to turn the president into a king for four years. He was intended to be the head business man of the government. Not only does Mr. Roosevelt show the right spirit in rejecting guards and other kingly paraphernalia, but this makes his life more secure. The psychological effect upon men with a mania for assassinating rulers, of a course of life in the presidential office which makes the president appear to the public as a business man instead of as a ruler, cannot but be wholesome.

LANDMARKS OF LIBERTY.

Without in the least minimizing the public dangers of which the assassination of President McKinley gives warning, all thoughtful persons who believe in popular government will see in the reaction toward imperialism which that crime has intensified and emboldened, far greater dangers than such crimes themselves involve. We do not refer to the lawless spirit of anger and revenge which has recently paraded with the sorrowful and passed for grief. That is only the spirit of the mob; it has no lasting qualities. What we refer to is the imperialistic purpose, hitherto unpopular and restrained, but in consequence of the murder of the president now freely expressed and widely applauded—the purpose to abolish free government in this country.

I.

The Virginia constitutional convention has set the example. By an almost unanimous vote, it proposes to abolish in that state the constitutional guarantee of free speech, one of the bulwarks of free government and a landmark of liberty of which the great statesmen of Virginia have always been eminent defenders.

This reactionary movement is not confined to Virginia. The Western Society of the Army of the Potomac, which exists to perpetuate the memories of a bloody civil war, demands in formal resolutions that—

adequate legislation be enacted wherein liberty of speech and right of assembly shall be clearly defined and regulated, the alien doctrine of anarchy suppressed, and all supporters of this political heresy banished from the United States and its territories forever.

President McKinley's old comrades, the 23d Ohio regiment, demand also by resolution that a law be enacted—

banishing all anarchists from the United States.

The chairman of the republican state committee of New York announces that a law will be speedily passed in his state—,

defining anarchism and providing severe penalties for all anarchists.

He predicts that similar laws will be passed in all the other state legislatures.

The Chicago Turn Gemeinde, a large and influential organization, while expressing its appreciation of the blessings of free speech and liberty of the press, deliberately declares in resolutions:

We realize that these blessings are abused by unreasoning and irresponsible persons, and therefore advocate laws which will restrict such abuses.

The State League of Republican Clubs of Pennsylvania demands that congress stamp out anarchy and uproot its causes, naming as among these causes—

the defamation of private character, the vilification of public officials, the reckless criticism of the legislative, administrative and executive branches of government and the outrageous cartooning of public and private characters for ridicule, malice or profit.

And here comes a religious organ (Baptist) with a proposition to set up a Russian censorship. This paper is the Christian Herald, of Detroit. We quote from its issue of September 12:

Is it not time that there should be censorship of the press? The supreme court of the United States has declared public health and public morals of first importance. It has defined the police power as unlimited in the preservation of these civic and personal rights. We have a department of agriculture, justice, war, interior, post office, treasury, with a cabinet officer in charge of each. We have commissioners of education, pensions, internal revenue and taxes, why not a department of press censorship in the interests of public morals and the safety and well being of society.

Further quotations would be an unnecessary draft upon space. These are samples of thousands that might be made, as the intelligent reader knows. He needs only to be reminded of it to recognize the fact that newspapers, preachers, lawyers, politicians, and a thoughtless populace everywhere have, by speeches, resolutions and interviews been demanding legislation of various kinds against free speech, the purpose, generally declared and always understood, being to suppress anarchism and to exclude, exile and punish anarchists.

Not only is it proposed for this purpose to abolish free speech and to establish a press censorship, but there is also a demand for the overthrow of another landmark of American liberty by amending the federal constitution so as to make anarchism treasonable and anarchists punishable as traitors.

Naturally, the average man asks himself why these precautions against anarchy should not be taken.

To his imagination an anarchist is an ill-kempt person of forbidding visage, with a shock of uncombed hair upon his head, a bloody knife between his teeth, a pistol in one hand and a torch in the other, while every pocket bulges with dynamite bombs. This is the picture which incendiary newspapers of the respectable sort have made for him. Even if sensible enough to know that it is a caricature he is not as a rule well enough informed to understand that the caricature is vicious.

