The Futility of the Law in Cuba

CUBA has a Congress that has never passed the constructive legislation called for by the Constitution of 1902, while at the same time displaying a ready alacrity in enacting bills which are beneficial to politicians alone. The executive has cooperated with Congress in promoting major grafting bills and in maintaining the government lottery, and it has struck out on its own account to engage in transactions for the enrichment of the President and other members of the administration. Both the legislative and executive branches have joined with the judiciary to make the law a mockery in Cuba, all for the sake of the political class, at the expense of the republic. Amnesties, pardons, and the corruption of the courts are among the means employed in bringing about this condition of affairs.

As amnesties have to be passed into law through the normal processes of legislative enactment, involving publication of the record, it is possible to obtain a wealth of incontrovertible material on this subject. Nevertheless, it is usually necessary to go behind the language of the laws or even of debates, because it is so often the custom to use broad general terms to fit what is really an individual case.

From 1899 to 1924 twenty-nine amnesties were enacted in Cuba. The record is not so bad as it might appear, for prior to 1909 there were eighteen amnesties which were a natural aftermath of the disturbed times following the establishment of independence. There were nine orders for an amnesty during the military intervention by the United States, 1898-1902, and three more (one by Taft and two by Magoon) at the outset of the intervention following the revolution of 1906. Only one of these has ever been criticised to any great extent, so far as the writer knows. On October 10, 1906, Mr. Taft proclaimed an amnesty for those who had taken part in the insurrection, on account of their political acts, but not for ordinary non-political crimes. The trouble was, that he exempted those who had seized property for military purposes. This is the famous “horse-thief paragraph” of the Taft proclamation, as a result of which the insurrectionist soldiers were virtually authorized to keep the horses they had picked up in
course of the campaign. Mr. Taft also recommended to the solicitude of the provincial governors those who had committed ordinary crimes before the dissolution of the insurrectionist forces. Governor Magoon’s order of April 23, 1907, extended the terms of the Taft proclamation to the government troops for the period of the revolution of 1906.

Very little objection has been made, either, to the six amnesties during the rule of Estrada Palma, 1902-1906. The first of these was introduced on May 21, 1902, the day after the surrender of the island to Cuban authorities by the United States military government. The bill called for an amnesty for crimes committed by American citizens during the period of the intervention. An amendment provided for the liberation of soldiers of the Cuban army on account of any penalty they might then be undergoing. Some objection was made to this, because a number of them were men who had committed fresh crimes after having been pardoned by General Wood, who had not granted any such favor to American criminals. No doubt, too, it was the wish of the promoters of this bill not to associate a Cuban matter with what was intended to be a symbol of gratitude to the United States. As the bill went through, however, it included the amendment.

The other five amnesties of the Estrada Palma period were as follows:

October 3, 1902, for all municipal employes on account of crimes committed in their official capacity prior to May 20, 1902 (the birthdate of the republic), and for all who had committed crimes in connection with the previous election.

November 10, 1902, for all public crimes of the press, but to include crimes against individuals only if the person damaged should consent. An amendment proposed to include nonpolitical crimes of the press, but this was dropped.

June 10, 1903, for crimes growing out of a strike of Havana laborers in November, 1902. On the night of November 23-24 the laborers had attacked the police. A sanguinary battle followed, in which twenty laborers were killed and over a hundred wounded. In the discussion of the bill the question was again raised whether any but political crimes could be fit subjects of an amnesty and therefore whether there should be an amnesty for a strike. While this issue was not definitely settled, the enactment of the bill as a law must be considered a step toward the ultimate pernicious principle that there is no limit to the scope of an amnesty in Cuba.

January 30, 1906, for crimes of all public functionaries except municipal officials (included in the law of October 3, 1902) to May
20, 1902, and for all officials, municipal or otherwise, to December 31, 1905. This bill grew out of the disturbances in connection with the election of 1905.

May 19, 1906, for crimes of rebellion, conspiracy, disobedience, and attacks on constituted authorities, between September 23 and December 1, 1905. This was a supplement to the preceding, covering group acts, while the other concerned misdeeds of individuals. Leaders of the Moderate Party held that the amnesty principle should be confined to group acts, but they were overruled.

