

Secretary Olney as a member of McKinley's cabinet. Of course, Cleveland's was intended.

This policy of publishing secret documents of the federal departments from time to time as they may seem to be useful for campaign purposes, is followed now by the publication also of Mr. McKinley's instructions to his Philippine commission. The evident object of this publication is to show the American people what a beneficent government Mr. McKinley has aimed to bestow upon the Philippine "tribes." But this act is altogether too transparent. It is not the American people that need to be impressed, except for campaign purposes. The Filipinos are the people who must be convinced of Mr. McKinley's beneficent intentions if we are to have peace in their islands. The proper time, then, for making these instructions public, was when they were issued to the commission, which was nearly six months ago. Publication at that time might have melted the hearts of the Filipinos and brought them submissively under Mr. McKinley's yoke. But at that time Mr. McKinley, the president, concealed them. Instead of showing the Filipinos how kind his intentions were, he put on the front of a conqueror and demanded unconditional surrender—unconditional in all respects except that prompt surrender should be rewarded with pardon for "rebellion." It was not until the political campaign at home had opened that Mr. McKinley, the candidate, thought best to publish this important document. Issued to the commission on the 7th of April last, its contents were kept inviolate as a state secret until September 17, when they were allowed for the first time to see the light of day. Mr. McKinley the candidate then caused Mr. McKinley the president to hand them over to the Associated Press for publication. His purpose is too plain to require much explanation. No reason of state now exists for the publication of those instructions which

did not exist when they were issued. None existed then for their suppression which does not exist now. State reasons, then, do not explain their publication at this time. It can be explained only upon the theory that they were suppressed originally and are published now not for state reasons, but for campaign purposes.

But the disclosure of these instructions to the Philippine commissioners will not serve the campaign purpose for which it was intended. While there is in the set of instructions much phrase-making with a democratic flavor, the whole thing is abhorrently paternalistic. To appreciate this, one has only to remember that the people to whom it most directly relates are civilized Christians, superior to the Cubans, as Admiral Dewey has officially and most emphatically testified, and then to imagine oneself in their place as an object of the paternal solicitude which Mr. McKinley displays in his instructions. In phrase, in tone, in temper, in disingenuous spirit, these instructions are not unlike the admonitions which George III. addressed to his American subjects a century and a quarter ago. If anything more were needed to confirm belief in the imperial purpose of the present administration this set of Philippine instructions furnishes it. From the careless substitution of the phrase "subject to my approval" for "subject to the president's approval," to the final reference to a "sovereignty" under which the Philippine people are placed, but in the administration of which they are not to participate, Mr. McKinley's instructions to his Philippine commissioners make as fine a specimen of paternal imperialism as can be found in the modern history of the most absolute monarchy.

To one point in particular in Mr. McKinley's scheme for the government of our Filipino subjects we wish to call attention as indicating his attitude toward that most sacred of our institutions—trial by jury. It has an important bearing upon home affairs,

in view of the fact that the Hanna-ized republican party stands for government by injunction. While professing to bestow upon the Filipinos the benefits of those "great principles of government which have been made the basis of our governmental system" and "which we deem essential to the rule of law and the maintenance of individual freedom," Mr. McKinley deliberately withholds the right of trial by jury in criminal cases. Enumerating the fundamental principles and rules which are to be applied to the Filipinos, he paraphrases the amendments to the federal constitution, putting the sixth amendment in this form:

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

The omission of trial by jury is transparently premeditated. For in the sixth amendment itself, the guarantee of the right to a speedy and public trial, which Mr. McKinley adopts, is supplemented with the more important guarantee, which he ignores, that this trial shall be "by an impartial jury" of the locality. All reference to that sacred guarantee is omitted from the instructions. Mr. McKinley deliberately and with manifest purpose would deny the right of trial by jury to our subjects in the Philippines when accused of crime.