For he sincerely believes that anarchism is a theory of no-government, to be realized by assassinating and terrorizing the conspicuous agents of government. This conviction has been fixed in his mind partly by assassinations of rulers by persons who declare themselves anarchists, partly by anarchist speeches which he has not heard but garbled reports of which he has read in his paper, partly by editorial and police misrepresentation, and partly by the assurances of persons who know no more about the subject than he does, but who impose upon him by looking profound and talking wise.

And unfortunately there is something to justify this common notion of what anarchism is. Some anarchists do believe in murdering public officials. Some anarchists do advocate this method of warfare against all government—republics as well as absolute monarchies. Some anarchists do join in plots to kill.

But be his conception justified or no, the average man not unnaturally

wonders why anybody should object to stamping out such a terrible conspiracy and punishing such detestable criminals. In charity to him let it be remembered that he knows little of the history of the struggle for human liberty, and nothing at all of its philosophy. The narrative may interest him here and there with its dramatic incidents, but he has no conception of its relation, otherwise than chronologically, to his own time, place and circumstances. "Sufficient unto the day is the evil thereof," is his motto, and he gets him to his breadfruit tree. Why bother about history, or the landmarks of liberty, he asks, when here and now there is a snake to be scotched?

It is upon such meat that tyranny has fattened and thrived since long before the struggle for liberty began. For security from a little temporary danger, the very essentials of freedom have been bartered away, again and again, by the profligate posterity of freedom loving and heroic ancestors. Shall that experience be repeated at this time and in this country? It cannot be repeated if only the masses of the people, aye, if only file leaders of all political parties, will but stop and think. Let them reverse this fatuous question of the average man. Instead of asking why drastic laws against anarchists should be objected to, let them ask why they should be demanded.

II.

At the outset in the search for an answer to that question it may be assumed that anarchism and anarchists are all that the average man pictures them to be. We may start, that is, with the supposition that all anarchism is a philosophy of murder and that all anarchists are cowardly and dangerous assassins. We may take Czolgosz and his instigators, if he had any, as the type. We might agree also, as all good citizens will, that it is of the utmost importance to suppress this species of crime and to rid ourselves of this kind of criminal. Let all this be understood. Yet the question remains, Why should there be a demand for repressive laws?

Existing laws abundantly meet the case. If an anarchist kills, he commits murder; and our laws provide for the crime of murder. If others conspire with him, they also commit murder and can be punished along with the principal. If an anarchist attempts to commit murder but fails, he is amenable to laws that already exist. If he conspires to commit murder, and the slightest act in pursuance of that conspiracy is done, either by him or any of his associates, even the making of a speech or the publishing of a paper, a pamphlet, a circular, an editorial or even an item of news, with that intent, the law takes cognizance of his criminal purpose. And though he is free to speak, to write, to print and to publish, he is responsible to the law for making criminal use of that freedom. There is, in brief, nothing whatever that murderous anarchists can do in furtherance of their murderous designs, which is not covered by existing criminal law. Why, then, the question recurs, should further laws be enacted?

Is it because the penalties under existing laws are too mild? There are several answers to that. As to murder, the penalty already in most states is death; and nothing more severe would be tolerated upon the statute books. For unsuccessful attempts at murder, the penalties may be too light; but that defect in the criminal law can be corrected without abolishing free speech or making anarchy treason. What reason, then, we repeat—what reason is there for the demand for constitutional changes?

Is it because conviction is too difficult under existing laws? Surely that cannot be the point. Difficulty of conviction raises a question not of a new crime but of security in all cases for the innocent. There must be a jury and it must be unanimous. Can we afford to change this rule, trusting to a bench of judges or a majority of jurors to shield the innocent? The jury must be impartial. Shall we abolish that rule and make it a rule of law to select juries expressly to convict? The crime must be proved affirmatively and beyond a reasonable doubt. Would it be wise to set that requirement aside and enact into law the code of the lyncher, who hangs or burns on mere suspicion? The accused must have been of sane mind when he committed the crime for which he is upon trial. Shall that principle of the criminal law be abrogated? Possibly it should be. We refrain from discussing the point, because our laws can easily be changed so as to authorize convictions regardless of sanity, without effacing landmarks of liberty; and it is the question of effacing those landmarks that we have now under consideration.