The black period in the history of Cuban amnesties begins with the administration of President Gómez, 1909-1913. Four laws were enacted at that time, as follows:

March 6, 1909, a sweeping jail-delivery law for crimes to January 28, 1909, when the United States intervention came to an end. The bill was requested by President Gómez himself in a message of February 1st, who expressed a desire that it should be “the most extensive of all the amnesties granted up to now.” Gómez went on to say that this would be the only such act he would suggest, and “indeed, I propose to close forever the series of pardons.” The law was introduced by Orestes Ferrara, one of the most brilliant and most respected of Cuban politicians in the post-intervention period of the republic’s history. The Liberal Party got behind the bill, holding that it should be the biggest ever, as an act of patriotism, to register the joy of Cubans in getting back the republic. The Conservatives endeavored to narrow the bill. As González Lanuza remarked, in order to celebrate the birth of a child one need not lose his “tigers.” But the Liberals had the whiphand, and there was a succession of “patriotism” and “happiness of homes” speeches, to the accompaniment of amendments amplifying the terms of the bill. The old objection that an amnesty should be considered as covering only political crimes was “snowed under” in the bill as it became a law, except as this might be considered a special act of grace. About the only thing that can be said in favor of this bill is that amnestied criminals were not released from civil responsibility for their crimes. Not to go into detail, it may be said that nearly all crimes, public or private, that could be remembered at the time were included, except those involving the death penalty and crimes of moral turpitude, such as rape or “youthful corruption.” Even second-offence criminals were not excluded, and the President was empowered to reduce the penalty of those under sentence of death to the next lower penalty and the sentences of the few others not included in the terms of the bill.
by one-fourth. Thus was this somewhat strange means of exemplifying Cuban "patriotism" consummated.

February 22, 1910, for crimes of the press to February 15, 1910. Press crimes had been included in the law of 1909, but this was a more ample bill, besides extending the period of time.

June 7, 1910, a law amplifying the law of 1909, for crimes committed before January 28, 1909. The growing group consciousness of the political class was manifested by a provision amnestying public officials for "any crime." Such crimes as attack on constituted authority, firing a gun or pistol (disparo de arma de fuego), public disorder, and infraction of the railway law were also added. The reason for this law was that the Supreme Court had interpreted the earlier law in a way to restrict it as much as possible. The "patriots" in Congress would have none of that.

June 29, 1911, for crimes in connection with the election of November 1, 1910. This bill was opposed by the Conservatives and some Liberals, among whom was Ferrara (who had voted for earlier bills), on the ground that there had been too many amnesty laws already.

The Conservatives had made a commendable record in opposing amnesty laws during the Gómez administration, but were to add some chapters to amnesty history themselves, once they got into power under Menocal (1913-1921) and Zayas (1921-1925). It is to be noted, too, that many of the laws of this period are couched in terms none too easy to understand, with frequent references to paragraphs of a code, rather than a specific mention of a crime. At the outset of this period, however, there were several amnesty bills that failed. The most celebrated of these was a bill of 1913, which is worthy of mention because most of its paragraphs were eventually enacted into law.

Among a number of categories provided for were laborers in strikes, the rebels in the race war of 1912, and (most in the limelight of all) the murderers of General Rivas, chief of police of Havana. Three prominent politicians had been responsible for the death of Rivas, under circumstances that left them small title to considerations of clemency. It was generally agreed that Congressman Arias had begun the shooting, but it was on account of a quarrel of his political chief, General Asbert, who also took part in the affair. Asbert was at that time one of the leading politicians in Cuba, perhaps the favorite of the rank and file of the Liberal Party to succeed Gómez in the presidency. When, however, the nomination was given in 1912 to Zayas, he threw his influence to Menocal, and brought about a
Conservative victory. He was at the time governor and political dictator of the province of Havana. The bill referred obscurely to the Asbert and Arias affair, aiming to include the former in a paragraph about "crimes of governors of provinces" and the latter in one about "shooting off a firearm at a definitely determined person."

