba presents to the United States all the conditions of an ideal customer. The greatest possible amount of trade between the two countries could not but be mutually advantageous. Each country is anxious to dispose of what the other stands most in need of. Out of 718,204 tons of sugar exported from Cuba in 1893, 680,642 tons went to the United States. During that same year we also imported 7654 hogsheads of molasses. We purchase about two-thirds of the tobacco which Cuba raises and nearly one-half of her cigars. In 1892, Cuba purchased in our markets a little less than one-third of all her imports. Her main imports are rice, beef and flour—articles which we are anxious to dispose of.*

"In determining our policy toward Spain with reference to Cuba, we have a right not only to consider the actual and temporary loss which our commerce sustains through these protracted struggles, but we have a right to look to our ultimate and permanent interests."†

We will leave it to the reader's imagination to furnish the statistics of our future trade with a free and independent Cuba or with Cuba as a part of the American Union.

But it is not our commerce alone which has suffered from prolonged and repeated insurrection in Cuba. American citizens have suffered in respect to their rights of person and property to an extent which has been a source of great humiliation and regret to the people and statesmen of this country. Senator H. D. Money in a recent article in the *Forum* for March, 1898, estimates that citizens of the United

* "Statesman's Year Book" for 1895.

† "Recognition of Cuban Belligerency," by the writer in the ANNALS for May, 1896, vol. vii, p. 457.

States have over $50,000,000 invested in property in Cuba.* It cannot be possible that all of this property has escaped destruction either by the Spaniards or the Cubans. Not only have Americans suffered from the destruction of their property in Cuba, but American lives have often been jeopardized and in some cases even sacrificed.† Our past experience with the government of Madrid as well as its present condition of practical bankruptcy should convince us of the utter futility of any hopes which we may cherish of securing adequate indemnity for such destruction of life and property. Not only have American citizens suffered insult and injury, for which there can be no remedy, but vessels carrying the American flag have been fired upon, searched, and seized on the high seas. The Black Warrior (1850) and Virginius (1873) are only amongst the more flagrant instances of this kind.‡ It is also a matter of great annoyance and inconvenience that, as Secretary Fish complained in a communication to Mr. Cushing in 1875,

"for any injury done to the United States or their citizens in Cuba, we have no direct means of redress there, but can obtain it only by slow and circuitous action by way of Madrid."§

Another source of great inconvenience and expense to which our government has been subjected has been the prevention of filibustering expeditions to Cuba—a duty, be it observed, which we owe to ourselves rather than to Spain,‖

*Other estimates are from $25,000,000 upwards. President Cleveland in his message of December, 1896, estimates the amount at from $30,000,000 to $50,000,000.

† An executive document "contains the names of sixty-six American citizens executed without due trial during the ten years' war"—Rowan and Ramsey's "Island of Cuba," p. 208. Although a repetition of such incidents has been provided against by treaty and greater vigilance on the part of our consuls in Cuba, it cannot be said, in view of recent events, that such danger has entirely disappeared.

‡ In the former case an indemnity of $300,000 was paid after a delay of five years; in the latter case of gross violation of international usage the pitiful sum of $80,000 was exacted; but the governor who ordered the summary execution of American citizens and British subjects was never punished.

§ Wharton's "Digest," Vol. i, p. 410.

‖ At present we are bound in this matter merely by our own neutrality laws; only in the event of the recognition of Cuban belligerency would we be placed under international obligations.

and one where obligations have been exceeded rather than evaded by our government.* So far Spain has shown no appreciation of our zeal in the service of her interests in this matter. On the contrary our people and government have been charged with responsibility for the prolonged continuance of the present struggle.

It may be acknowledged that we *are* responsible for its continuance; but in quite a different sense from that in which the Spanish government and newspapers have intimated. We stand convicted in the eyes of the civilized world † and of posterity, whether we intervene at this late day or not, of negligence in permitting one of the greatest crimes of the nineteenth century to be perpetrated at our Southern Gate.

If our essential and permanent interests and a national policy, established and developed by seventy-five years of usage, imperatively demand the recognition of Cuban independence, accompanied by such a display and use of force as may be necessary to secure that result, how much more is such a step justified and necessitated by the higher claims of humanity—universally recognized by writers on international law as a moral, if not a legal, justification of intervention! We do not in this connection speak of ordinary acts of oppression and cruelty, but of a crime against the human race itself. We refer to the policy of extermination deliberately adopted, as we believe, by the Spanish government itself, and inaugurated by General Weyler in his

* According to the *Review of Reviews* for March, 1898 (p. 262), not less than $2,000,000 have been spent by our government for this purpose. The *Review of Reviews* states that this money was spent practically under Minister De Lome's instructions, and charges that it was used not so much to prevent such illegal expeditions as to prevent the sale of arms and supplies to the insurgents—a business perfectly legitimate in itself, even in times of war.