These reasons do not furnish the slightest pretext for making fundamental changes in order to stamp out murderous anarchy. Why, then, should such changes be demanded? Observe that the crucial question is not why they should be objected to, but why they should be demanded. Why demand revolutionary changes for a purpose for which existing law is as adequate in every major respect as human law can be, and may be made so in every minor particular without setting aside the landmarks of liberty?

There is, we think, a simple but evident explanation.

The reason that revolutionary laws are demanded for the suppression of anarchy, when existing laws meet every legitimate requirement unless it be in some minor and easily corrected particulars, is twofold. In so far as this is a popular demand, it is due to popular ignorance of existing law and of the history of those landmarks of liberty which the proposed laws against anarchy would efface. In so far as the demand is not due to ignorance, it does not contemplate the suppression of murderous anarchy at all. Its object is to stifle unpopular opinions.

The Bar Association of Chicago, for instance, knows full well that the existing laws of homicide and conspiracy would be as effective for the restraint and punishment of murderous anarchists and the suppression of "red anarchy" as any law which the best lawyer among them could draw against anarchy and anarchists of that kind alone. But those are not the kind of anarchists it is especially desired to suppress. The real objective is anarchists who do not believe in murder, who do not advocate it as a method of opposition to government, who do not countenance it

but do denounce it, yet who teach that government is a weapon in the hands of the few for the oppression of the many, and should therefore be abolished.

This species of anarchy is simply the extreme of the Jeffersonian doctrine that "that government is best which governs least." But it is against its advocates that all these demands for drastic laws are really leveled. So the Chicago Bar association declares its abhorrence not merely of assassination, but—

> of the doctrines, when and however expressed, the demonstrated tendencies of which are in open hostility to all governmental authority, and the results of which find their development in such acts of desperate violence and crime as is illustrated in the death of President McKinley.

That declaration is guardedly drawn, doubtless because there are lawyers of high standing in the Chicago Bar association who would protest against any pronounced declaration for the suppression of opinions on government. But under all the circumstances the meaning is clear enough.

It has been phrased very frankly by David B. Hill, once governor of New York, later a senator from that state, and still a candidate for the Democratic nomination for president. Mr. Hill unreservedly asserts that no "fine spun distinctions" should be drawn between murderous anarchists and philosophical anarchists—between anarchists who advocate assassination and those who advocate the abolition of government by peaceably abstaining from participation in its operations. He would class both as one in the criminal law and punish and suppress them alike.

It is evident that Mr. Hill's impatient brushing aside of what he is pleased to call "fine spun distinctions" between murderous and anti-murderous anarchists, fairly represents that public sentiment which is demanding revolutionary changes in our laws. It is not the murderous anarchist, with his bombs and incendiary writings and speeches, whom it is intended to suppress. It is the philosophical anarchist, with his peaceable assemblages and his lawful discussions. Not murderers like Czolgosz, but lovers of their kind like Tolstoi.

Let it be observed, in passing, that the impelling motive for trying to silence philosophical anarchists is not because they declaim against government. That would arouse neither fear nor antagonism. It is the plea they make, namely, that government is the instrument which enables the few to oppress and plunder the many.

They point to trusts, for instance, as an institution that would die of inanition if government were abolished and competition thereby freed. And in doing so, they vigorously denounce the social conditions, attributed by them to government, which maintain a few idle or worse than idle rich at the expense of millions of working poor.

That is what hurts. That is the thing to be suppressed. Talk of that kind "arrays class against class." It makes the many feel that "their incapacity and weakness is the result of a tyrannical social system." It inflames men like Czolgosz, "embittered by the sharp struggle for existence, to the commission of hideous crimes." It "sows seeds of discontent" among the "prosperous" poor, and disturbs the serenity of the privileged rich. It unsettles society at the base, and weakens government at the source. That, we submit, is by no means an unfair interpretation of the real objection to philosophical anarchists.