Ferrara was one of those who opposed the bill, and was the only one who alluded to Asbert in the debate, and then without mentioning him by name. "I do not believe that such ample measures should be dictated for one man alone," he said, "however respectable he may be." As for the labor paragraph, concerning which a number of members availed themselves of the opportunity to make "noble" speeches, he called it a bit of "populachería," or playing to the gallery, to get votes. The bill was passed, but need not be considered, because it was vetoed by Menocal, primarily, it is believed, because of the objections of Secretary of State Bryan on behalf of the United States. The ostensible reason given by the President for vetoing the bill was that amnesties should concern political crimes only.

The Asbert bill was presently enacted into law on February 2, 1915. The phraseology of the bill was most obscure, but it was understood that this was meant for Asbert alone, without any other of the usual features of amnesty bills. Even Arias was excluded, for those who had declared themselves authors of the crimes mentioned in the bill were not to receive the benefit of the law, and Arias had confessed, while Asbert had not. Ferrara voted for the bill, though declaring himself opposed to the general idea of amnesties. "We have seen liberty given to the worst types of delinquents," he said, "without any other merit or reason than the support of some politician-friend or the blind clemency of our First Citizen."

Ferrara went on to say it would therefore be unjust to oppose this amnesty, "which refers in a specific manner to General Asbert," who committed a crime, but at the bottom of his heart is "an honorable man." The fact that Asbert had already been in prison more than a year also had some weight with him. Menocal vetoed this bill, too. Amnesties in other lands, he said, had been given only for political, electoral, or press crimes, and almost never for common crimes, which were subject for pardon, and not amnesty. Amnesties for a single person were even less fitting, even though that person might not be named in the bill, as at present. Furthermore, Asbert had been condemned by the Supreme Court, and it was not wise to overthrow the decisions of that august tribunal. But this excellent statement was nothing more than a gesture. Menocal had previously informed his
henchmen that they were free to vote against his veto. By a vote of four to sixty-four the veto was not sustained by the House, and similar action followed in the Senate. This time, too, the United States government raised no objection, taking the view that Arias was the more culpable. Quite aside from the question whether the United States government should have concerned itself in the first place, it is difficult in the light of the facts in the Rivas murder to consider this change of front as anything but a moral quibble.

The paragraphs of the 1913 bill referring to crimes of the insurrectionists in the race war of 1912 were presently embodied into a separate amnesty by a law of March 10, 1915. In vetoing the earlier bill President Menocal had stated that this matter was a fit subject for an amnesty if it should appear in a bill by itself. In like manner a bill for election crimes and misdemeanors to April 30, 1915, for the preceding election, met with no objection, and became a law on July 7, 1915. While the revolution of 1917 was in progress a law of February 27 promised an amnesty to insurrectionists who should surrender within ten days. Little if any fault could be found with these three laws.

A bill of 1918, covering the 1916-1917 elections and the revolution of 1917, developed into a political battle between the Conservatives (then in power) and the Liberals, who had felt that they had been robbed of victory in the elections and had therefore taken up arms (as individuals, though not as a party) against the government. The Liberals insisted that government officials and military officers involved in the insurrection should be restored to their jobs and freed from civil responsibility for their acts. But as the bill became law, on March 18, 1918, it excluded army officers, though suggesting that the President might pardon them, without however restoring them to their military posts. It was also provided that politicians would not get back their positions through the amnesty, though they were permitted to have recourse to legal proceedings in the matter. This was supplemented by a law of August 22, 1919, for election crimes since November 1, 1916. A paragraph amnestying crimes in connection with the formation or renewal of political parties, to May 1, 1919, had a bearing on the political deal that was presently to result in Menocal's backing Zayas, his earlier opponent on the Liberal ticket, as the Conservative candidate for the presidency.

Up to the summer of 1924 but one amnesty bill had been passed during the administration of President Zayas, 1921-1925,—the law of June 5, 1924,—but this was a measure that for utter indefensibility surpassed all its predecessors combined. The Gómez law of 1909
was possibly more sweeping, but had more shadow of an excuse, and was not so clearly on behalf of "distinguished" criminals as the Zayas bill. These, of course, were provided for in general paragraphs intended to cover their specific case. No better comment on this bill can be made than that given in the editorial columns of the Havana Post by "A. Sage" (presumably Mr. Wilford, editor of the paper). His remarks follow:

"Contrary to the opinion generally held, the amnesty law will not open the prison doors to all delinquents. The ordinary garden variety of crooks will get very little from it, as it was specially drafted to give relief to 'members of the best families,' and only the influential authors of misdemeanors and crimes will be washed clean of criminal 'antecedents.' Those Cubans of less distinguished families will remain in durance vile.

