

father with an oath for driving up to the wrong place. The father apologizes, turns back wearily, lugging at the reins of the exhausted horse, and stops at the further side.

The boy approaches his father and asks: "Father, why do we bring our corn to him? Haven't we grown it?"

"Because the land is theirs," answered the father, angrily.

"Who gave them the land, then?"

"Go and ask the overseer there. He'll explain it to you. Do you see his stick?"

"But what will they do with this corn?"

"Thrash it and grind it and then sell it."

"And what will they do with the money?"

"They'll buy those cakes with it that you saw on the table when we passed."

The boy becomes quiet and thoughtful. But he has little time for thought. The men shout to his father to bring his cart nearer. He pulls the horse up to the stacks, climbs to the top of his load, unties the rope, and wearily hands the sheaves up one by one, straining his hernia* with each effort; while the boy holds the old mare, whom he has driven for the last two years, brushing away the flies as his father tells him, and wondering, for he cannot understand, why the land does not belong to those who work it, but to those young gentlemen who play about in fancy shirts, and drink tea and eat cakes.

The boy thinks about this continually; when waking, when going to sleep, when attending the horses, but finds no answer. Everyone says it is as it should be—and lives accordingly.

So he grows up. He marries. Children are born to him, and they ask the same question, and also wonder; and he answers them as his father answered him.

And they, too, living in poverty and subjection, labor for idle strangers.

So he lives, and so live all around him.

Wherever he goes it is the same; and according to the stories of the passing pilgrims, it is the same everywhere. Everywhere laborers overwork themselves for idle, rich landlords. Suffer from rupture, asthma, consumption; drink in despair, and die before their time. Women overstrain themselves, cooking, washing, mending, tending

*Owing to often having overstrained themselves, a great number of Russian peasants suffer from chronic hernia.—Trans.

the cattle; wither and grow prematurely old from overpowering and incessant labor.

And everywhere those for whom they work indulge in horses and carriages and pet dogs, conservatories and games, from one year to another; each day from morning till evening, dressing as if for a holiday, playing, eating and drinking, as not one of those who work for them could do, even on a holiday.

THE CONSTITUTION AND INEQUALITY OF RIGHTS.

Extracts from an article by Edwin Burritt Smith, of Chicago, published in the Yale Law Journal for February, 1901.

That the United States may acquire territory, as raw material for future states, is unquestioned; that the United States acquired whatever title Spain then had to Porto Rico and the Philippines, by the treaty of Paris, is conceded. What is disputed is the novel claim that the United States may adopt and enforce, in the government of these islands, the principle of inequality of rights. All our prior acquisitions of territory were sought for settlement by our people, to become the home of our institutions, to expand the domain of equal rights, to enlarge the area of constitutional liberty.

A vision of the equality of rights was the inspiration of our national life. The immortal declaration that all men are created equal—that they are endowed by the Creator with certain inalienable rights, among which are life, liberty and the pursuit of happiness—fitly expressed the ideal of democracy. To achieve this ideal we have striven for more than a century. In its pursuit we have organized, established constitutions, legislated, administered.

The great purpose of the constitution was to establish equality of personal rights. To this end it commands that commerce be free and its necessary regulations uniform throughout the United States. Authority to tax rests upon representation. Congress may lay and collect taxes, duties, imposts and excises; but taxes must be according to population, and "all duties, imposts and excises shall be uniform throughout the United States." All exports are exempt from duties. Laws affecting naturalization and bankruptcies must be uniform. All enjoy the privilege of the writ of habeas corpus, and are alike protected from bills of attainder and ex post facto laws. All are to be mere citizens, free from the overshadowing influence

of a nobility. The revenues of the people may be drawn from the public treasury only by means of appropriations made by law. The courts exist for all, including even aliens, without discrimination. All, when charged with crime, are alike protected in their right of trial by jury where the crime was committed. The citizens of each state are entitled to all the privileges and immunities of citizens in the several states. Nothing is supreme but the law of the land.

