

commissions for the settlement of the claims of foreigners on account of damages sustained during the period of civil war, as a consequence of military acts or the acts of national authorities.

Article 3.—The three mediating governments agree on their part to recognize the provisional government organized as provided by section 1 of this protocol.

As far as the United States and General Huerta's government are concerned, the differences between them appear to be adjusted. The internal questions are relegated to the Mexicans for such decision as they may deem proper to take. The mediators therefore adjourned on June 30th, in order to allow the representatives of the contending Mexican factions to come together and agree upon terms acceptable to them, with the understanding that the mediators will reassemble in order to put the agreements into formal and final shape. Whether the adjournment is temporary or *sine die*, it is impossible to say at present. In any event there appears to be no immediate prospect of a resumption of hostilities against General Huerta's government, and representatives of Latin America have been called into conference to settle American controversies.

THE ORIGIN AND PURPOSE OF THE PLATT AMENDMENT

From time to time the Platt Amendment is referred to as indicating the policy which the United States should adopt toward the Latin American states in and bordering on the Caribbean Sea and to the north of the Panama Canal. In view of this fact, it seems proper to state the origin and nature of the amendment, the purposes for which it was devised, and the interpretation put upon it by the United States and accepted by Cuba, so as to see whether the amendment is capable of a larger usefulness in the field of international relations.

It frequently happens that persons in public life are credited with projects which they did not originate, and naturally so, as the superior must needs accept responsibility for a line of conduct which he carries out, even although it may have been proposed in the first instance by a subordinate. The authorship is merged in the result. This is necessarily so in questions of administration. It should not be so in questions of policy outlined by the head of a department, either as regards the President, whose approval is necessary, or as regards Congress, whose action is required for legislation.

The so-called Platt Amendment is a striking example of this. It was thought out by Mr. Root as Secretary of War. It was contained

in all its essentials in Secretary Root's letter of instructions, dated February 9, 1901,¹ to General Wood, the Military Governor of Cuba. This important document, which gives in detail the reasons for the proposed amendment, was submitted by President McKinley to his cabinet and approved by the President and his advisers, and thus approved, was handed by President McKinley, in the presence of the Secretary of War, to the late Senator Orville H. Platt, of Connecticut, to be introduced into Congress and incorporated in the legislation required for the transfer of Cuba to its people. Senator Platt introduced the amendment, as requested, and it is attached as a proviso to the act of March 2, 1901, entitled "An act making appropriation for the army for the fiscal year ending June thirtieth, nineteen hundred and two."

The amendment was formally communicated by the Military Governor, acting under instructions of the War Department, to the Cuban convention, then in session, assembled to draft a constitution for the young republic, and it was briefly and officially interpreted by Mr. Root as Secretary of War in a despatch, dated April 3, 1901, to the Military Governor and by him communicated to a committee of the constitutional convention. On June 12, 1901, the amendment was adopted, *in expressis verbis*, by the convention as an appendix to the constitution. The constitution was promulgated, with the amendment as an integral part thereof, and went into force on May 20, 1902. The Military Governor transferred the government of Cuba to its people on May 20, 1902; the American army of occupation withdrew on the afternoon of the same day; and on May 22, 1903, a treaty was concluded between Cuba and the United States, incorporating the Platt Amendment, *in expressis verbis*, which, approved by the Senate, was proclaimed as the law of the land on July 2, 1904.

It is believed that the sequence of events thus briefly stated shows that the amendment originated in the War Department; that its author was the then Secretary of War, Mr. Root; and that Senator Platt, possessing the confidence of the administration, introduced the amendment which bears his name, an amendment thought out, drafted, and incorporated in the Cuban constitution by the initiative and skill, the wisdom and foresight of Mr. Root when Secretary of War. It is not the purpose of the present comment, however, to question the services rendered by Senator Platt, but it seems eminently proper to state, by way of introduction, that the amendment, which bears his honored name—and

¹ See Annual Reports of the Secretary of War, 1899-1903, pp. 187 *et seq.*

properly enough, because it was introduced by him as an amendment to the Army bill—was nevertheless the work of Mr. Root.

But to return to the subject in hand. The determination of the United States that Cuba should be free and independent was stated in clear and unmistakable terms in the joint resolution of Congress, approved by President McKinley April 20, 1898, authorizing him to use the land and naval forces of the United States against Spain, and the authorization was coupled with an express disclaimer to acquire the island which the army and navy of the United States were to free from Spain. The relevant portions of the resolutions are:

First, that the people of the island of Cuba are and of right ought to be free and independent. * * *

Fourth. That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction or control over said island.