"Heading the list of those favored by the amnesty is Representative Joseph R. Cano, who shot and killed one of his fellow Representatives, Rafael Martinez Alonso, about two years ago, in the Hotel Luz. Cano fled from Cuba after the House had granted the judiciary permission to bring proceedings against him for his crime. He long has been anxious to return to Cuba and resume his seat in the lower house and to carry on his candidacy for Governor of Havana province, to which he aspired at the time Alonso was murdered.

"Ex-Mayor Marcelino Diaz de Villegas, with the president of the city council, the councilmen, and other high officials of the last Havana city administration also are among those included in the whitewashing applied by the amnesty law. The accusations brought against them for malversation of public funds and a long list of other crimes now will be dropped.

"Ex-Governor Vigo of Matanzas province, and ex-Governor Lora of Oriente province, along with Provincial Treasurer Socias of the latter province, who were facing trials for dissipation of public funds, have nothing further to fear and no longer can it be officially written that they have 'criminal antecedents.'

"The ex-mayor, with several aldermen and municipal employees of Perico, who attempted to blackmail Manager Caldwell of Central Tinguaro, will enjoy the full benefits of the amnesty law.

"The assassins of Florencio Guerra, mayor of Cienfuegos, also are saved from punishment by the amnesty law.

"Lorenzo Vizquiera, who shot Policeman Juan Viola, and Angel Lopez Urquizo, who killed a policeman in Vibora, also are set free by virtue of the law, as well as Ramon Navarro, who killed his landlord, Dr. Gonzalez Nokey, in the courtroom.

"Juan Cobos, who murdered his wife on the Prado, in front of the offices of Representative Herrera Sotolongo, the champion in the lower house of the law, will regain his liberty.

"Last, but not least, the son of President Zayas, Alfredo Zayas Jr., now director of the lottery, who was implicated with
Norberto Alfonso, the director of the lottery at the time, in malversation of funds and in other frauds, has his slate wiped clean. Alfonso, who was an humble druggist in Jesus del Monte at the time he was named lottery director, soon developed a genius for trading in valuable real estate and made the fullest use of rights he assumed by virtue of his office over automobiles and other Government properties, naturally, together with other lottery officials, profits greatly by the signing of the amnesty law by the President.

"The amnesty could not have been more pious and far-reaching for influential delinquents. It even absolves the unknown authors of the robbery of the $100,000 in Liberty bonds which had been deposited in the national treasury by an American insurance company as a bond for its operations in Cuba; and also all the customs administrators, fiscal' zone employees, and municipal, provincial, and Government treasurers who have misapplied or stolen public funds.

"It will be consoling to the depositors and creditors of the defunct banks to know that the liquidating commissions and their employes have not been overlooked in this masterpiece of legislation, and that they are fully exonerated for anything they may have done since the bank crash of 1920 in the handling of the properties and funds of those institutions."

The Cano murder had developed from his ambition to become governor of the province of Havana. It seems that Cano, who is a wealthy mulatto, had paid Martínez Alonso a sum of money to assist him in his campaign against Alfredo Barreras, who, by the way, is a man of good reputation. It is said that Martínez Alonso took the money, but helped Barreras, who won the election. Later, when Cano sat across the table from Martínez Alonso at the Hotel Luz, he drew a revolver and shot his vis-à-vis under the table. According to common report, a Cabinet officer concealed Cano in his house, whence he made his way to the United States, returning just before the amnesty bill was passed. He has since been reElected to Congress!

There were thirty or forty officials of Havana freed by the amnesty who had been under indictment since 1921. In the meantime they had adopted an ingenious device to postpone paying the penalty of their crimes. The Cuban law allows three continuances of a trial, without assignment of reasons, for such duration as the judges may decide. The men were indicted together. They then began to ask continuances in turn, and the judge in the case sustained them! As a result they had not yet been brought to trial. The case of the Presi-

1 "A. Sage," Sagacious remarks on current events, in Havana Post, June 6, 1924.
dent's son was in some respects even worse. He was Assistant Director General of the Lottery at the time he was indicted, but in the meantime his august father had promoted him to be Director General! No doubt he had displayed the type of ability that was most desired.