Such, in substance, was the constitution as first adopted. It contemplated a government of uniform laws over citizens possessing equal rights. Even its guaranties were not accepted as adequate. The victors in a struggle of a thousand years against arbitrary power were unwilling to leave anything to implication. The people demanded that the results of that struggle should be embodied in their fundamental law. Hence the bill of rights was at once added by amendment. Thus, by the amended constitution, all white men secured freedom of religion; freedom of speech; freedom of the press; freedom of assembly; the right of petition; the right to bear arms; the right to be secure in their persons, houses, papers, and effects; the right of trial by jury in criminal proceedings and in suits at common law; exemption from prosecution for infamous crimes, unless on presentment or indictment of a grand jury; security from being placed twice in jeopardy for the same offense; security from being required in criminal causes to be witnesses against themselves; the right of speedy and public trial by an impartial jury in all criminal prosecutions within the state and district where the crime is committed; the right, when charged with crime, to be informed of the nature and cause of the accusation, to be confronted with the witnesses for the prosecution, to have compulsory process to compel the attendance of witnesses in their favor, and to have the assistance of counsel for their defense; freedom from excessive bail, from excessive fines, and from cruel and unjust punishments; freedom from the taking of private property for public use without just compensation; and freedom from deprivation of life, liberty or property without due process of law.

Even this inventory of personal rights, each term of which is the title to a chapter in the story of constitutional liberty, was not regarded as inclusive. The Ninth Amendment states that "the enumeration in the

constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." Still the ideals of equality and of government by consent were but imperfectly realized. Human slavery, a monstrous anachronism, survived to give the lie to our fair professions of equality. A people that had renounced the institutions of king and nobility could not long look upon slavery without moral disquietude. Having escaped an aristocracy, they could not long tolerate slavery. The noble vision of equality of rights vouchsafed to the fathers inspired their children to strive for its realization. The revolution witnesses what the fathers dared that they might set up the ideal of equality. The mighty tragedy of civil war forever records what their sons suffered to realize that ideal.

The revolutionists at the outset declared their splendid vision of equality of rights. In their hour of triumph they paused to set up a tabernacle to liberty, to record in the people's grant of power to a government expressive of their authority the personal rights already won. In their hour of triumph the victors of 1865 placed in the constitution new guaranties of equality.

The Thirteenth Amendment declares that neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. The Fourteenth Amendment makes all persons born or naturalized in the United States citizens thereof and of the state wherein they reside. It also provides that no state shall make or enforce an law which shall abridge the privileges or immunities of citizens of the United States; nor deprive any person of life, liberty or prosperity, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. The Fifteenth Amendment declares that the right of citizens of the United States to vote shall not be denied or abridged on account of race, color or previous condition of servitude.

The constitution of the fathers established the equality of white men. The great charter of liberty, as it came from the furnace of civil war, proclaimed equality for all men irrespective of race or color. Thus equality of rights, the ideal of the declaration, became the achievement of the constitution. Thus a lofty sentiment was realized in the fundamental law of the land.

The events of two years have brought

us some grave questions. Shall the evolution of American liberty be reversed? Shall the movement, begun by the adoption of the constitution and continued in unbroken progress in its amendments, be stayed? Shall we no longer interpret the constitution in the terms of liberty? Shall the president and congress govern men without their consent? Shall the representatives of a free people act for others than those represented? Shall the creatures of the constitution exercise any power anywhere outside and in disregard of its limitations? Shall we make rights a mere matter of might and locality? Shall we make inequality of rights, by amendment or evasion of the constitution, lawful under the American flag? . . .

Those who in our time profess inherent authority to make of liberty itself a gift to other men now come, as tyrants have ever come, with honed words upon their lips. If we may credit some fine professions now current in high places, the denial of equality of constitutional rights to the people of the territories and islands of the United States is merely to clear the way for the bestowal of analogous "moral rights" at such times and in such doses as the donors in their superior wisdom deem the donees strong enough to bear. Equality of rights is not denied to the inhabitants of the Spanish islands in order by grace to bestow upon them the immunities and privileges enjoyed under the constitution by the citizens of the states. On the contrary, equality of rights is denied in order that the president and congress may govern the people of these islands by power as absolute as is anywhere known. Indeed, Mr. Root declares that the United States (meaning the president and congress) have all the powers which any nation in the world has in respect to acquired territory. That is, they may govern it by power as absolute as that wielded by the Russian czar. . . .

