The New Monroe Doctrine and American Public Law

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In this paper I have the honor to undertake an explanation of a subject of capital importance at the present moment: the Monroe Doctrine. I will discuss this doctrine from the Latin-American point of view, an aspect of the subject which will shed a new light upon the true character of the doctrine. The Monroe Doctrine is not, as generally believed (especially in this country), a personal policy of the United States, but an American international rule, professed and accepted by all the states of the New World.

In 1823, the year following the recognition of some of the Latin 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 2, stated in unambiguous terms the same principles as had earlier been declared by the statesmen 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.

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

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1 The footnotes to this article have been prepared by Professor C. D. Allin of the University of Minnesota.
2 1 Moore, Digest of International Law 36.
3 2 Richardson, Messages and Papers of the Presidents 207.
4 Alvarez, Le Droit International Americain 145.
the acquired rights to independence, to non-intervention, and to non-colonization on the American continent.\(^5\)

The second series is made up of special declarations relating to the non-intervention of the United States in European affairs.\(^6\)

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\(^7\) the Latin American states desired not only solemnly to declare the Monroe Doctrine, but also to unite to compel respect for it. From that time these states have persevered in this idea, and on several occasions invoked the Monroe Doctrine, particularly in 1865 when Spain and Peru were at war.\(^8\) In 1910, at the Fourth Pan American Conference,\(^9\) 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 impress\(^9\) 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 guaranty 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, including one for the “mutual guaranty of the independ-

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\(^5\)2 Richardson, Messages and Papers of the Presidents 218-19.
\(^6\)Ibid. p. 218.
\(^7\)Curtis, The United States and Foreign Powers 55.
\(^8\)6 Moore, Digest of International Law 507-09.
ence 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 interest 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 or supremacy consists in 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 the liberty of the states.

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

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10 Alvarez, Le Droit International Américain 149.
(1) Maintenance, application, and development of the Monroe Doctrine, or doctrine of all the states of the New World.

(2) Political hegemony.

(3) Political imperialism.

I shall confine myself here to a statement of the principal cases in which each of these policies has been applied.

(1) Maintenance, Application, and Development of the Monroe Doctrine. The United States has prevented European states from bringing American countries under their domination (French intervention in Mexico from 1862 to 1866), from the meddling in American affairs. It 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, of any portion of the territory of the latter and the placing of any portion of such territory under the protectorate of a foreign power. (Statement made by President Polk in his message of April 29, 1848, with regard to Yucatan; 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 a 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-Italian-German coercive action against Venezuela in 1903.)

(2) Policy of Hegemony. 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 would 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

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11 4 Richardson, Messages and Papers of the Presidents 581-83.
12 6 Moore, Digest of International Law 450.
13 10 Richardson, Messages and Papers of the Presidents 646.
14 6 Moore, Digest of International Law 447.
emancipation or by secession, and then restricting its foreign relations, as in the case of Cuba and Panama.

With regard to Cuba, Article 3 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 23, 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 18, 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 entrances are to be perpetually neutral, in accordance with the conditions of the treaty of November 18, 1901, between England and the United States. The latter country guarantees the independence of Panama.

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15 Malloy, Treaties, Conventions, etc., between the United States and Foreign Powers 362.
16 Ibid. Vol. 2 p. 1349.
17 Rodriguez, American Constitutions 147.
18 Malloy, Treaties, Conventions, etc., between the United States and Foreign Powers 362.
20 Malloy 782.
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\textsuperscript{21} 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 or the sovereignty of the Republic.

In connection with this phase of the policy of the United States to intervene at the founding of every new state in 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.\textsuperscript{22} 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,\textsuperscript{23} and the other we mentioned a little while ago—the Anglo-Italo-German intervention in Venezuela in 1903.\textsuperscript{24} In the first case, the Congress of the United States adopted on January 10, 1895, a resolution inviting the two parties to look with favor upon a proposal that they resort to arbitration.\textsuperscript{25}

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 interoceanic canal in America, especially the Panama Canal and the proposed canal through Nicaragua.

\textsuperscript{21} 1 Rodriguez, American Constitutions, 420.  
\textsuperscript{23} 3 Moore, Digest of International Law 533-583.  
\textsuperscript{24} 4 Thayer, Life of John Hay 284.  
\textsuperscript{25} 5 Moore, Digest of International Law 535.
(3) *Political Imperialism.* So far as regards the policy of imperialism, the United States has obtained various acquisitions or increases of territory, both on the American continent or 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.

We have said that the policy of hegemony and the imperialistic policy do not represent the interests of the American continent. The Latin-American states do not accept these policies, but on the other hand they do not condemn them, or at least not in all their manifestations.26

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.

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.


27 J Richardson, *Messages and Papers of the Presidents* 213.
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 the case 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."

This new doctrine of Monroe is entirely independent of the other declarations of President Monroe in his message of 1823, especially in the point regarding the nonintervention of the United States in European affairs. This nonintervention is the personal policy of the United States, and was enunciated before Monroe by Washington in his "Farewell Address" to the American people. This policy the United States can abandon if it wish. Consequently the opinion of different statesmen and publicists of Europe that the United States will abandon the Monroe Doctrine because her actual intervention in European affairs is unacceptable.

The last consideration. The five principles of what we call the new Monroe Doctrine are now affirmed by all the states of the continent and all are disposed to maintain its application in our hemisphere.

The foregoing views on the Monroe Doctrine, its real scope, 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
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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. 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.28

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 28, 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 a share in Pan Americanism, which is entirely different from the Monroe Doctrine.

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.

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 2 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 make an epoch in the evolution of international law, both universal and continental.

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