The following are some of the categories of crimes affected by the law of 1924: crimes punishable by sentences of not more than six years or by fine; crimes against persons in certain stipulated cases; crimes committed by those who got three votes on a conviction by the Supreme Court; crimes having to do with the press, perjury, and duelling; administrative and judicial infractions of the law; crimes of public functionaries in connection with their duties and of others who were condemned with them; crimes of those who were members of an elective body; crimes in connection with strikes; and political crimes prior to January 1, 1915. In all other instances the law covered crimes to April 1, 1924. Those who were guilty of robbery, forgery, counterfeiting, and banking crimes were specially excepted from the amnesty, and it was also stipulated that receipt of the privileges of this law did not include a restoration to the office held at the time of the crime.

On ensuing days the newspapers had stories concerning those who had availed themselves of the amnesty. On June 6, for example, one paper named forty-two persons, describing their crimes. One was the private secretary of the chief engineer of Havana; there were a number who had been guilty of infringement of the postal code, attempted theft, wounding, shooting, and acts against constituted authority; one was the man who had killed his wife; another had wounded his concubine; some laborers had thrown dynamite in the Havana-Madrid Inn; and Representative Cano was an early arrival.\(^2\) Next day there were various others. One was the former treasurer of the province of Oriente who had been guilty of embezzlement, in company with ex-governor Lora and others; a number had committed rape; and one had been charged with “homicide through imprudence.”\(^3\)

Another amnesty bill has since been proposed, but as this is being written it had not yet been brought to a definitive vote.

The despicable character of some of these crimes may lead one to wonder at the oft-recurring desire of Congress for an amnesty. According to Enrique José Varona it is “sometimes in order to serve the interests of brokers in this traffic; at others, to repay what are

\(^2\) El Mundo, June 7, 1924.
\(^3\) El Mundo, June 8, 1924.
improperly called political ‘services’; and at still others from a badly
directed sense of commiseration.”⁴ The “political services” of these
criminals are usually rendered in connection with elections, more
particularly in elections about to take place than as a reward for past
favors. Family influence has been suggested as another factor behind
these bills.⁵

The grafting phase of the jail-delivery evil, alluded to by Varona,
comes up more frequently in the case of executive pardons. “There
is not a meeting of the secretaries of state,” says Varona, “but that
on the following day there is published the interminable list of par-
dons.”⁶ If that were true in 1915, when Varona made his pronuncia-
ment, it is even more notably the case in more recent years. It has
been openly and publicly asserted, for example, that there has been
a regular traffic in pardons at more or less definitely established rates
during the Zayas administration. Certainly, an abnormally great
number of pardons has been granted.

The amnesty and pardon evil is accentuated by the corrupt state
of the judiciary. The constitutional paragraphs concerning this branch
are similar to those in the Constitution of the United States, but the
result has been different. Though the Supreme Court at times comes
in for denunciations,⁷ it is usually given a good reputation for recti-
tude and ability, but is the only court in the island that is relatively
free from scandal. In any event the Supreme Court is helpless, as
most of the iniquities can be perpetrated by resort to courts lower
down. Judges are political appointees, and resemble in bad character
the men from whom they receive their posts. They are notorious
for graft and incapacity. Many of them do little more than draw
their pay, absenting themselves from their duties or going on “vacation,”
while secretaries are left to do the work. The President has
the power to remove judges, but, for reasons best known to himself,
rarely avails himself of the opportunity. It is said that reputable
lawyers will take a case to court, only as a last resort, and then they
prefer to lose in the lower court, in order to escape graft, hoping
they may win on an appeal to the Supreme Court.⁸

⁴ Varona, Enrique José, *Recepción en la Academia nacional de artes y
letras: discurso leído el día 11 de enero de 1915.*
⁵ Junta cubana de renovación nacional-cívico, *Manifiesto del 2 de abril
de 1923.*
⁷ For example, in Junta cubana de renovación nacional-cívico, *Manifiesto.*
⁸ Conn, Edward L., *The crisis in Cuba: (V) Courts of infrequent
justice,* in (Philadelphia Public Ledger service, reprinted in) Berkeley (Calif.)
The following are brief statements about the courts, chosen at random from a number in the writer’s possession:

"The courts are notoriously corrupt. Money will decide almost any case. Foreigners usually prefer either to write off unfulfilled contracts or else make an adjustment out of court. Their main remedies are a greater preliminary watchfulness and increased prices to cover the extra hazard of the business."