As a result of the use of the land and naval forces of the United States for the purposes set forth in the joint resolution, Spain was forced to renounce any and all claims to Cuba, and in the first article of the treaty signed December 10, 1898, between the two countries, commonly called the Treaty of Paris, Spain "relinquishes all claims of sovereignty over and title to Cuba." The island was taken in trust by the United States for the people of Cuba and was occupied by the armed forces of the United States until such time as reforms had been made, a constitution framed, and a government organized of a kind to justify the United States in withdrawing its army and transferring the government of the island to its people.

As this period was approaching, the Secretary of War, within whose jurisdiction the island lay, considered the terms upon which the transfer could be made and the conditions upon which the independence and prosperity of Cuba would depend in the future, as it seemed evident that Cuba might not be able to maintain its independence without a guarantee thereof on the part of the United States. Mr. Root considered, as stated in his instructions, dated February 9, 1901, to the Military Governor, that the government should be one "based upon the peaceful suffrages of the people of Cuba, representing the entire people and holding their power from the people, and subject to the limitations and safeguards which the experience of constitutional government has shown to be necessary to the preservation of individual rights." After stating the traditional policy of the United States that we "would not under any circumstances permit any foreign power other

than Spain to acquire possession of the island of Cuba," he then said that—

The United States has, and always will have, the most vital interest in the preservation of the independence which she has secured for Cuba, and in preserving the people of that island from the domination and control of any foreign power whatever. The preservation of that independence by a country so small as Cuba—so incapable, as she must always be, to contend by force against the great powers of the world—must depend upon her strict performance of international obligations, upon her giving due protection to the lives and property of the citizens of all other countries within her borders, and upon her never contracting any public debt which in the hands of the citizens of foreign powers shall constitute an obligation she is unable to meet. The United States has, therefore, not merely a moral obligation arising from her destruction of Spanish authority in Cuba, and the obligations of the treaty of Paris for the establishment of a stable and adequate government in Cuba, but it has a substantial interest in the maintenance of such a government.

We are placed in a position where, for our own protection, we have, by reason of expelling Spain from Cuba, become the guarantors of Cuban independence and the guarantors of a stable and orderly government protecting life and property in that island. Fortunately the condition which we deem essential for our own interests is the condition for which Cuba has been struggling, and which the duty we have assumed toward Cuba on Cuban grounds and for Cuban interests requires. It would be a most lame and impotent conclusion if, after all the expenditure of blood and treasure by the people of the United States for the freedom of Cuba and by the people of Cuba for the same object, we should, through the constitution of the new government, by inadvertence or otherwise, be placed in a worse condition in regard to our own vital interests than we were while Spain was in possession, and the people of Cuba should be deprived of that protection and aid from the United States which is necessary to the maintenance of their independence.

Mr. Root then proceeded to state the conditions essential to the establishment of law and order in Cuba, upon the acceptance of which the United States could properly base its guarantee of the independence of Cuban sovereignty. He said:

The people of Cuba should desire to have incorporated in her fundamental law provisions in substance as follows:

1. That no government organized under the constitution shall be deemed to have authority to enter into any treaty or engagement with any foreign power which may tend to impair or interfere with the independence of Cuba, or to confer upon such foreign power any special right or privilege without the consent of the United States.

2. That no government organized under the constitution shall have authority to assume or contract any public debt in excess of the capacity of the ordinary revenues of the island after defraying the current expenses of government to pay the interest.

3. That upon the transfer of the control of Cuba to the government established under the new constitution Cuba consents that the United States reserve and retain the right of intervention for the preservation of Cuban independence and the main-

tenance of a stable government adequately protecting life, property, and individual liberty, and discharging the obligations with respect to Cuba imposed by the treaty of Paris on the United States and now assumed and undertaken by the government of Cuba.

4. That all acts of the military government, and all rights acquired thereunder, shall be valid and shall be maintained and protected.

5. That to facilitate the United States in the performance of such duties as may devolve upon her under the foregoing provisions, and for her own defense, the United States may acquire and hold the title to land for naval stations, and maintain the same at certain specified points.

The instructions of Secretary Root contemplated Congressional action, and the views expressed in them were incorporated in the following proviso, commonly known as the Platt Amendment to the Army Appropriation Act of March 2, 1901:

Provided further, That in fulfillment of the declaration in the joint resolution approved April twentieth, eighteen hundred and ninety-eight, entitled "For the recognition of the independence of the people of Cuba, demanding that the Government of Spain relinquish its authority and government in the island of Cuba, and to withdraw its land and naval forces from Cuba and Cuban waters, and directing the President of the United States to use the land and naval forces of the United States to carry these resolutions into effect," the President is hereby authorized to "leave the government and control of the island of Cuba to its people" so soon as a government shall have been established in said island under a constitution which, either as a part thereof or in an ordinance appended thereto, shall define the future relations of the United States with Cuba, substantially as follows:

I

That the government of Cuba shall never enter into any treaty or other compact with any foreign power or powers which will impair or tend to impair the independence of Cuba, nor in any manner authorize or permit any foreign power or powers to obtain, by colonization or for military or naval purposes or otherwise, lodgment in or control over any portion of said island.

