

ST. LOUIS LAW REVIEW

Vol. II

Published by the Undergraduates of the
Washington University Law School

No. 3

THE MONROE DOCTRINE FROM THE LATIN-AMERICAN POINT OF VIEW*

By DR. ALEJANDRO ALVAREZ.

We have considered in a preceding lecture the importance of the comparative study between the Anglo-American and Latin-American Schools of International Law, in order to find a uniformity of conception in fundamental matters. I will try in the present lecture to show the importance of this comparison in the capital matter of the Monroe Doctrine.

*Dr. Alejandro Alvarez, the author of this paper, is an eminent authority on International Law, on which subject he has written and lectured for years. He was educated, or at least completed his education, at the Sorbonne in Paris. He came to the United States from Chile several years ago under the auspices to the Carnegie Endowment for International Peace. He was formerly Counselor to the Ministry of Foreign Affairs of Chile; also Counselor to the Chilean Legations in Europe, represented Chile at the Fourth Pan-American Conference, was a member of the Committee of Jurists charged by that Conference with the Codification of International Law. He is Secretary-General of the American Institute of International Law, member of the Institut de Droit International, and member of the Permanent Court of Arbitration at The Hague. His publications include the following:

"La Nationalite dans le Droit International American" (1907); "Le Droit International American" (1910); "La Codification du Droit International" (1912); "La Grade Guerre Europeenne et la Neutralite du Chile" (1915).

The present paper was one of a series of three lectures that Dr. Alvarez delivered to the students of Washington University Law School in March of this year.

I.

Let us now go back to American International life in the early days of independence, to discover what general rights were proclaimed by the states, which may be considered as forming part of the basis of American Public Law.

After their liberation, the states of Latin-America feared that not only the Mother-Country, but any one of the powerful European states might make attempts against their independence, or at least against their political life. This fear was not without foundation, in view of the fact that in 1815 the Emperors of Russia and Austria, and the King of Prussia had signed the pact known as the "Holy Alliance," by which these sovereigns mutually guaranteed the integrity of their territories, as well as legitimate governments. Spain had sought the help of these sovereigns to put down the revolt of her American colonies. It had been refused, but from 1818 to 1822 there had been interventions at Naples, in the Piedmont and in Spain, with a view to putting on the throne legitimate sovereigns, who had been dethroned by the popular uprising.

Consequently the American states feared for their independence, or at any rate for the form of their governments.

Then, as always, by force of circumstances, the statesmen of all the American countries held that the right of independence had been won and no attempts could be made against it; that the states of Europe could not colonize any country, not even unexplored regions which were under the authority of any of the respective American states; and that the European states should not intervene in the domestic politics of the new countries. Such views were expressed in Venezuela, particularly by Bolivar, in Rio de la Plata, Chile and even Central America.

II.

In 1823, the year following the recognition of some of the Latin-American states by the United States and a time when it foresaw the perils of another conquest of these countries or of intervention in their domestic politics, President Monroe in his famous message of December 2nd, stated in unambiguous terms the same principle as had earlier been declared by the statesman of Latin-America. Therefore, even if the famous message had never been written the ideas contained in its first three declarations would none the less have been

maintained by the states of the new world. In this sense, it may be said that the Monroe Doctrine is not a doctrine of a single nation, nor the special invention of Monroe. It is an American Doctrine, but it will continue to be the Monroe Doctrine in the sense that American aspirations are therein collected and condensed in doctrinal form. In this way all America has acquired a creed for its foreign policy, and the United States has become the Defender thereof whenever it is threatened.

There is, however, a great deal of confusion regarding this Doctrine owing to the fact that the attitude of Latin-America on the subject is not sufficiently known.

I shall not here undertake an examination of this Doctrine, nor shall I attempt a criticism of the opinions that have been expressed since its proclamation. What I particularly want to do is to consider it from the point of view of Latin-America, for I believe that if the attitude of these countries on the Doctrine were known, a great many of the misunderstandings that exist today would be dissipated and the character and role of this Doctrine in American International Law would be accurately determined.

