He did not say so, but it may be assumed that every township would enjoy the right of fixing its own taxes and determining the mode of raising the same. When the taxpayers have the matter absolutely in their own hands it may be depended upon there will be far less waste and extravagance and the public burdens will be lightened.

Objections have been urged that this would discourage enterprise and our cities would become unprogressive and niggardly in their own expenditudes, in order to keep their proportion of the state expenses as small as possible.

For heaven's sake, have they not a right to?

Are we in such abject slavery to progress that the popular will must be overridden and communities forced to be enterprising by the operation of law?

Where is our boasted self-government if any such consideration can be valid?

There may be danger from too much progress. The great evil of the age is over-government. The best-governed people are those who are the least governed, and self-government tends to simplicity.

The essence of Mr. Purdy's plan is to bring the powers of government much nearer to the people. To claim that there is danger in it is to assert that popular government is a failure.

## THE THEORY ON WHICH INJUNCTIONS ARE GRANTED.

An explanation made at a meeting of the Social Reform Club of the City of New York, by John Brooks Leavitt, chairman of a committee reporting on the Use of Injunctions in Labor Disputes.

The scheme of government adopted by our fathers, as best calculated to preserve our liberties and promote our welfare, was that of a three-fold division into legislative, executive and judicial functions; the first to make the laws, the second to execute them, and the third to pass on the rights and duties of the citizen under the guarantees of the constitution.

Unconstitutional acts by a president or governor can be punished by impeachment in the legislative branch. Unconstitutional acts of congress or state legislatures can be declared null by the courts. But the only tribunal where errors of the judiciary can be corrected is that of public opinion.

The jurisdiction of the courts is of two kinds, civil and criminal. The criminal courts only try cases involving crimes and misdemeanors upon complaint of the people through their duly elected or appointed officials. The controversies between private citizens can only be tried in the civil courts.

We inherit from England our system of administering justice, and in England there very early grew up a custom which has a direct bearing here, and one which it is necessary to know historically in order fully to understand the subject in hand.

Originally in England the only thing a man could do when injured by his neighbor, was either to have the wrong-doer punished in the criminal court, or to sue him in the civil court for damages, that is for an amount of money which 12 jurymen should consider proper compensation for failure to carry out a contract or to observe another's rights. This measurement of men by dollars was as unsatisfactory to our ancestors as it is to us. The remedy thus afforded by the law courts was in many cases inadequate. A noble lord might be guilty of some act of oppression, or of interfering with a right of private way over his premises, or of obstructing the public highway; and the humble citizen would find that neither punishment nor money would be sufficient reparation. The courts could, however, give him no other redress. In those days the king was looked upon as the fountain of power, of justice, of goodness. "The king could do no wrong." To him therefore the citizen, who had no adequate remedy in the courts, made humble petition that the king would of his great power and goodness make his oppressor respect his rights. The king, who in theory was a benevolent tyrant, in fact was more interested in the pleasures of war, the tourney, the chase, the table or the chamber. He had no time to look into the matter, unless it was something that could be settled off-hand. He would therefore refer a pertinacious suitor to one of his officers with instructions to the latter to examine into the affair and report his opinion as to what the king ought to do. As such controversies involved equitable rather than legal questions, they were generally sent to the keeper of his conscience, as he was styled, an official called his chancellor, usually a priest. He heard the parties, reported to the king, who would then either dismiss the matter, or decree that the offender do what he ought to do, or refrain from doing what he ought not to do. Thus the deficiencies of legal procedure were supplemented by decrees of the king.

As time went on, the system became crystallized, his chancellor became a judge, who sat in a court of equity as it was called, heard cases as the law judges did, but without a jury; and in the name of the king granted decrees which recited the facts, pointed out that there was no adequate remedy at law, and commanded the defendant what he should do or leave undone.

It will easily be seen that if a chancellor were to be guided by nothing but caprice, his court would become a terrible engine for tyranny. It used often to be sneeringly said that equity decisions depended on the length of the chancellor's foot. So there came into existence certain set rules under which equity was administered. Those rules were admirably adapted to the end of keeping the chancellor within proper bounds. "Equity follows the law;" "Equality is equity:" "He who asks equity must do equity:" "He who comes into a court of equity must come with clean hands," and the like. The general rule was, that wherever money damage for a wrong would be adequate compensation a court of equity would not interfere. There grew up this stereotyped phrase, that the plaintiff had no adequate remedy at law. If he could show that the defendant was doing or threatened to do him a continuing injury, irreparable in its nature, and for which money would not be compensation, he could obtain in an otherwise proper case a decree enjoining the defendant from continuing to do the act, or from carrying out his threat. In order that the complainant might not be injured while the court was examining into the case, it would on affidavits showing the necessity grant a preliminary writ, calling a temporary injunction, commanding the defendant to abstain from doing the thing during the pendancy of the action.

In our country the system of separate courts, one to give money judgments after a trial by a jury, the other to issue decrees after hearing before a judge, has been changed in most states, so that one court does both. This is the fact also as to the federal courts. We have still, however, in theory kept up the rule that a party asking for a command rather than money, must satisfy the court that compensation in dollars will not meet the case, and that precedents warrant the command.

