

the plight in which the government at Washington put the American troops in Cuba. He says:

The hospitals were in a wretchedly disorganized condition. Stores of medicines and strengthening food were decaying in places where no one wanted them or could get at them, while men were dying in hundreds among our tents in the Crimea for lack of them. The system of clothing, of transports, of feeding, of nursing — everything, had broken down. Ample provisions had been got together and paid for; and when they came to be needed no one knew where to get at them. . . . Exultation began to give way to a feeling of dismay. The patriotic anger against the Russians was changed for a mood of deep indignation against our own authorities and our own war administration.

What with a rendezvous in Florida selected by our secretary of war, with reference not to military convenience, to which it was not at all adapted, but to the interests of a millionaire partner in monopolistic schemes, to which it seems to have been admirably adapted; what with northern clothing furnished for a southern campaign; what with food for a polar expedition provided for sick and wounded soldiers in the tropics; what with artillery taken apart and shipped piecemeal, so that when needed at the San Juan some pieces were still on transports, different parts of the same field piece being on different ships, while some were on the beach at Baiquiri and some at Tampa; what with such management of the medical stores that when they were needed it was found that they had been left on board the transports—what with this and much other inexcusable department blundering of like character, McCarthy's account of the management of affairs in the Crimea under the coalition ministry only mildly describes the management of affairs before Santiago under the McKinley administration.

One event of importance before Santiago had no parallel in the Crimea. The English did not insult their allies. And a highly important event in connection with the Crimean war has yet to find its parallel in connection with our Spanish war. The coalition ministry of Great Britain, under which the blunders of the Crimea were perpetrated, was ignominiously turned out of power.

THE ETHICS OF REPUDIATION.

Repudiation of public contracts is so persistently associated with the idea of dishonesty that the subject calls for unprejudiced consideration, for which there could be no better time than now. When the public mind is excited with burning political issues, which directly or indirectly, actually or possibly, involve the principle of repudiation, demagogues distract attention from vital points by indiscriminately denouncing all such repudiation as dishonest. But in the absence or temporary subsidence of public excitement over those issues, which is the condition at present, the subject may lend itself to calm and unprejudiced discussion.

To identify repudiation absolutely with dishonesty, two wide chasms in thought must be bridged. It must be assumed, in the first place, that government has the moral right to bind future generations by contract; and, in the second, that all contracts are morally inviolable. If the government has not the right to bind future generations by contract, then future generations have the moral right, when they come upon the stage of action, to repudiate ancient government contracts which do assume to bind them; and if all contracts are not morally inviolable, then, even though government might morally bind future generations by contract, it could not do so by all kinds of contracts, and illegitimate government contracts might be repudiated without dishonesty. It is incumbent, therefore, upon those who undertake to argue that the principle of repudiation is dishonest, to prove, first, that government can morally bind future generations by contract; and, second, that repudiation of contracts is necessarily dishonest. But so far from being able to prove both these propositions, they can prove neither.

Government cannot morally bind future generations. To permit it to do so would contravene the root principle of self-government: This principle that it is the right of every people to govern themselves, has for a corollary the principle that it is the right of every generation to govern itself. In principle, it is as intolerable that dead and gone generations

should govern living generations, as that one nation should govern another. In degree it is worse. Government by generations that have passed away is that most oppressive of all tyrannies—the tyranny of “the dead hand.”

To no function of government is this observation so pertinent as to taxation. It is by means of taxation that peoples are most effectually enslaved. Whoever controls the purse strings of a nation, governs the nation. To a keen appreciation of that truth by the pioneers of English freedom, we are indebted for the familiar constitutional principle that revenue bills must originate in the popular branch of the legislature. It was early seen that if the people would govern themselves, they must tax themselves.

And it is the taxing function that is operated when one generation assumes to bind future generations by contract. The right of government to deal with funds in its own hands, funds and other property which belong to it, is not denied. Neither is it denied that government may make contracts to be fully executed, performed, completed and done within such reasonable time in the future as to make it clear that they do not constitute evasive attempts to govern future generations. What is denied is that government has the right to give morally binding force to contracts requiring future generations to submit to taxation, either in character or amount, without their own consent. Such contracts are in their essence legislative, not contractual; and it is a clear principle, not only of political philosophy but of jurisprudence, that any exercise of legislative functions is at all times, so far as relates to its future operations, subject to repudiation.

This alone is sufficient to dispose of the notion that repudiation is necessarily dishonest. But even if the point that government cannot contract away the rights of future generations were waived, and it were assumed that government has that right, the point would still remain that contracts, though authoritatively made, are not necessarily inviolable.

While it is indubitably true that repudiation of public contracts may

be dishonest, it is not true that it is necessarily so. Whether the repudiation of a contract be dishonest or not depends not upon the fact of a contract, but upon its character. There are such things as unconscionable contracts; and repudiation of unconscionable contracts is not dishonest; it is rather their enforcement that is dishonest.