In this connection I shall take up the following points:

1. The continental phase of the Doctrine.
2. The distinction to be drawn between the Monroe Doctrine and its manifestations, on the one hand, and the policy of hegemony and imperialism of the United States on the other.
3. Whether the principles constituting the Monroe Doctrine as formulated in 1823 are a part of what may be called American International Law.
4. Whether the states of the New World have the right to proclaim certain principles as belonging to continental international law, and, if so, what may be the scope of this law.

This subject has been explained in remarkable works, especially in the recent book of the learned professor at Harvard University, Mr. Albert Bushnell Hart, "The Monroe Doctrine—an Interpretation."

III.

I need not set forth President Monroe's message of 1823, as it is well known. It contains two series of provisions very different in character. The first series relate to the political independence of the New World and includes the three principles of the acquired rights

to independence, to non-intervention, and to non-colonization on the American continent.

The second series is made up of special declarations relating to the non-intervention of the United States in European affairs.

The message stated that attempts of the countries of Europe against the American Republics are dangerous to the peace and security of the United States. This would seem to indicate that Monroe was declaring these principles with the interests of his country only in view, and that is why this Doctrine is considered merely a policy of the United States. But the fact is lost sight of that the assertion of such principles is also favorable to the entire continent, and that the statesmen of Latin-America had maintained these same principles before 1823. The best evidence of this is that at the Congress of Panama in 1826 the Latin-American states desired not only to solemnly declare the Monroe Doctrine, but also to unite to compel respect for it. It was the same in the Congress of Lima in 1848 and in the Continental Pact of 1856. The Latin-American states have persevered in this idea. In the course of the nineteenth century and on several occasions they invoked the Monroe Doctrine, particularly in 1865, when Spain and Peru were at war. In 1910 at the Fourth Pan-American Conference, when the centenary of Latin-American independence was celebrated, the delegation of Brazil proposed to the delegations of the Argentine and of Chile that the Conference be asked to adopt a vote of thanks to the United States for the beneficial effects of the Monroe Doctrine on the independence of the New World. The resolution was not passed, lest it should give the impression that the Latin states by approving the Monroe Doctrine likewise approved the hegemony of the United States. The idea of upholding the Monroe Doctrine throughout the continent is one of present interest. According to accounts appearing in a press which claims to be well informed, President Wilson has submitted to the various American governments a proposed treaty, the first article of which declares that the "high contracting parties agree to unite in a common and mutual guarantee of territorial integrity under the republican form of government." And the National Association of International Law of Chile, among divers propositions submitted to the Institute for approval, included one for the "mutual guarantee of the independence and territorial integrity of the American states against aggression on the part of the states of other continents."

So far as concerns the maintenance of respect for the Doctrine by the states of Europe, it is the United States that has undertaken this task for the past century, a task which naturally fell to it as being the most powerful of the American countries, and that is another reason why the Monroe Doctrine is believed, especially in the United States, to be only a policy of this country. But the Latin states have also come forward in its defense. In 1865 Chile declared war on Spain simply to safeguard the independence of Peru, which was threatened by Spain.

Another reason why there exists such a misunderstanding concerning the Monroe Doctrine is because people have attempted to hang upon it all the policies of the United States. There is not an act of this country, especially in its intercourse with Latin-America, that is not looked upon as being bound up with this Doctrine, in spite of the fact that the latter originally referred to no other principles than the three already pointed out. During the nineteenth century the United States built up alongside of this Doctrine a personal policy, which does not represent the interests of the continent, but quite the reverse; wherefore it inspires fear rather than sympathy in the states of Latin-America. This so-called policy of hegemony consists of intervention by the United States, on behalf of its own interests, in the domestic affairs of certain states of Latin-America, especially those that are situated in or near the Caribbean Sea, and those bordering the Gulf of Mexico. This policy is the well-nigh natural result of the tremendous territorial, economic, and maritime superiority of the United States. Any other country in the same situation would have developed the same, perhaps a still more aggressive policy. The European Concert is really nothing more nor less than a hegemony of the great powers over the rest of Europe. But the fact that the origin of this policy can be explained, does not justify it. The states of Latin-America have always rejected this doctrine of the hegemony of the United States in the name of the independence and liberty of the states. So this policy is particular to the United States and not representative of the ideas of the New World as a whole.

