

ment, of Constitutions, and the character of the political problem awaiting solution in Cuba that the element of danger is revealed. Of the two classes into which Constitutional Conventions are susceptible of division, revolutionary and legitimate, the Havana Convention seems to belong rather to the former than to the latter. The people of Cuba have thrown off the Spanish yoke by revolution. It was an accidental circumstance that we aided their revolutionary attempt and made it effective. The grand result is unaffected by that circumstance, for our Congress declared by resolution that it should not be affected by it. The political status of the Cubans, if we made and intend to keep in good faith our pledge, is to be precisely what it would have been had they accomplished their deliverance by their own unaided arms. The Secretary of War says that these people are now ready to establish "a general Government which shall assume and exercise sovereignty, jurisdiction, and control over the island." In ordaining and establishing their Constitution, therefore, the Cubans are "lords paramount of the entire political domain." They can make any kind of Constitution that pleases them, establish a republic or a monarchy, and all their constructive and organic acts will be legal. But they must be their acts throughout, not ours in any part or degree. We have no shadow of authority to ordain that the Havana Convention shall "adopt" as well as frame the new Constitution.

Some ambitious Cuban aspiring to power might organize a revolutionary party on the basis of that single most unfortunate word "adopt" in the Secretary's order. There are to be only thirty-one delegates in the Constitutional Convention. It would be said that we had influenced the nomination and election of the delegates, had packed the convention, and by craftily contriving that it should adopt and ratify the Constitution without submitting it to the people, had prepared the way for a bastard Constitution that would not establish a sovereign nation, but would leave the Cubans in vassalage to the United States. This suspicion would be made plausible by the direction of the order that as a part of the Constitution, the convention is "to provide for and agree with the Government of the United States upon the relations to exist between that Government and the Government of Cuba." It may be contended that the word "adopt" is here intended to apply only to the formal proceedings of the convention, which would naturally by a vote adopt the Constitution it had framed. In that sense the word is quite superfluous. "Adopt" means to make one's own. If that is the meaning the Secretary had in mind, the word should apply only to the people of Cuba, for the Constitution is to belong to them, not to the convention. In our peculiar relation to these people, and having in view their political inexperience and the unstable equilibrium of other Spanish-American Governments, an ambiguity is a dangerous fault in this document of primary importance, the official inception of the Cuban Government.

The Constitution of this Republic is considered as emanating directly from the people, not from the States. "We, the people, do ordain and establish," &c. The instrument itself provided that it should be ratified by conventions of the people of the several States called for that purpose. The order of the Secretary of War should have omitted the word "adopt," and should have specifically directed that the Constitution framed by the convention shall be submitted to the people for ratification.

THE CONSTITUTION OF CUBA.

The convention that is to assemble in the City of Havana on the first Monday of November next "to frame and adopt" a Constitution for the people of Cuba is called and appointed to meet, not by the people of Cuba or by their authorized representatives, but by an order issued by the War Department of the United States. Inasmuch as since the extinction of the sovereignty of Spain the government of the island has been administered by the military authority of the United States, the War Department, as the actual lawmaking body, has not transcended the limits of propriety in issuing the call for the Constituent Convention, and in appointing a time and place of meeting. The situation is without precedent, and in our relation as quasi-sovereign we had the right to judge what was the best way to go about the matter, and the simplest way may well prove to be the best. Unmistakable irregularity and illegitimacy may attend the summoning and procedures of a Constitutional Convention and no harm come of them, for those defects are curable by the subsequent acceptance and ratification of the instrument by the people for whom it is intended.

But the order issued by Secretary Root provides that the Havana convention shall not only "frame," but "adopt" a Constitution, which is either an error of so grave a nature, amounting to a usurpation of power which we have specifically renounced, or an ambiguity so pregnant with the possibilities of civil disorder in Cuba that if a supplementary and amending order is deemed inadvisable every lawful and proper influence should be exerted to persuade the convention to disregard the precise terms of the order and put itself upon the firm ground of a safe Constitutional policy.

It should be the work of the convention to frame the Constitution; it is the privilege of the people to adopt or reject it; and it will not be securely ordained and established until it has been so adopted by the people.

The order of the Secretary of War, after reciting the joint resolution of Congress in which we announced our purpose "to leave the government and control of the island to its people," proceeds as follows:

And, whereas, the people of Cuba have established municipal governments, deriving their authority from the suffrages of the people given under just and equal laws, and are now ready, in like manner, to proceed to the establishment of a general Government which shall assume and exercise sovereignty, jurisdiction, and control over the island,

Therefore, it is ordered that a general election be held in the Island of Cuba on the third Saturday of September, in the year 1900, to elect delegates to a convention to meet in the City of Havana at 12 o'clock noon on the first Monday of November, in the year 1900, to frame and adopt a Constitution for the people of Cuba, and as a part thereof to provide for and agree with the Government of the United States upon the relations to exist between that Government and the Government of Cuba, and to provide for the election by the people of officers under such Constitution and the transfer of government to the officers so elected.

The apparent purpose of this order is beyond criticism. It is only when we consider the nature of popular govern-