† Bonsal, "Real Condition of Cuba To-day" (p. 142), testifies that he has heard many of the consular representatives of France and England express the opinion "that the government and people of our country are directly responsible for all the bloody crimes that are committed in the name of warfare" in Cuba. As Bonsal says, "They are right. Our share of responsibility is a heavy one."

decree of reconcentration, of October 21, 1896.* This decree orders

"that all the inhabitants of the country districts, or those who reside outside the lines of fortifications of the towns, shall, within a space of eight days, enter the towns which are occupied by the troops. Any individual found outside the lines in the country at the expiration of this period shall be considered a rebel, and shall be dealt with as such," *i. e.*, shot down in cold blood.†

We will not speak of the ordinary atrocities and massacres, not only of prisoners of war, but of innocent *pacificos* —nay, even of women and children—and of the deportations with which the Cuban annals of warfare in this century are filled. These and many other facts of the most horrible description are attested not only by multitudinous newspaper reports, but by witnesses of high character and undoubted veracity.

In the absence of the official consular reports,† which have been promised but which are still withheld by the Executive Department of our government, it is impossible to present estimates, even approximately correct, of the number of *pacificos*—mostly women and children—who have died from starvation and disease as a result of General Weyler's decree of reconcentration.

Very little, if any, attempt has been made to provide any kind of food whatsoever for these starving masses, and they have only been allowed in rare cases even to dig roots outside lines of fortification. Their condition from every point of view, including the sanitary, is horrible in the extreme. The plague of Athens during the Peloponnesian War, or the Black Death of the Middle Ages scarcely afford a parallel to what is now going on in Cuba. All the miseries of famine, disease and war have combined to heighten the sufferings of

*A complete copy of this decree may be found in nearly all the recent books which bear on the present war in Cuba. See E. G. Bonsal's "Real Condition of Cuba To-day," p. 108.

†[These have since been submitted.—EDITOR.]

a race which, whatever its shortcomings, is human and American. Recent modifications of the severe decree come too late to effect substantial betterment of conditions.

It is now nearly one year and a half since General Weyler's policy of race extermination went into effect. It is nearly fifteen months since President Cleveland declared in his message to Congress:

"When the inability of Spain to deal successfully with the insurgents has become manifest, and it is demonstrated that her sovereignty is extinct in Cuba for all purposes of its rightful existence, and when a hopeless struggle for its re-establishment has degenerated into a strife which is nothing more than the useless sacrifice of human life and the utter destruction of the very subject-matter of the conflict, a situation will be presented in which our obligations to the sovereignty of Spain will be superseded by higher obligations, which we can hardly hesitate to recognize and discharge!"

At least a year has elapsed since it has been evident to all those who have eyes to see and ears to hear that all these conditions have been fulfilled. It is now manifest to all the world that the struggle in Cuba is one which is perfectly hopeless on both sides. The Spaniards have put forth a last and supreme effort to conquer the Cubans by a policy of extermination of the peaceful inhabitants, and have only added another chapter to a long colonial history of disgrace and disaster. The insurgents cannot hope to drive the Spaniards from the leading towns and coasts of the island. Unless the United States intervenes, the struggle promises to continue indefinitely; for owing to the peculiar physical conditions and methods of warfare which prevail on the island, the insurgents can never be subdued. This hopeless struggle has long since degenerated into a strife which means nothing more than the *useless sacrifice of human life*, and threatens *the utter destruction of the very subject-matter of the conflict.*

The scheme of autonomy, for the ripening of whose fruits President McKinley has been long and patiently waiting, has, according to the practically unanimous opinion of those

who know, turned out to be both a farce and a failure.* In his message to Congress of December 6, 1897, our President said:

"The near future will demonstrate whether the indispensable condition of a righteous peace, just alike to the Cubans and to Spain, as well as equitable to all our interests so intimately involved in the welfare of Cuba, is likely to be attained."

The *near future* has demonstrated that such a peace is *not* likely to be attained.

The Monroe Doctrine forbids intervention on the American continent by any European power. We have announced our peculiar interest in Cuba to all the world. These rights and interests involve grave obligations for which the world and posterity will hold us responsible.

The hour for intervention is at hand. In view of recent events this step cannot and will not be delayed much longer. We cannot atone for past negligence and weakness, but we may in part, at least, redeem our character as a nation in the eyes of the world, and recover our own sense of national self-respect by prompt and vigorous action.

AMOS S. HERSHEY.

*State University, Bloomington, Ind.*
*April 1, 1898,*

*The highest of these authorities is our late Minister to Spain, Mr. Taylor, who has denounced in the *North American Review*, 1897, and in a remarkable letter to the New York *Herald* in November, 1897, "the hollowness and emptiness of the whole shadowy pretence embodied in the royal decree of February, 1897." Mr. Taylor sees no solution of the Cuban problem except intervention by the United States.