"I was born in Spain, but became an American citizen. A few years ago I returned to my former allegiance to Spain. Why? Because I was living in Cuba, where my American citizenship never did me any good. The Cuban government owed me $35,000, and I wanted the State Department to give a hint to the Cuban government to pay. But the policy of the United States is not to make a fuss, if possible to avoid it. I was told to go to the Cuban courts for my remedy. And this in Cuba! So I am once again a Spaniard."

Usually men in business will deny that they have ever paid graft, but admit that the practice is general on the part of nearly everybody else. Now and then a man will tell you frankly that he has given his bit to political job-holders, though insisting, and very likely with truth, that he was obliged to do so. One such instance is involved in the following statement:

"Graft is constantly being thrust at you. I don’t like it, but I have paid it, and taken my profit, rather than suffer the annoyance that would surely follow if I refused. On one occasion I had a case in the courts. An underling of the judge came to see me, and said he could get a decision for me if I would give him fifty dollars; otherwise, it looked as if I would lose. I told him I would make him a present of fifty dollars if I won. He was satisfied—and I won! There was another case involving several hundred dollars worth of valuables. I won, but the judge has kept the valuables. He is probably waiting for fifty dollars, and I’ll have to pay it. If you decline to enter a graft deal with them, they do not attribute it to honesty. They think you are afraid you may get caught, and are at great pains to explain how safe it is."

A number of specific instances of judicial corruption are referred to elsewhere by the writer in connection with notable cases of administrative graft. The major thefts are perhaps not such a hindrance to ordinary business dealings, however, as the constant, comparatively petty graft indulged in by the judges whenever occasion therefor presents itself or can be made. The following is a typical case, within the writer’s knowledge.

Several prominent Americans and Englishmen, including A B

Gazette, Nov. 23, 1923. Scores of Cuban references could be added to substantiate Conn’s remarks.
J, Colonel B and his son, R, and the brothers Colonel and Major M, purchased T Island, and organized the T Development Company. Colonel B was a retired officer in the American army; the M's were officers in the British army. R B was made manager of the company, holding a general power of attorney. On several occasions, this company employed the services of a lawyer named H to draw up certain papers and do other bits of legal routine work. When they wished to pay him he wanted $7,000!! The company offered to settle for $600, which was in itself a considerable amount for the services performed, but the lawyer refused, and brought suit for $7,000.

The case dragged along for some time, with at length a decision in favor of the lawyer and an appeal. But while the case was before the court of first instance, two things happened: R B left for the United States, giving a power of attorney to the company's new lawyer, T S; and the judges learned that the company had about $4,000 in the bank at M. The judge of the court of first instance went on a vacation, leaving the municipal judge in charge of the court, while a young lawyer was designated to take the latter's place in the municipal court. Acting now in the higher court, the former municipal judge affirmed a decision he himself had given in the lower court, and ordered the money seized. Then he, too, went on vacation, leaving the young lawyer in charge of both courts, with instructions to seize the money. T S objected, but his objection was set aside by the second judge before he left, on the ground that R B had not left any evidence that he could give a power of attorney for the company, although this same judge had, in the first place, accepted the suit against B in the company's name and all the papers had been served on B.

The young temporary judge drew the money out of the bank after banking hours on a Saturday afternoon. He happened to be a good friend of C, the leading business man of M, who supplied the company with provisions. When he mentioned the affair to C that afternoon, C made him promise to have nothing further to do with it and to hold the money. That night Major M arrived in M, and C told him about it. Major M was a man of no little private influence, and he went into action at once. He was therefore able to get a decision the following Monday for the return of the money to the bank. At last accounts, it was there yet, but still in litigation. The two judges were theoretically "removed" by a promotion to better posts in another part of the country!

