



1898

THE NATIONAL IDEA

Follow this and additional works at: <http://digitalcommons.law.yale.edu/ylj>

Recommended Citation

THE NATIONAL IDEA, 7 Yale L.J. (1898).

Available at: <http://digitalcommons.law.yale.edu/ylj/vol7/iss8/2>

This Article is brought to you for free and open access by Yale Law School Legal Scholarship Repository. It has been accepted for inclusion in Yale Law Journal by an authorized editor of Yale Law School Legal Scholarship Repository. For more information, please contact julian.aiken@yale.edu.

THE NATIONAL IDEA.

In these times, matter departing somewhat from the ordinary range of legal thought will perhaps be pardoned, even in a strictly law journal. The intimate connection between politics and constitutional law may, perhaps, be an additional apology for such a departure.

At the bottom of the difference of opinion which has divided men in regard to the proper action of this country in reference to the controversy with Spain, will be found in many cases, a radical difference in conception as to the nature and proper functions of this nation.

On the one hand the view is taken that the nation, with its instrument, the government, is merely an organization for securing the advantage and profit of its constituent members, a sort of corporation limited; and that it cannot act as regards any outside matters from any consideration not connected with the direct interest or advantage of its own citizens. This view was expressed recently to the writer by a very intelligent advocate, somewhat as follows: "The country has no right to sacrifice a dollar or a man for any purpose except for the direct advantage of its own citizens or the protection of its own interests." It is perhaps well illustrated by a remark which its advocates are very fond of using, attributed to Count Bismarck: "That all the Bulgarians were not worth the sacrifice of the life of a single Pomeranian grenadier."

Such persons regard with impatience and disgust any suggestion that the country should act from disinterested motives. They hold that oppression and injustice outside of our own borders, not affecting our own citizens, no matter how atrocious, are no legitimate concern of ours. If it can be proved that the *Maine* was actually blown up by the Spanish government, they believe that is a matter which we may properly resent and which might be proper cause of war. Possibly, any interference with our trade or commerce, certainly any trespass on the property of a citizen, is legitimate cause of war. All other considerations are regarded with contempt and are stigmatized as cant.

On the other side, we have the directly opposite view: that

the nation is not a mere machine or business organization, that it is a personality; that in the main it should confine itself to its own internal affairs, protecting the interests of its own citizens; that the peace of the world and the progress of humanity are, on the whole, best subserved by such a course, but that that does not cover its whole duty; that in an extreme case it may have obligations of honor and morality resting upon it, in the same way that they rest upon the individual. This was finely expressed by Milton when he said that "a nation was nothing but one huge Christian personage, one mighty growth and stature of an honest man, as big and compact in virtue as in body."

Every nation has its character which results from its history, the traits of its people and the organization of its government. When we speak of England, Spain, France, Germany, the names connote certain characteristics which make up our conception.

National character must be taken into account, and you can no more convince the American people that the affairs of Cuba or of any other people on this continent, within close proximity to our borders, are no concern of ours, that their wrongs, no matter how great, are none of our business, than you could convince Bismarck that the German nation had any concern in the affairs of Armenia, unless Germany could make something out of it. Our nearest blood relation, Great Britain, partakes of the same disposition. The sneers of the Continental Powers at the pious pretenses, as they consider them, of England, spring out of their inability to conceive that national action can be actuated by anything but pure selfishness. It is to the credit of England that it is the only nation ever charged with hypocrisy because it shows that it at least pays some deference to morality in its external relations. The history of England, to an intelligent reader, shows convincingly that a zeal for righteousness has really governed its action in some cases, and it is absolutely certain that such a motive has sometimes controlled the action of this country. Where, for instance, was the excuse for the action of the United States and England, followed, it is true, in this case, to a certain extent, by the other nations, in reference to the foreign slave trade? Had a purely selfish conception prevailed there would have been no legal basis for such interference. The intervention of England in the case of Greece, was a clear case of action dictated by this motive.

Milton's conception, quoted above, was not a mere poetic flight of imagination. Cromwell acted, in many cases, in the

spirit so eloquently expressed by his private secretary. History relates that when the great protector heard of the sufferings of the Vaudois, he shed tears; and state papers written by the same great secretary show that he was prepared to put forth all the power of England on land and sea to stop these persecutions. This spirit, handed down as it is by the best traditions of the English race, survives in the American people, and you cannot eradicate from their minds the idea so often expressed, that it is their duty to sympathize with, and in extreme cases to aid, the struggles of a people resisting atrocious tyranny. The opinion that although the destruction of a mule belonging to an American would justify a demand for redress, the slaughter of a whole people with circumstances of unheard-of atrocity, within one hundred miles of our borders, is none of our business, is one which will never be tolerated by the people. It cannot obtain outside of the circle of those who have been educated and refined beyond sympathy with common instincts and those who have become so absorbed in money getting as to make credit a fetich, and to regard any injury to that as the one unpardonable crime. Beyond these circles there is a prevailing feeling that this country has a mission in the world, at least as far as this continent is concerned; that great national crimes outside its limits are not matters of indifference to us and may be so flagrant as to call for active interference.