We here touch upon a principle which is aptly illustrated in the legal history of private contracts. At one time it was held by the courts that private contracts must be performed according to their terms. A leading case had to do with one of those practical jokes in geometrical progression with which we still astonish our children. To get his horse shod a farmer had contracted with a blacksmith to pay one barley corn for the first nail, two for the second, four for the third, and so on, each succeeding nail to be paid for with twice as much barley as the one before it. Notwithstanding the enormous amount of barley which the blacksmith claimed under his contract, the court decided, as anti-repudiationists now contend, that a contract is binding no matter how it affects the parties to it, and gave a ruinous judgment against the farmer accordingly. The principle of that decision was followed by the courts for a long time, but at length a more enlightened and honest view prevailed. It was seen that grossly oppressive contracts are unconscionable, and as a matter of good morals, as well as sound policy, the courts stopped enforcing them. No one now would think of stigmatizing repudiation of such private contracts as dishonest.

The principle applies as well to contracts by government. If they are unconscionable, honesty demands not that they be enforced, but that they be repudiated.

What would constitute an unconscionable public contract must depend, of course, as in the case of private contracts, upon the circumstances—not merely the circumstances in which the contract originates, but also the circumstances in which it operates. Though it be made in good faith, yet if it operate unconscionably, it is a fit subject for repudiation.

Without undertaking to enumerate

the kinds of public contracts that ought thus in honesty to be repudiated, we may suggest two by way of illustration. Public debts that extend over generation after generation, sucking taxes in the name of interest from people born long after the principal has been expended for purposes that do not concern them, clearly belong in the category of repudiable public contracts. Permanent public debts are dishonest. The second example is franchise privileges. Franchises created by a dead and buried generation, by whose favor and upon whose authority the beneficiaries levy tribute upon people who had no voice in creating the franchises or in fixing their duration, may be repudiated without dishonesty. It is dishonest not to repudiate them.

Repudiation is a sacred right of the people. It is a right which must not be dishonestly exercised, to be sure; but likewise it is a right which must not be dishonestly neglected. Whoever couples this right with breach of public faith, as if the terms were interchangeable, gives aid and comfort to the worst class of enemies the people ever had. So does he who invokes it frivolously. The right of repudiation is a reserved right which the people should learn to respect; and one which, that it may command respect, should never be identified in speech with what is immoral, or be invoked for the redress of trivial or doubtful grievances. As the queen's arm of the old frontiersman hung upon its pegs above the hearth, never taken down for wanton attack but always ready and effective for defense, so should the reserved right of repudiation be cherished. It is the old queen's arm of a free people, menaced on all sides by aggressive and merciless legalized monopolies. If it be not cherished, the freedom of posterity will be bargained away, and the nation's destinies will fall under the sway of "the dead hand."

NEWS

Peace negotiations are nearing a favorable end. It was the 26th of last month when the French ambassador, acting in behalf of Spain, formally presented peace proposals to President McKinley; and on the 2d of the

present month, President McKinley in response officially posted the terms offered by him. These terms, as stated last week, required the unconditional relinquishment of Cuba, the cession of all other West Indian islands, the concession of one of the Ladrones islands, immediate evacuations, and the occupation by the United States of Manila pending a treaty to determine the final disposition of the Philippines. On the 7th, Spain forwarded her reply to Paris, to be there translated and put into cipher for cabling to the French ambassador at Washington. The reply began to reach him in cipher on the 8th, but it was not until late in the afternoon of the 9th that it was delivered to President McKinley. Spain accepts the conditions of peace exacted by the United States, but couples her acceptance with suggestions as to the details of the treaty, the character of which suggestions has not yet been officially divulged. Her reply is said to have contained some 1,200 words.

At a meeting of the cabinet, which was called at once to consider Spain's reply, it was decided to prepare a protocol, the diplomatic name for the preliminary draft of a treaty, as the basis for terminating hostilities; and on the 10th Secretary Day communicated the text of one which he had prepared. Upon the signing of this protocol by the French ambassador, under the authorization of the Spanish government, the war will end.

That the Spanish government regards the war as already practically at an end is evident from a recent proclamation of Gen. Blanco, the Spanish captain general of Cuba, which announced that Spain had sued for peace and that there would be no further use for soldiers. Gen. Blanco explained the situation by saying in his proclamation that Spain was forced to seek peace by the European powers. She could not go to war with all countries at once, he said, and so was compelled to act under their dictation.

No halt, however, has been made by the United States in the movements under Gen. Miles in Puerto Rico. Last week the main body of our army in Puerto Rico was within six miles of Coamo, on the military road leading to San Juan, and a battle was expected in the passes farther north, near Aibonito. As yet that