In addition to this policy the United States has developed in our hemisphere the so-called imperialistic policy, by which it has increased its territory and brought certain countries under its influence.

IV.

Consequently the policies of the United States on the American continent may be divided into three main groups or categories:

1. Maintenance, application and development of the Monroe Doctrine or Doctrine of all the states of the New World.
2. Political hegemony (personal).
3. Political imperialism (personal).

I shall confine myself here to a statement of the principal cases in which each of these policies has been applied. Which I suppose are well known to you or which you can easily find in accessible books in your own language, especially the already cited work of Professor Hart and the remarkable Digest of Mr. John Bassett Moore.

First Category of the Policies of the United States.

The United States has prevented European states from bringing American countries under their Dominion, for example (French intervention in Mexico from 1862 to 1866), and from meddling in American affairs. The United States has also developed the Monroe Doctrine by opposing the acquisition by European states on any grounds whatever, even with the consent of the American countries, or of any portion of the territory of the latter and the placing of any portion of such territory under the protection of a foreign power. Statement made by President Polk in his message of April 29th, 1848, with regard to Yukatan; declaration made by the United States in 1895 respecting Nicaragua's intention to cede to England, as damages for the imprisonment of an English vice consul, the island of Corn to be used as a coaling station.

The United States also opposed the more or less permanent occupation by a European state, even as a result of war, of any portion of American territory. President Van Buren's declaration in 1840 that the United States would prevent by force the military occupation of Cuba by England. President Roosevelt's declaration on the occasion of the Anglo-Italo-German coercive action against Venezuela in 1903.

Second Category of the Policies of the United States.

The United States has on various occasions contended that European states may not without its consent, transfer to one another, on

any ground whatever the colonies which they possess in the New World. (Clay's declaration in 1825 to the Governments of France and England to the effect that the Union could not permit Spain to transfer Cuba and Porto Rico to other European states.)

Another phase of the hegemony of the United States is that of intervening at the birth of a new state in America, either by emancipation or by secession, and then restricting its foreign relations as in the cases of Cuba and Panama.

With regard to Cuba, article three of the appendix to its constitution expressly recognized that the United States has the right to intervene in the country, not only to defend its independence, but also to preserve order.

The object of this was to keep the island from passing through crises like those through which the Latin-American countries passed in the early days of their independence, and to have from the very beginning an era of peace, not only for the good of the island and of the continent, but also for the security of the interests of the United States.

Cuba, evacuated by the United States in 1902, concluded with that country on May 23rd, 1903, a perpetual treaty, which considerably restricted its independence. Among other stipulations the United States is authorized to defend the independence of Cuba, which cannot conclude with any other state a treaty that may compromise its independence. The United States also reserves the right to have naval stations on the island.

With regard to Panama there was in the first place, the Hay-Bunau Varilla treaty of November 18th, 1903, between the United States and Panama, providing that in consideration of the payment of ten million dollars and a certain annual rental, the United States should acquire a strip of land in the territory of Panama, extending five miles from the median line of the proposed canal, on each side, and three miles into each ocean. The canal was thus to pass through American territory. Panama ceded to the United States sovereignty over the islands situated within the limits of the indicated zone and other islands situated in the Bay of Panama. However, the cities of Panama and Colon and the adjacent ports were not included in the concession. The canal and its entrance are to be perpetually neutral in accordance with the conditions of the treaty of November 18th,

1901, between England and the United States. The latter country guarantees the independence of Panama.