Now, under existing laws, philosophical anarchists cannot be restrained nor punished. So long as free speech is constitutionally guaranteed, no one can lawfully forbid their assembling and making or listening to expressions of opinion, even if the opinions are opposed to government, for it is no more criminal to advocate abolition of government than to advocate restraints upon government. In America, as the law now exists, speakers are responsible to the law only for criminal utterances actually made and riotous assemblages actually riotous. So long as men may constitutionally act together freely for any purpose, without danger of prosecution for conspiring against the government, being responsible to the law only for actual crime committed, advised or encouraged,—so long peaceable anarchism cannot be suppressed. And that is the reason—not fear of assassins or the instigators of assassins, for whose conspiracies and crimes the criminal law is already adequate—why revolutionary changes in the law are demanded. That is the reason why it is proposed to abolish constitutional guarantees of free speech, to exile anarchists, and to enlarge the crime of treason. The object is to silence anarchists of the peaceable sort.

But blind indeed must that man be who sees in this programme only a move against anarchists. The sentiments of philosophical anarchists that really make their speeches objectionable to the plutocratic engineers of this conspiracy against free government in America, are cordially shared by every one who opposes the political and economic influences which are everywhere making a few rich through privilege and keeping the many consequently poor. This crusade of plutocracy, nominally against anarchists, is in reality against all who express those sentiments. It includes, also, such as oppose the policy of conquest, colonialism and imperialism. Indeed it includes all who criticise with any vigor at all the political party which happens to be in power.

Is this not so? If not, why has the assassination of President McKinley been coolly charged to Bryanism? If not, why is it traced to Bryan's speeches criticising the imperialistic policy upon which our republic has embarked? and the inequitable distribution of wealth which its laws promote? If not, why has it been charged to anti-imperialists? If not, why has it been charged to public men and private men upon no other basis than that they have spoken against conquest, against militarism, against colonialism, against trusts and against other public policies that tend to subvert the principles of liberty and to make the few rich at the expense of the many?

Let there be no mistake. This movement for the abrogation of constitutional guarantees of free speech and for the creation of a new form of

treason—or rather, the revival of an old one,—has for its object larger game than philosophical anarchists. No effective law to suppress philosophical anarchists can possibly be drafted which would not be a most powerful weapon for any party in power to use against the opposition.

III.

The proposition to make it treason to commit an assault upon the president, would, if adopted, be one of the hardest blows possible to level at American liberty. It is freighted with even greater danger to individuals than is the abrogation of the right of free speech. For if it were treason to make an assault upon the president, then, an assault being made, everyone who could be connected with its perpetrator personally or shown to have spoken or written vigorously against the president's policy, would be subject to trial as a traitor. What a drag net that would be for catching in its meshes patriotic men who were distasteful to a corrupt administration at Washington! Speakers and editors would speak and write with a sword hanging over their heads or a noosed rope dangling menacingly before them. They could never know when the "confession" of a crazy assassin and the malice of political enemies would not torture their legiti criticisms into words counseling treason.

Nor is it necessary to guess that this would be so. The constitutional provision respecting treason has a most important history—a history so important that if our people were half as familiar with its general outline as they are with more dramatic incidents of their country's history, no public man would dare, under any circumstances, to propose a broadening of the existing constitutional definition of treason.

This definition will be found in article iii., sec. 3, of the federal constitution. It reads:

Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort.

It was by no accident or indifference that treason was limited to those two acts—levying war against the states and adhering to their enemy. The limitation was most deliberately made.

When defining treason the framers of the constitution turned to the English treason statute of the 25th year of the reign of Edward III. In that statute several acts are denounced as treasonable, but only three are relevant to this discussion. They are as follows:

(1) "'When a man doth compass or imagine the death of our lord the king"; (2) "if a man do levy war against our lord the king in his realm"; or, (3) "be adherents to the king's enemies in his realm, giving to them aid and comfort in the realm or elsewhere."

From these three acts of treason, the framers of our constitution chose the latter two, and, adapting them to the republic, made treason to consist (1) in levying war against it, and, (2) in adhering to its enemies. They deliberately omitted everything else which the statute of Edward specifies, including the clause which makes it treason to connive against the head of the state—the very act which it is now proposed to add to our list of treasons.

Mr. Curtis, in his history of the constitution, gives this explanation of the omission:

The levying of war against the government, and the adhering to the public enemy, giving him aid and comfort, were crimes to which the government of the United States would be as likely to be exposed as any other sovereignty; and these offenses would tend directly to subvert the government itself. But to compass the death of the chief magistrate (etc.) . . . . however necessary to be regarded as treason in England, were crimes which would have no necessary tendency to subvert the government of the United States, and which could therefore be left out of the definition of treason. . . . .