Two successive administrations of opposite parties have irrevocably committed the country to the position that it has a certain measure of responsibility beyond its own borders. The Venezuela message of Cleveland and the Cuban messages of Cleveland and President McKinley have placed the matter beyond doubt. "The dream that by much tribulation ye shall make whole flawed hearts and bowed necks straight," is a reality. The national conscience is a force which must be reckoned with in any Anglo-Saxon country, and Milton and Cromwell are better exponents of that conscience than Bismarck.

It is not the first time in the history of the country that the colleges and the circles of trade have failed at first to appreciate this fact. The truth is not always first discovered by those who search for it "in the ashes of the burnt out mind." The fanatics on both sides were nearer the truth in '60 and '61 than those who called themselves wiser and hoped by compromise to defeat the laws of nature. The man who cultivates himself to such an extent that he is afraid to allow his sympathies to act fails often to appreciate the truth.

The present conflict with Spain is as inevitable a result of the close contact of opposite systems of government and opposite ideas of national morality as was the irresistible conflict of 1861. It must always be remembered, a fact which we are inclined now to lose sight of sometimes, that the *Maine* incident was not the real cause of the war. That incident brought matters to a head and resulted in the culmination of an inevitable conflict which had been approaching for a series of years. It no more caused the war than the invasion of John Brown caused the war of 1861. It was but a symptom and itself a result of the real cause.

Yellow journalism has sometimes been nearer the truth than the organs of an over-intense respectability, and the pictures of the starving reconcentrados, too shocking to be shown to respectability, irresistibly appealed to the national sympathies and aroused an indignation which in the end had to work itself out in national conflict. The sneering comment that the war is the result of mere political machinations or of the desire of contractors to make money, can only come from those whose minds, by some prejudice or narrowness, have been barred from true sympathy with the national feeling. On the contrary, it has been distinctly a national movement which has swept the politicians along with it, to some extent against their will. The politician may control offices but he never controls popular feeling or action. That is not his business. He makes his living by balancing himself on the top wave of popular feeling. The men who have real influence on public opinion, in this country, are few, and are statesmen or popular leaders, never in any sense mere politicians. They are men of whose wisdom and sincerity the people have become convinced. Such a man was Lincoln, and such, in a measure, was Cleveland.

The prevalence of a purely selfish conception of the nation's duties, is one which must be fatal in the end to the spirit of devotion to country which is the sole reliable basis for republican institutions. It is an old saying, that a man's character is inevitably molded by the object of his worship. If the national idea is a purely selfish one, the character of the individual citizen must inevitably become selfish in public matters. Once set before him as the only end of national action the purely practical one of profit or advantage to the country, and it is not long before his own individual actions will be governed by the same motive. He will say to himself, Why should I sacrifice my own interests and my own safety, for a nation which itself makes no

sacrifice and is actuated by no generous motives, whose flag is a symbol of nothing higher than enlightened selfishness? When this idea becomes fixed in the public mind, the fate of China is already in view. That we are in no danger of such a fate is due rather to the common people, who do not analyze and distrust their honest impulses, and who, at bottom, are animated by a passion for righteousness and an Anglo-Saxon hatred of injustice, rather than to the mere student theorist who sneers at the "aggressive patriotism" of common people.

The morbid distrust of popular impulses, although it may be a vice of New England culture, is not a necessary characteristic of the scholar. Lowell and, to come nearer home, the late President Woolsey, were examples to prove the contrary. Mr. Adams recently expressed the truth when he said it was decreed by Providence that bad government should, in the end, come to destruction, and drew an accurate parallel between the Turkish government in the East and Spanish control in the West. Both are doomed to perish in the near future. It is a true perception of the absolute impossibility of a system like the Turkish or the Spanish existing in their proximity to a free country, which lies at the base of the popular demand for the independence of Cuba.

It is strange that intelligent people should fail to see that President Cleveland's message sent to Congress three years ago, was in substance a declaration of war with Spain; that everything else has followed necessarily from the position then taken by this country. When he declared that if the conflict in Cuba was not brought to an end within a reasonable time the United States would interfere, he stepped outside of the ordinary lines of international law. To any careful observer, it was evident that the pacification of Cuba was beyond the power of Spain by any method short of complete separation of that colony from the mother country; that Spanish pride would never permit the relinquishment of its territory except under the compulsion of some outside power. The condition was practically known to be impossible and the threat of armed intervention was therefore positive. After the message of Cleveland, the abuse of Congress and of that convenient scapegoat, the politician, for causing the war, seems almost childish.

The outcries of some international lawyers remind one of the appeals to the constitution which emanated from certain quarters during the War of the Rebellion. It might as well be frankly conceded that we have passed beyond the domain of ordinary international law. The pretexts which have been invented for

harmonizing our action with the rules found in the books, are, some of them at least, very strange. Interference by one nation with trade to a portion of its own territory can never be legitimate cause of war; and as for the claim that injury was done to this country justifying interference because we are put to the expense of keeping filibusters out of Cuba, it is very much like bringing an action against your neighbor for having a melon patch because it puts you to expense and trouble to keep your boys out of it.

In our action concerning Cuba we have passed into the domain of the higher law, and our appeal must not be to text-books, but to natural justice and to the law of right. There is not the slightest doubt that the verdict of the civilized world will in the end sustain that appeal.

Talcott H. Russell.

NEW HAVEN, CONN., May 1.