Numerous responsible associations or individuals could be quoted in support of the charges against the judiciary. It will perhaps be
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sufficient, however, to cite the American ambassador, General Enoch H. Crowder, on this score. Between 1921 and 1923 General Crowder wrote a series of letters to President Zayas, that have been regarded as of unusual importance, with a numbering of their own, from 1 to 15. Only number 13 of the "fifteen memoranda" has so far appeared in print, and that in a Spanish translation. Number 13 concerned the conditions precedent to an approval of the $50,000,000 loan, presently secured in 1923. The memorandum was dated July 21, 1922. One paragraph of this document discussed the judiciary. General Crowder asserted that charges still persisted as to the malfeasance in office of subordinate members of the judicial branch, including the secretaries of courts. He also noted the failure of the courts to be prompt in trying the crimes of bankers connected with the institutions undergoing liquidation and those of politicians involved in graft deals. There was no reason for the delay in the proceedings against the officials of Havana for frauds and other misdeeds, he said. He complained, too, because the bank defaulters had not been extradited. While not making judicial reform an absolute prerequisite to the loan, the ambassador felt that an investigation and proper proceedings should be instituted to improve the situation.9

And so on, ad libitum. The charge quoted to the Spaniard about United States policy is true. There is a statement by Secretary of State Seward on this score in 1866 which would seem to have been adopted as the normal practice of the United States in Hispanic American affairs. The case arose in a controversy involving an American in Colombia, but is certainly applicable to the procedure of the United States in Cuba.

"We are unfortunately too familiar with complaints of the delay and inefficiency of the courts in the South American republics. We must, however, continue to repose confidence in their independence and integrity, or we must take the broad ground that those States are like those of Oriental semi-civilized countries—outside the pale within which the law of nations, as generally accepted by christendom, is understood to govern. The people who go to these regions and encounter great risks in the hope of great rewards, must be regarded as taking all the circumstances into consideration, and cannot with reason ask their government to complain that they stand on a common footing with native subjects in respect to the alleged wants of an able, prompt, and conscientious judiciary. We cannot undertake to supervise the arrangements of the whole world for litigation,

9 Crowder, Enoch Herbert, El memorandum no. 13, tr. fr. Eng. to Sp. in Heraldo de Cuba, Aug. 5, 1922; republished in La Tarde, Nov. 13, 1924.
because American citizens voluntarily expose themselves to be concerned in their deficiencies.10

This stand is a handicap in the submission of claims in Cuba for denial of justice, though it is probably true that Americans and other foreigners receive as much consideration from the iniquitous workings of the courts as do the Cubans themselves. The Platt Amendment and the permanent treaty between the United States and Cuba do, indeed, give the former a right to insist on better treatment, on grounds that the Cuban government, through the delinquency of its law courts, is not furnishing the adequate protection to property that Cuba has agreed to give. But the United States is not at all likely to act in any other way toward Cuba than it would toward Colombia, except in case of an intervention on other scores, when it is probable that a reorganization of legal procedure and practice might be attempted, along with other reforms.

But it is not with any idea of holding a brief for the foreigner that this is being written. Most foreigners adapt themselves to the situation as they find it. It is Cuba that has to pay; the cost of supporting her parasite class is eventually passed on to the people as a whole. Indeed, what with amnesties and pardons to supplement a corrupt judiciary, criminals have lost all fear of punishment, even "in the very moment of crime,"11 and the law itself is altogether lacking in prestige.12

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10 Seward, William Henry, to Allan A. Burton (minister to Colombia), no. 137, April 27, 1866, Dip. Cor. 1866, III, 522-523, quoted in 6 Moore, International Law Digest, p. 660.

11 Freyre de Andrade, Gonzalo, Carta... separándose del partido Conservador.

12 This article is based on a study of Cuban government documents and the published statements of various organizations and individuals, supplemented by material in the newspapers and the oral comments of a number of men interviewed by the writer. Of special note in connection with amnesties is the following: Relación de antecedentes con motivo de indultos y leyes de amnistía promulgadas a partir del año 1899, coll. by Lorenzo Pérez. The collection by Señor Pérez, who is Assistant-Director of the Library of the House of Representatives, was based principally on the Diarios de Sesiones volumes of the proceedings of the House. The collection was never published, but exists in bound form in the Library of the House.