Even the "moral right" of the new "wards of the nation" to be treated in accordance with the principles of justice and freedom is, it seems, subject to important and wholly arbitrary limitations. The power to bestow involves the power to deny. The power to grant involves the power to withdraw. What may be granted or withheld may be withdrawn or abridged. The policy thus disclosed and now applied offers to the inhabitants of the ceded islands no shield but benevolence against wrong, no constitutional protection, no hope of liberty. It seeks by force to establish government with-

out consent, taxation without representation, tyranny by the crowd. It means the government of men by arbitrary power. This is imperialism. . . . The supreme court of the United States has again and again treated the constitution as applicable to the territories, and therein applied it for the protection of personal rights. Chief Justice Marshall himself has defined the term "United States" to be "the name given to our great republic, which is composed of states and territories." (Loughborough vs. Blake, 5 Wheat., 315, 317.) The court, in deciding that duties collected in California after its cession to the United States and prior to the establishment therein of a collection district were not illegally exacted, held that: "By the ratification of the treaty, California became a part of the United States;" that commerce "became instantly bound and privileged by the laws which congress had passed to raise a revenue from duties on imposts and tonnage;" that "the right claimed to land foreign goods within the United States at any place out of a collection district, if allowed, would be a violation of that provision in the constitution which enjoins that all duties, imposts and excises shall be uniform throughout the United States;" that "there was nothing in the condition of California to exempt importers of foreign goods into it from payment of the same duties which were chargeable in the other ports of the United States;" that "the ratification of the treaty made California a part of the United States, and that as soon as it became so the territory became subject to the acts which were in force to regulate foreign commerce with the United States." (Cross vs. Harrison, 16 How., 164, 198.)

A distinction, often overlooked, lies between personal and political rights. Congress possesses the same general powers, subject to like limitations, over the territories and their inhabitants that it possesses over the states and their inhabitants. In addition to these general powers, it possesses in the territories the same powers, subject to like limitations, over local affairs as the states possess over local affairs. Thus congress holds in the territories the sum of national and local legislative powers, subject to the limitations of the constitution.

The supreme court, as late as 1884, said:

The personal and civil rights of the inhabitants of the territories are secured to them, as to other citizens, by the principles of constitutional liberty which restrain all the agencies of government, state and

national; their political rights are franchises which they hold as privileges in the legislative discretion of the congress of the United States. *Murphy vs. Ramsey*, 114 U. S. 15.

The court, in pursuance of this distinction, has held that "the provisions of the constitution relating to trials by jury for crimes and to criminal processes apply to the territories of the United States" (*Thompson vs. Utah*, 170 U. S., 343, 346; *Callan vs. Wilson*, 127 U. S., 540); that congress in legislating for the territories and the District of Columbia is subject to those fundamental limitations in favor of personal and civil rights which are formulated in the constitution and its amendments (*Mormon Church vs. United States*, 136 U. S., 1; *McAllister vs. United States*, 141 U. S., 174; *American Publishing Society vs. Fisher*, 166 U. S., 464, 466); and that the United States, upon "acquiring territory by treaty or otherwise, must hold it subject to the constitution and laws" (*Pollard vs. Hagan*, 3 How., 312).