In fact there was a deeper reason. The framers of our constitution were well aware of the oppressive interpretations that had been put by English courts upon the English statute. They knew that English courts in treason cases were, as Hallam writes, "little better than the caverns of murderers." They knew that the clause making it treason to compass the death of the king, and the judicial theory of constructive treason to which it gave rise, make black pages in English history. They so framed the American definitions, therefore, as Judge Cooley writes in his Principles of Constitutional Law, that, "if the attempt to revive constructive treason should be made, the constitution by this clause provided against it as far as possible."

It is in the face of this history of the American doctrine of treason that we are now asked to reverse the deliberate judgment of the framers of our constitution, by incorporating into that instrument an adaptation of that clause of the English statute, rejected by them, which makes it treason to "compass or imagine the death of our lord the king."

IV.

Of like unpatriotic character are the schemes proposed for suppressing free speech. After centuries of struggle, English-speaking peoples have secured the right of free speech and free press—two rights which are and have long been considered as essentially one. Other peoples have not secured these rights yet. In nearly all the countries of continental Europe they are at best but precarious rights, and in Russia the censorship is strict enough to satisfy the desires even of the Marquette club of Chicago. But in England the accession of William and Mary, a little over 200 years ago, marked the beginning of the end, among peoples of our speech, of that era of thought-suppression which recreant Americans now seek to revive.

William and Mary came upon the throne of England not as heirs to the English crown, but as heads of the state voluntarily chosen by the people and subject to constitutional restraints. "Divine right" was at an end. And though the bill of rights, which these elected monarchs accepted as binding upon them, made no specific provision for free speech and free press, yet a degree of freedom of press and speech began with this reign. The king no longer arbitrarily suppressed obnoxious publications. But the judges now assumed the role of censors. They could not prevent publications; but they could punish publishers after publication. This they managed to do, and over the heads of

jurors at that, by usurping a function of the jury. They held in libel cases that the province of the jury was only to determine the fact of publication, andwhether the libel meant what it was alleged in the indictment to mean; and not whether the meaning were criminal or innocent. The latter point they held to be a question of law which the court exclusively was competent to decide.

Under the cover of this holding the courts of that time came up to the fullest requirements of our own reactionaries. They protected not only the head of the state from criticism, but his ministers and other agents. To traduce the queen's ministers was held, in the reign of Queen Anne, to be a reflection on the queen herself; and any publication calculated to give the people an ill opinion of the government, however general and non-personal its bearing, was punishable as a libel. This usurpation of the judges lasted in England a century. It was abolished in 1792 by an act of parliament which invested juries with the right to find a general verdict in libel cases, not only upon the fact of publication and the meaning of the libel, but also upon the law—whether the publication were libelous or not.

Meanwhile this judge-made law of England, that the court and not the jury determined the criminal character of publications alleged to be libelous, had been imported into the American colonies. By its means a burdensome censorship of the press was maintained for the protection of oppressive and corrupt colonial officials sent over from London. Subservient colonial judges held with the English judges that the jury must take the law as to what constitutes libel from the court; and, also following the English judges, that the truth of a libelous publication could not be proved in justification. It was as bad a libel or worse if true than if false. The colonial press was thereby gagged. No matter how corrupt an official might be, to criticise him publicly was to incur criminal penalties.

But one brave printer refused to be intimidated. His name was Zeisler, He lived in New York city. A score or so of years before the outbreak of the American Revolution he exposed and criticised the colonial administration of the colony through the columns of his paper. An indictment for libel followed. The people were with him, but the government was against him, and it retained every lawyer in New York to prosecute. Zeisler was unable, consequently, to get a defender at the local bar. But his friends sent to Philadelphia for Alexander Hamilton—not the more famous man of a later day, but the greatest lawyer of his time in the colonies. There was no defense which the judges would consider. Zeisler had published the criticisms. They meant what the indictment charged them with meaning. They were true and just, but the judge held this to be immaterial. So Hamilton met the matter boldly by turning away from the judges and appealing to the jury to decide the law as well as the facts of the case themselves. The judges directed otherwise, instructing the jury that the publication was libelous and that it was their duty to find a verdict of guilty. But the jury, responding to Hamilton's appeal, acquitted Zeisler.