The negotiations concerning the Panama Canal and the independence of Panama plainly show to what lengths the United States policy of hegemony may go. In the first place, just as in the case of Cuba, while allowing Panama to be self-governing, the United States retains a sort of protectorate over it in order the better to maintain its independence and to preserve order within the country.

Article 136 of the Constitution of Panama confers upon the United States authority to intervene for the purpose of restoring order in case it assumes, by virtue of a treaty, the obligation of guaranteeing the independence of the sovereignty of the Republic.

In connection with this policy of the United States to intervene at the founding of every new state of America, let us remember that in 1867, at the time of the constitution of Canada, many protests arose in Congress against the formation of this political entity, which really was a European state. Although these protests came to naught, the fact is none the less worth noting, because it shows the scope that certain politicians would like to give to the United States policy of hegemony.

A third manifestation of this policy is to be seen in the intervention of the United States in the foreign affairs of certain Latin-American states. The two most conspicuous cases were its intervention in 1895 in the dispute between Venezuela and England regarding the boundary of Guiana, and the other we mentioned a little while ago—the Anglo-Italo-German intervention in Venezuela in 1903. In the first case, the Congress of the United States adopted on January 10th, 1895, a resolution inviting the two parties to look with favor upon a proposal that they resort to arbitration.

The fourth phase of the policy of hegemony is to be found in the intervention in the domestic affairs of certain states, in case of insurrection, particularly in Cuba in 1906. This case is known in diplomatic history as the second intervention.

The fifth manifestation of the policy of hegemony is the exclusive control that the United States wishes to exercise over any inter-oceanic canal in America, especially the Panama Canal and the proposed canal through Nicaragua.

Finally the sixth class of hegemony is the control exercised by the United States in the economic internal situation of certain coun-

tries to which it has lent money to pay their creditors and to improve their finances. This situation is provided by treaty between the United States and the country concerned; with the Dominican Republic and Nicaragua.

Third Category of the Policies of the United States.

So far as regards the third category of the policy of the United States on the American continent, the so-called policy of imperialism, the United States has obtained its various acquisitions or increases of territory both on the American continent and elsewhere, by peaceable means, such as purchase, or by war, or the use of force. At the very beginning of their independence the United States started its policy of territorial extension. The ability with which it proceeded, with the help of such favorable circumstances as the absence of powerful neighbors, has enabled it to build up the gigantic federal state that it is today.

Quite recently its statesmen have declared explicitly that the United States wants no further increase of territory, especially at the expense of American states; that all it desires is to develop its commerce and its business with these countries. A majestic idea this, if, as is to be hoped, it is sincere, by which the United States would show the imperialistic powers of Europe that prestige and material wealth and power are to be acquired, not through armed oppression of weaker states, nor through crafty acquisition of their territory, but through the more humane but no less effective influence of peaceful economic development which creates bonds of genuine friendship and sympathy.

V.

From these ideas of all the American states which are synthesized in the Monroe Doctrine of 1823, with the later manifestations we have indicated, it follows that the American continent conceives the right of independence and of liberty in an entirely different light from that in which it is viewed in Europe. The differences between the two continents in this respect are three in number:

(1) In Europe every nationality is not constituted as an independent state.

(2) All states do not enjoy full and complete independence. Some are semi-sovereign; others are neutralized without consulting their will.

(3) An independent state may lose its independence in whole or in part either by its own voluntary act or as the result of war.

In America, things are done otherwise. In the first place, all nationalities are constituted as independent states, with the exception of Canada and the other European colonies, which have not considered it advisable to exercise this right, so fully recognized in our hemisphere.

The American states are also absolutely and definitely independent with regard to Europe. Their sovereignty may no longer be placed under a limitation to the benefit of a European country. But they may lose or cede a portion, more or less extensive, of their territory to an American state, or voluntarily limit their sovereignty in the matter of their foreign relations, as in cases of Cuba and Panama.