When it is said that congress has absolute power to legislate respecting the territories of the United States, what is meant, as we have seen, is that congress holds the sum of national and local legislative powers in respect of such territories. It may do in a territory, in addition to what it may do in a state, what the people of a state acting through their general assembly may do in that state. The supreme court has held that the form of government to be established in a territory rests in the discretion of congress,

acting within the scope of its constitutional authority, and not infringing upon the rights of persons or rights of property of the citizen. . . . The power of congress over the person or property of a citizen can never be a mere discretionary power under our constitution and form of government. The powers of government and the rights and privileges of the citizen are regulated and plainly defined by the constitution itself. And when the territory becomes a part of the United States the federal government enters into possession in the character impressed upon it by those who created it. It enters upon it with its powers over the citizen strictly defined, and limited by the constitution, from which it derives its own existence, and by virtue of which alone it continues to exist and act as a government and sovereignty. It has no power of any kind beyond it; and it cannot, when it enters a territory of the United States, put off its character, and assume discretionary or despotic powers which the constitution has denied it. It cannot create for itself a new character separated from the citizens of the United States and the duties it owes them under the provisions of the constitution. The territory being a part of the United States, the government and the citizens both enter it under the authority of the constitution, with their respective

rights defined and marked out; and the federal government can exercise no power over his person or property, beyond what that instrument confers, nor lawfully deny any right which it has reserved.

The powers over person and property of which we speak are not only not granted to congress, but are in express terms denied, and they are forbidden to exercise them. And this prohibition is not confined to the states, but the words are general, and extend to the whole territory over which the constitution gives it power to legislate. *Scott vs. Sandford*, 19 How. 333, 449.

The court, in the same case, says:

A power, therefore, in the general government to obtain and hold colonies and dependent territories, over which they might legislate without restriction, would be inconsistent with its own existence in its present form. *Id.*, p. 448.

The attempt, by the terms of the treaty itself, to enlarge the powers of congress by conferring upon it power to determine "the civil rights and political status of the native inhabitants" of the islands, is without effect. The supreme court, in the case of *New Orleans vs. United States* (10 Pet., 662, 736), says:

The government of the United States is one of limited powers. It can exercise authority over no subjects except those which have been delegated to it. Congress cannot, by legislation, enlarge the federal jurisdiction, nor can it be enlarged by the treaty-making power.

The court, in the case of *Pollard vs. Hagan* (3 How., 212, 225), says:

It cannot be admitted that the king of Spain could, by treaty or otherwise, impart to the United States any of his royal prerogatives; and much less can it be admitted that they have capacity to receive or power to exercise them. Every nation acquiring territory, by treaty or otherwise, must hold it subject to the constitution and laws of its own government.

It may be conceded, for the sake of argument, that congress may determine the status of the ceded islands, but the Fourteenth Amendment fixes the status of all persons born there in after the date of cession. The court, in the recent case of *United States vs. Wong Kim Ark*. (169 U. S., 649, 703), held that American-born Chinamen of alien parentage are citizens of the United States free from the provisions of the exclusion acts and treaties; and that congress is without power "to restrict the effect of birth, declared by the constitution to constitute a sufficient and complete right of citizenship."

Even the question of citizenship does not determine personal and property rights under the constitution. The supreme court, in the case of *Lem Moon Sing vs. United States* (158 U. S., 538, 547), in passing on the

rights of a Chinese alien in the United States, said:

While he lawfully remains here he is entitled to the benefit of the guaranties of life, liberty and property, secured by the constitution to all persons, of whatever race, within the jurisdiction of the United States. His personal rights when he is in this country, and such of his property as is here during his absence, are as fully protected by the supreme law of the land as if he were a native or naturalized citizen of the United States.

This brief review of the authorities makes it clear that the supreme court, in the discharge of its highest function, has steadily interpreted the constitution in the terms of liberty, giving full effect to its purpose to establish equality of rights of all men in all places within the jurisdiction of the United States.

The proposal, despite such a constitution so achieved and thus interpreted, to reintroduce into our system the principle of inequality of rights, the assertion of a purpose to make God's liberty a matter of locality instead of personal right, is indeed shocking. Even the assumed interests of trade cannot impart lasting vitality to a purpose whose merit may be discussed in the presence of free men. We made tremendous sacrifices to destroy the inequality of slavery, to make the ideal of equality delivered by the fathers the highest achievement of constitutional liberty. We suffered much that the union might cease to be divided, that all men within the jurisdiction of the United States, irrespective of race or color, might have equal personal rights. The argument that, having sinned against liberty in our treatment of the negro, we may now betray liberty in the person of the Filipino for a possible commercial profit, is but for the moment to cover an awful blunder. The constitution lives as the supreme law of the land. It does not admit, what ex-President Harrison has justly characterized, "a construction contrary to liberty." It can neither be amended nor long evaded to promote inequality of rights. Nothing short of equality of rights for all men as men in all

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—Chicago Times-Herald.