So intense had been public feeling in favor of Zeisler, that this verdict virtually broke down the suppression of press and speech in the colonies, and made the Zeisler case one of the decisive events in the history of the country. Free press and free speech became cherished rights in the minds of the people. It was not remarkable, therefore, when the federal constitution appeared with no clause protecting from attack by the central government these and other rights essential to civil and religious liberty, that it excited for that reason great public opposition and came near failing of adoption by the necessary number of states. In consequence of this opposition and the recommendations of some of the important states a bill of rights was added to the constitution within two years after the establishment of the federal government. It consists of the first ten amendments, wherein is found the emphatic expression of the American sentiment on the subject herein under consideration—

Art. 1. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Notwithstanding this precaution, however, it was not long before congress undertook to override this guarantee of free speech. The circumstances were not unlike those of the present time; the object, however, of the popular animosity then being Frenchmen, whereas now it is anarchists.

This was in 1798. Public excitement over the rude behavior of the French Directory toward the American envoys ran high; and the Federalists, reinforced by what we should now call "jingoes" from the other party, were loudly demanding that the country join England in her war against France. All who opposed this policy, and there was a large minority, were denounced by the majority as Frenchmen and traitors, somewhat after the manner of many Republicans to-day who denounce as traitors and anarchists all who protest against making President McKinley's assassination an excuse for throwing away the essentials of free government. The press of the [illegible]city replied with counter denunciation. President Adams being among the officials attacked. At this juncture, a Federalist congress passed and the Federalist president signed what is known to history as "the sedition law," which is thus summarized by Prof. McMaster (in vol. ii. of his "History of the People of the United States"), a historian whose Federalistic sympathies are a guarantee that he has not made the law to appear worse than it was:

This act was . . . directed against seditious acting, speaking, writing, publishing, and putting in print. Henceforth any hothead who conspired with intent to oppose a law of the United Staets, who, by intimidation, hindered any person holding place or office from doing what his duty required, who caused, advised, even attempted to procure, any insurrection, riot, or unlawful gathering, behaved seditiously, was guilty of a high crime and misdemeanor, and might, on conviction, be fined as much as $5,000 and imprisoned for as long a time as five years. This, in the eye of the law, was the worst form sedition

could take, and next to it came writing, printing, uttering, publishing or causing, procuring, or willingly and knowingly helping anyone to write, print, or publish any false, scandalous and malicious writing against the government or against the senate or the house, or the president of the United States, with intent to defame and bring them, severally or collectively, into disrepute. For this offense the greatest fine was $2,000 and the longest term of imprisonment two years. The offender might at the trial give the truth of the matter contained.

This law had been preceded by a few days by one aimed at Frenchmen coming to this country. The latter is associated historically with the former, and the two together are known as "the alien and sedition laws."

The alien law, like the sedition law, bears such a striking analogy to the legislation now demanded for the suppression of anarchists that we are sharply reminded of the old saw about history repeating itself. Under "the alien law," we quote again from Prof. McMaster—

> the president was vested with power to send away all such aliens as he judged dangerous to the peace and safety of the United States, or had reason to think were hatching treason or laying plots against the government. Should anyone so ordered to depart be found at large, without a license to remain, he might be imprisoned for three years and could never become a citizen. Aliens imprisoned in pursuance of the act were subject to removal from the country on the order of the president, and on voluntarily returning to reimprisonment for such time as the president might think the public good required.

It must be matter of profound regret to the imperialists who are now trying to make the anarchistic scare a leverage for prying up the essentials of liberty in this country, that the "alien and sedition laws" are not still in force. But those laws did not last long, and they ruined the Federalist party, which was responsible for them. Though that party was as dominant in 1798 as the Republican party is today, and was as confident of remaining in power, it met inglorious defeat in 1800. McMaster says that—

> the sedition law was most untimely and unwise. Had the Federalist congressmen assembled in caucus and debated by what means they could make themselves more hated than they had ever been before, by what means they could destroy their present powers, by what means they could turn thousands of "black cockaders" [the Federalist badge] into bitter and inveterate foes, they could not, by any possibility, have found a means so efficient as the law against libelous and seditious writing. Hamilton saw this plainly, and begged them not to set up tyranny. Energy, he reminded them, was one thing; violence was another. But they would not listen to him. Their faces were set toward destruction. And from the day the bill became a law, the Federal party went steadily down to ruin.