II

That said government shall not assume or contract any public debt, to pay the interest upon which, and to make reasonable sinking-fund provision for the ultimate discharge of which the ordinary revenues of the island, after defraying the current expenses of government, shall be inadequate.

III

That the government of Cuba consents that the United States may exercise the right to intervene for the preservation of Cuban independence, the maintenance of a government adequate for the protection of life, property, and individual liberty, and for discharging the obligations with respect to Cuba imposed by the treaty of Paris on the United States, now to be assumed and undertaken by the government of Cuba.

IV

That all acts of the United States in Cuba during its military occupancy thereof are ratified and validated, and all lawful rights acquired thereunder shall be maintained and protected.

V

That the government of Cuba will execute, and, as far as necessary, extend, the plans already devised or other plans to be mutually agreed upon, for the sanitation of the cities of the island, to the end that a recurrence of epidemic and infectious diseases may be prevented, thereby assuring protection to the people and commerce of Cuba, as well as to the commerce of the Southern ports of the United States and the people residing therein.

VI

That the Isle of Pines shall be omitted from the proposed constitutional boundaries of Cuba, the title thereto being left to future adjustment by treaty.

VII

That to enable the United States to maintain the independence of Cuba, and to protect the people thereof, as well as for its own defense, the government of Cuba will sell or lease to the United States lands necessary for coaling or naval stations at certain specified points, to be agreed upon with the President of the United States.

VIII

That by way of assurance the government of Cuba will embody the foregoing provisions in a permanent treaty with the United States.

A comparison of Mr. Root's instructions with the Platt Amendment shows that in substance as well as in form the instructions and the amendment are practically identical. As previously stated, the amendment was communicated to the constitutional convention and, in order to clear up any doubts or misunderstanding as to the interpretation of the third article both of the instructions and of the amendment, Secretary Root sent the following despatch, dated April 3, 1901, to General Wood, to be communicated to the constitutional convention, and which was actually communicated to a committee thereof:

You are authorized to state officially that in the view of the President the intervention described in the third clause of the Platt amendment is not synonymous with intermeddling or interference with the affairs of the Cuban government, but the formal action of the Government of the United States, based upon just and substantial grounds, for the preservation of Cuban independence, and the maintenance of a government adequate for the protection of life, property, and individual liberty, and adequate for discharging the obligations with respect to Cuba imposed by the treaty of Paris on the United States.

This interpretation of the third article is of the utmost importance, as it shows the sense in which it was understood by the United States

and Cuba, disclaiming, as it does, "intermeddling or interference with the affairs of the Cuban government," and declaring the right of intervention to be "for the preservation of Cuban independence and the maintenance of a government adequate for the protection of life, property, and individual liberty." It is thus a guarantee of Cuban sovereignty, with the right of intervention to prevent action on the part of Cuban authorities, which, if permitted or continued, would jeopardize the independence which Cuba struggled so long and so manfully to obtain, and to secure which the United States intervened by force of arms in 1898.

As the amendment, as drafted and interpreted by Mr. Root, was accepted and incorporated in the constitution, and the constitution itself was promulgated by General Wood as Military Governor, on May 20, 1902, General Wood transferred the government in the following manner on May 20, 1902, to the President and Congress of the Republic of Cuba:

Under the direction of the President of the United States, I now transfer to you as the duly elected representatives of the people of Cuba the government and control of the island, to be held and exercised by you, under the provisions of the constitution of the Republic of Cuba, heretofore adopted by the constitutional convention and this day promulgated; and I hereby declare the occupation of the island to be ended.

This transfer of government and control is upon the express condition, and the Government of the United States will understand, that by the acceptance thereof you do now, pursuant to the provisions of the said constitution, assume and undertake all and several the obligations assumed by the United States with respect to Cuba by the treaty between the United States of America and Her Majesty the Queen Regent of Spain, signed at Paris on the 10th day of December, 1898.

On behalf of Cuba, President Palma replied:

As President of the Republic of Cuba, I hereby receive the government of the island of Cuba which you transfer to me in compliance with orders communicated to you by the President of the United States, and take note that by this act the military occupation of Cuba ceases.

Upon accepting this transfer I declare that the Government of the Republic assumes, as provided for in the constitution, each and every one of the obligations concerning Cuba imposed upon the United States by virtue of the treaty entered into on the 10th of December, 1898, between the United States and Her Majesty the Queen Regent of Spain.

It has been thought timely to state the origin and nature of the Platt Amendment in a brief but connected narrative, leaving to a subsequent comment the applicability of its essentials to the Latin American republics to the north of the Panama Canal.