Some statesmen have, however, manifested a desire that the American states mutually guarantee their territory, thus rendering it inviolable, not only with respect to Europe, but also as regards the states of the American continent. According to reports in well informed newspapers, President Wilson recently submitted to the various American Governments a proposed agreement, the first article of which states that "the high contracting parties agree to unite in a common and mutual guarantee of their territorial sovereignty under the republican form of government."

The comparative study of the Anglo-Saxon and Latin-American ideas concerning the Monroe Doctrine throws strong light on the nature and importance of this Doctrine.

First—It is necessary not to confound the Monroe Doctrine with the policy of hegemony or imperialism, as ordinarily viewed especially in this country.

Second—It is necessary to limit the Monroe Doctrine to the three principles contained in the message of 1823 and complete it by two other declarations of Presidents of the United States, approved by the countries of Latin-America. These two developments of the Monroe Doctrine are: An American state cannot cede on any ground a portion of its territory to a European state, and European states cannot occupy permanently any portion of American territory.

These principles proclaimed by the United States only in its own interest, are nevertheless true ones, and were proclaimed by Latin-America prior to 1823 and were maintained by them through the nineteenth century. Consequently the principles of the Doctrine are

not only the idea of the United States, as ordinarily believed, but are also the uniform conception and ideas of all the countries of this continent. For this reason these principles are the principles of the public American International Law, and the distinction to be drawn between it, on the one hand, and the acts of hegemony and imperialism on the part of the United States on the other, throw light on the question whether or not the Monroe Doctrine properly so-called is part of American Public Law. There can be no doubt that it is, since we find in it all the necessary conditions of continental international law: that it be proclaimed and maintained by all the states of the New World and respected by those of the Old. Europe has indeed recognized it on various occasions, although some of her statesmen, conspicuous among them Bismarck, have characterized it as "International Impertinence."

It has long been recognized expressly by certain states, England in particular, and tacitly by others, especially in the Anglo-Italo-German conflict with Venezuela in 1903. Moreover it has constantly been applied in practice: and, finally, at the Hague Conference of 1899 the United States made, unchallenged, an express declaration in this sense.

The Monroe Doctrine has likewise been categorically recognized in the present war. Toward the end of October, 1914, the newspapers of Europe and of the United States stated that the German Ambassador at Washington had mentioned the possibility of German troops landing in Canada. The American press said that this declaration was contrary to the Monroe Doctrine and on October 28th, these same newspapers contained a report that the Ambassador of the German Empire had declared in an interview published in one of them that his country was of those that respected the Monroe Doctrine.

With regard to this declaration let it be remembered that the Monroe Doctrine applies to the whole continent, including Canada, although that country has no share in Pan-Americanism, which is entirely different from the Monroe Doctrine.

VI.

The last point which must be considered in connection with the Monroe Doctrine and which is intimately connected with its legal nature is whether the states of a continent, specifically our continent,

may freely proclaim such international rules as they may deem expedient.

The prevailing opinion up to very recent times, even in America, has been that a continent has no power to proclaim international rules because such rules are by nature universal and require the consent of all the states of the world.

Lately the opinion of publicists has undergone a change. They have admitted—what is indeed true in fact—that there are American continental rules to be applied in our hemisphere when the states composing the continent have proclaimed them. These rules apply only to our continent, but they must be respected on our continent by all the states of the world, even the European.

The American Institute of International Law has declared itself clearly in this sense. Article Two of its Constitution says that one of its objects is “to study questions of international law, particularly questions of an American character, and to endeavor to solve them either in conformity with generally accepted principles, or by extending and developing them, or by creating new principles adapted to the special needs of the American continent.”

The Constitutions of all the American Societies of International Law contain this same provision. And the European publicists who were consulted on the matter of founding the Institute unanimously declared that the pursuit by it of these objects would mark an epoch in the evolution of international law, both universal and continental.