If there is in that episode no warning to the Republican party of our day, in this crisis when free press and free speech are being again assailed, then is history void of all warning.

V.

Writing of the bill of rights in the federal constitution, Judge Cooley, in his "Principles of Constitutional Law," concludes that—

> freedom of public discussion was meant to be fully preserved; and that the prohibition of laws impairing it was aimed, not merely at a censorship of the press, but more particularly at any restrictive laws or administration of law whereby such free and general discussion of public interests and affairs as had become customary in America should be so abridged as to deprive it of its advantages as an aid to the people in exercising intelligently their privileges as citizens, and in protecting their liberties. The freedom of the press may therefore be defined to be the liberty to utter and publish whatever the citizen may choose, and to be protected against legal censure and punishment in so doing, provided the publication is not so far injurious to public morals or to private reputation as to be condemned by the common law standard, by which defamatory publications were judged when this freedom was thus made a constitutional right. And freedom of speech corresponds to this in the protection it gives to oral publications.

It does not follow, of course, that state legislatures are thus restricted; for the bill of rights in the federal constitution is a restraint only upon congress. But the spirit which prompted the federal guarantee of free press and free speech was the American spirit of liberty, and an attack upon it anywhere in this country is reactionary. Judge Cooley's statement, therefore, is what men imbued with the spirit of American liberty must stand by in state as well as in nation.

Only when the public peace is broken by print or speech, or when private rights are assailed or common morals defied, must government be allowed in any way to interfere with speaking and writing. The right to express opinions must remain inviolate. That is the American principle. That is one of the essentials of liberty which our fathers won and we inherit.

Should the unpatriotic effort now making to destroy this inheritance succeed, should conspiracy against the person of the president be made treason and the right of free speech be abolished, it will be for no other reason than the ignorance of the masses of the people. Not ignorance of reading and writing, not ignorance of the things that would give the right to vote under educational tests, not ignorance even of history in respect to its incidents. Not ignorance of those kinds. But an ignorance far more dangerous to the commonwealth, an ignorance which the learned share with the illiterate—ignorance of the lessons which the history of Anglo Saxon struggles for liberty teach. This kind of history is not taught in our schools. If it were, free speech, free press, free assembly, and security from prosecution for constructive treason would be as dear to the hearts of the people now as they were to those who fought for our independence, who framed our constitution, and who in overwhelming numbers overrode those earliest attempts at anti-anarchist legislation which hold an infamous place in our political history under the name of the alien and sedition laws.

Conspiracies to overturn the government by force are already punishable as every lawyer knows. Seditious publications promoting such conspiracies are punishable if an overt act be committed. That, also, every lawyer knows. Libels upon officials or candidates are punishable if both false and malicious. Writings and speeches advising crime are likewise punishable. So is every other crime with which anarchists are charged. These laws should be enforced. But further than that the law cannot go with safety to free government.

To go further is to involve society in greater dangers than the most virulent anarchists could possibly contrive. The safety of society demands that discussion shall be free, even though the perpetuation of the government itself be debated. "The right of the people," says Judge Cooley, "to change their institutions at will is expressly recognized by federal and state constitutions, and this implies a right to criticise, discuss and condemn." These rights are essential to freedom of conscience, and free government can rest only upon freedom of conscience.