Without considering any other usurpation in Mr. McKinley's set of instructions, that is enough to condemn Mr. McKinley and his Philippine plan. No more vital rule for the maintenance of the great principles of freedom which form the basis of our government is known to our people than the right of trial by jury in criminal cases. Yet of this fundamental Anglo-Saxon right, this right which has always been regarded as the palladium of our liberties, Mr. McKinley deprives our Philippine subjects, while in the same breath professing to bestow upon them all the

safeguards of American liberty! Liberty is a mockery where men accused of crime can be tried without a jury of their neighbors. Though all our liberties were usurped, yet if the right of jury trial in criminal cases remained, we should be amply armed against tyrannies by the usurper, and might recover all the liberties we had lost. But with that great protective right denied, every other right might melt away without hope of recovery. This primary, this simple, this ancient and sacred guarantee of American freedom Mr. McKinley slyly withdraws from the Filipinos, while ostentatiously professing to bestow many others. But he is consistent in doing so. It is in perfect accord with the policy of his party in supporting government by injunction, whereby the right of jury trial in criminal cases at home is withdrawn from labor strikers accused of crime. In this government by injunction policy, and in Mr. McKinley's plan of government for the Philippines, may be read the steady purpose of this "syndicated president," as ex-Secretary Olney so aptly terms him, to undermine American liberty at home while setting up American empire abroad.

And now, by what authority of law does President McKinley formulate and put in operation any scheme whatever of civil government for the Philippine islands? That he has certain temporary authority over so much of the Philippine islands as was in American military possession when the Paris treaty took effect, is conceded. He has the authority of commander in chief. But American military possession did not then extend beyond "the city, bay and harbor of Manila." It was so provided in the protocol of peace (see senate document 62, Fifty-fifth congress, third session, page 283, to be had of the government printing office at Washington for 35 cents), signed on the 12th of August, 1898, and in force until the ratification of the peace treaty. Before that treaty had been ratified a local government—the Fili-

pino republic—was in possession of all the territory of Luzon outside of Manila, and, except for a few small villages held by Spanish garrisons, of most of the remainder of the Philippine archipelago. What authority, then, did President McKinley have when the Spanish war ended? As commander in chief of the army and navy, it was his duty to continue a military government for the city, bay, and harbor of Manila until relieved by congress. So much is conceded. But what was his duty as to the remainder of the Philippine territory? Since the treaty had ceded it to the United States, was it his duty or had he the right to take military possession against the armed resistance of a third government which already had possession? Clearly not. To do so was to make war, and the war-making power is not vested in the president, not even for the purpose of enforcing treaties ceding territory. It is vested (by the eleventh paragraph of section 8, article 1 of the constitution) in congress alone. In these circumstances the president had no other duty nor legal authority than to continue to govern Manila by military law as commander in chief, and to await the authority of congress to make war upon the government which held adverse possession of the remainder of the ceded territory. Inasmuch, however, as he did make and still prosecutes a war upon the government which succeeded Spain in possession outside of Manila, without first obtaining authority from congress, what legal right has he over the territory he has conquered? May he govern it in any other way than by military law, temporarily, as commander in chief in possession? May he set up civil government there? May he define the civil rights and political status of the inhabitants? Certainly not—not without acting as lawlessly in this respect as he has already done in beginning and prosecuting the war. He has no more right to determine the civil and political rights of the Filipinos under the cession of their

country by the treaty of Paris, than he had without order from congress to wrest their country from them under that cession. For even if we ignore the lawlessness of his previous action in making war without congressional authority, we cannot ignore the fact that the Paris treaty provides in article 9 that—

the civil rights and political status of the inhabitants of the territories hereby ceded to the United States shall be determined by the congress.

Not by the president, observe, but by congress. Yet the president in this set of instructions to the Philippine commissioners (which as president he keeps under lock and key for nearly six months, and as presidential candidate he abstracts from the public files and gives out to the press as a campaign document), usurps the exclusive authority of congress in this respect, and, departing from his military functions, formulates a plan of civil government which deals imperially with both the civil rights and the political status of the Filipinos.

The administration is criticised in some quarters for maintaining an American military government in Cuba pending the organization there of an independent Cuban government. For so long delaying the organization of a Cuban government the administration is certainly culpable, whatever may have been its motives. But it is not culpable for maintaining a military government while the Cubans organize. That course was made necessary by the destruction of the de facto Cuban government that existed when our war with Spain broke out. Here is the primary point of culpability. Upon declaring war with Spain congress recognized this de facto government by declaring that Cuba not only ought of right to be but that she then was independent. But McKinley ignored the Cuban government except to destroy it. After its destruction government by American military authority until a civil government could be established by