We believe in the constitution of the United States. It gives the president and congress certain limited powers, and secures to every man within the jurisdiction of our government certain essential rights. We deny that either the president or congress can govern any person anywhere outside the constitution.—National Liberty Congress.

Through the weary watches of the night the dramatist pored over the volume.

"Writing a problem play is not such an easy task," he murmured, with a long-drawn sigh.

But, with dogged persistence, he resumed his dramatization of Ray's Elementary Arithmetic. — Baltimore American.

Our fathers were not content to hold these priceless gifts under a revocable license. They accounted that to hold these things upon the tenure of another man's benevolence was not to hold them at all. Their battle was for rights, not privileges—for a constitution, not a letter of instructions. — Benjamin Harrison.

Rights pertain to persons, not to localities, under the constitution of the United States.—Selected.

In the geography lessons of the near future one important question may be, "Where was China?"—Puck.

First Theosophist—You shouldn't miss the Buffalo exposition. It's the opportunity of a lifetime.

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MAGAZINES.

—"The Bliioustine" (published for the Boy Grafters, by William S. Lord, Evanston, Ill.) is a capital satire which every admirer of the Roycrofter. "Phillistine" ought to read.

—Joseph Dana Miller, the poet and essayist, and Mrs. George P. Hampton, announce the publication at New York of a quarterly review of single tax progress, the first issue to appear about the middle of June.

—The principal article of "Why" (Cedar Rapids, Ia.) for May is by Speed Mosby. A news supplement accompanies this little magazine now, in which reports of the single tax movement are published.

—The Connecticut Magazine for March-April (Hartford), just issued, contains three papers of note. One of them, on the origin and development of Connecticut life

insurance, is of special interest, of course, to life insurance men; and another, brief biographies of Connecticut governors from 1639, appeals particularly to persons of Connecticut antecedents. But the third is of general interest. It is a brief account of Benedict Arnold, who hailed from Connecticut and did business as a druggist and bookseller in New Haven.

—"Don Quixote" is the title of a monthly eight-page paper published at New York by Charles Frederic Adams, a profound philosopher, an able lawyer, a stirring orator, and withal one of the most eccentric moralists—eccentric, because he has convictions and abides by them to the very verge of the "impracticable"—to be found in the American metropolis. The primary object of Mr. Adams's "Don Quixote" is "to advocate the extension and development of local self-government."

—Under the editorial direction once more of B. O. Flower, the Arena (New York, London and Melbourne) has been brought back to the high level of a popular magazine of thought, which it originally occupied. It is better than ever, as any one who has followed it through its ups and downs will readily agree after reading the June number. Two authoritative papers on Christian Science deserve special commendation. They place that subject in a clearer light than it is commonly seen in, and are well worth careful perusal, regardless of the reader's prejudices or convictions. Among the other papers is an excellent one on the servant girl question, by Mrs. Vrooman, and a brief study of W. T. Stead as a Journalist, by the editor. Mr. Flower also comments in a sympathetic strain editorially upon the election and accession to office of Tom L. Johnson as mayor of Cleveland.

ATTORNEYS.

Chicago.

CHARLES A. BUTLER,
ATTORNEY AT LAW.
Suite 420, Ashland Block, CHICAGO.
Long Distance Telephone, Central 2361.

HARRIS F. WILLIAMS,
ATTORNEY AT LAW,
806 Chamber of Commerce Building,
CHICAGO.

WALTER A. LANTZ, T. G. MCELLIGOTT
Telephone Central 2254.

LANTZ & MCELLIGOTT,
ATTORNEYS AT LAW,
1026-1030 Unity Building, 79 Dearborn St., Chicago.

CHARLES H. ROBERTS,
ATTORNEY AT LAW,
ESTATES, CLAIMS, PATENTS,
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