But, as has been often and truly said, "freedom of conscience must include not only the freedom of belief, but also the freedom of unbelief." It would be absurd to say that we may discuss the wisdom of having this government or that, but must be silent upon the subject of whether government of any kind is just and wise. At this point intelligent and patriotic Americans will agree with Zenker, who, though utterly opposed to anarchy, has written a judicial and scholarly book on "Anarchism" (published by the Putnams), wherein he says that—

> **the right of freedom of opinion must not be confined merely to the forms of the state: one should be equally free to deny the state itself. Without this extension of principle, freedom of thought is mockery.**

For ourselves we disagree with those who deny the state. We believe that their philosophy is unsound. While recognizing its force and accepting its principles in so far as they relate to matters of individual concern, we believe that there are matters of common concern which necessitate government. But if they are to be converted from their views, we hold that it must be done by argument and not by penal laws, by free discussion and not by censorship. We repeat and adopt the patriotic words of Father Thomas E. Cox, of Chicago, uttered at the McKinley memorial meeting in this city last Sunday, when he said: "America symbolizes liberty—freedom of speech, freedom of worship, and a free press. If a republic cannot foster these and flourish, it cannot exist at all."

NEWS

The funeral of the late President McKinley being over, attention turns to Leon F. Czolgosz, his assassin. As noted last week, the grand jury of Erie county, New York (the Buffalo county), found against Czolgosz on the 16th an indictment of murder in the first degree, for having assassinated President McKinley. Being immediately arraigned, Czolgosz refused to plead personally, and one of the counsel assigned to him by the court entered a plea of "not guilty." The trial was then set for the 23d, and on that day it began. Before the jury had been impaneled, the district attorney read the indictment to Czolgosz, in open court, and asked whether he was guilty or not guilty. In a low voice the prisoner replied: "Guilty." But in New York judgment cannot be pronounced in capital cases upon a plea of guilty; so the jury was impaneled and the trial proceeded as if the plea had been "not guilty," except that the lawyers for Czolgosz made no effort to secure an acquittal or reduction of the grade of crime. They concerned themselves simply with seeing that the forms of law were properly observed and that the jury was advised to act with discretion and not with passion. The trial occupied two days, the jury bringing in its verdict late in the afternoon of the 24th. The verdict was, "Guilty of murder in the first degree as charged in the indictment." Sentence will be pronounced on the 26th.

While Czolgosz was upon trial in Buffalo, Miss Emma Goldman and Mr. Isaak and his associates as publishers of Free Society, who had been charged in Chicago with complicity in the assassin's crime, were formally and unconditionally released from custody. The arrest of these people was reported two weeks ago, at page 361, and the circumstances were further explained and discussed at pages 369 and 375. At the last report (p. 375), all but Miss Goldman were before the court on habeas corpus proceedings, the hearing in which had been adjourned to the 23d. Appearing before the court at that time, the prosecuting officer consented to the discharge of the prisoners. He explained that they had been held in custody since their arrest upon no evidence whatever, but simply upon the telgraphic request of the police authorities of Buffalo. On the following day, the 24th, Miss Goldman also was released, the committing magistrate having decided to allow the action in the other case to govern in hers. No attempts to molest any of the prisoners were made after their release, though written threats to murder them, coming from anonymous sources, had been made. A police guard which the authorities offered them from the jail to their home they refused.

A brief interruption of the Schley-Sampson inquiry (p. 375) occurred on the 24th. It was occasioned by the sudden death of ex-Judge Wilson, one of Admiral Schley's counsel. Proceedings were resumed, however, on the 25th.

Part of the aftermath of the steel strike, settled on the 14th (p. 376), is a statement of all the circumstances by President Shaffer. Mr. Shaffer attributes the failure of the strike to malicious misrepresentations by the newspapers, to treachery on the part of members of the Amalgamated association, and to the questionable loyalty of the American Federation of Labor. Mr. Shaffer describes in this statement the terms of settlement, but they are too technical to be understood without a longer explanation than the cirmustances call for in these columns.

In Chicago a movement has begun for the release, through American influences, of the reconcentrado prisoners held by the British in South Africa. This movement was started before the assassination of President McKinley, and has been delayed out of respect to his memory. On the 23d, however, a public meeting was held, which decided to call a large meeting at the Auditorium at an early day for the consideration of and action upon a series of resolutions which this initial meeting adopted. The resolutions quote from the London Standard the following news item:

> **At the end of July the total number of people in different camps in the Transvaal was 62,479, of whom some 10,000 were men, over 23,000 women and over 28,000 children of from one to twelve years of age. The total number of deaths in July was 1,067, of which 860 were children. In the Middleburg camp alone there were 342 deaths, mostly from measles. At Potchefstroom, where there is also**