Right here is where the danger point

is touched. The power of command has in all ages been a dangerous one. Its subjective results are often lost sight of in the presence of the oppression and wrong it has worked objectively. Kings and presidents, generals and judges, capitalists and walking delegates, if they search their own hearts, must know the evil effects upon themselves of the power of command. All persons know its pernicious consequences upon others when exercised unjustly. So long as our courts of equity wield the power of command under well-settled rules, and within carefully marked bounds of precedent there is nothing to fear. It is open to question, whether in every case where an employer has asked for an injunction against striking employes, the court has inquired whether he acted justly in the beginning of the quarrel. Yet the time-honored rules say: "He who asks equity must do equity," and "he who comes into equity must come with clean hands." No wrongful act of a defendant should ever be allowed by a court of equity to affect its mind to the point of ignoring a contributing act of injustice by the plaintiff. Of late years the failure of judges to satisfy themselves on such points, when granting preliminary injunctions, has resulted in making the preliminary injunction, instead of the final judgment, the chief objective point of the suit. And so our courts of equity are being gradually turned into criminal courts for the enforcement of law and order through the medium of the power of command. Such an evolution of judicial jurisdiction from kingly prerogative was hardly expectable under a republican form of government.

## THE RECORD OF FAILURE IN SOUTH AFRICA.

From the London Speaker of April 20.

Nobody expects to find in men who have been living for 18 months on the edge of their emotions a judgment as balanced and a vision as clear and steady as he counts on in the tranquil circumstances of ordinary and uneventful times. Yet it is invariably a shock to men who have retained their old ways of looking at things to discover that ideas which they imagined were held by their countrymen in the inflexible grip of conviction and habit scatter like so many ephemeral fancies on the first contact with new and challenging circumstances. The process of change becomes brisker with each new demand on the adaptability of men's consciences. Stage after stage has arrived in this war when a situation has arisen or a proposal sprung up which liberals have confidently expected their opponents would agree in deploring or condemning. They had forgotten that the war had all the time been lifting men out of the beaten track of their common morality. The change of temper is not at all deliberate and thought out. It is often quite unconsciously that men or communities learn to walk the tight-rope of moral casuistry. But, when once the change is come, there is an end to that substantial sympathy of idea which enables us to refer our mutual differences to some common standard. It is one of the saddest things about an aggressive war that it makes such a wilderness of our own civilization. All that is common to the ideas of a community is in sudden dissolution. The essence of a civilization is a certain degree of moral homogeneity, and after 18 months of revolutionary imperialism, in place of a fundamentally compact and coherent national temperament you find everything torn and fragmentary. All the links of an elemental moral agreement are broken.

The war in its progress has produced frequent and striking illustrations of the transformation of the ordinarily accepted notions of what is right and prudent by the necessity of justifying some new departure in morality. But the finished picture is better evidence than any number of illuminating touches. Let anyone contrast the regime actually established in the Transvaal, or that part of the Transvaal where we can pretend to exercise authority, with the sort of impression that the ordinary Englishmen had at the beginning of this war of the government he was about to create there. Whatever liberals said or thought about the danger and consequences of the war, the imperialists were confident that within their own formula they could make room for a fair and tolerant system of government that would be positively welcome to the Boers and afford a beneficent protection to the blacks. With the reply of the liberals that no system could be fair and tolerant that deprived a nation of its separate existence we are not now concerned. All that is important is to recall the promise of free and equal institutions with which the war started, and then to turn to the regulations printed in the Times of Friday week. There are few demands for which so much sympathy was excited in the outlander agitation as the demand for the independence of the judges; the new regulations provide that the judges shall be strictly under the control of the high commissioner. One of the most vicious and indefensible symptoms of racial inequality under the Transvaal, we were told, was the sole use of Dutch for official purposes; under the new system there is still only to be one official language—the language of the invaders. But the most striking point about the new system comes from the Pretoria correspondent of the Morning Post, who informed us on Monday that the new magistrates in the Transvaal are to be chosen from the "Progressive Afrikanders, some of whom held commissions in our irregular corps during the campaign." It is only 18 months since our imperialists were protesting that the day of racial animosities was over and a new era would dawn on South Africa, in which Boer and Britain would forget their quarrels in their common confidence in a just and impartial government. The language in which the Boers are to be tried is English, and the magistrates are their most malignant enemies, men who two years ago were conspiring and two months ago were fighting against them. "Equal rights for white men" was accompanied by another formula that promised a new and happy life to the natives. Under Sir Alfred Milner's regulations magistrates may flog the natives. And who are the magistrates? The "Progressive Afrikanders," the men whose ideal native policy is summed up in the philanthropy of Mr. Hays Hammond, and the humanitarianism of Mr. Albu, whose allies are responsible for every harsh measure introduced into Cape Colony and whose leader invented the compound, destroyed the Matabele, deported the Bechuanas into slavery and made Rhodesia a slave-holding company.

If it were not for the subtle change we have described which steals away men's capacity for preserving their own standards in times of crisis, the absurdity of a crusade for free and equal rights, which ends in such an absolute system of racial ascendancy, would be apparent even to the imperialists. The Boers are to have no votes and no self-governing institutions; they are to be tried in a foreign language; they are to be judged and punished by aliens whom they have the best of reasons for hating, and the whole system that controls their daily lives is to depend on the pleasure of a man whose name stands first and last for an authority they