

country should begin to realize that they were being trifled with when they were assured that the defeat of Bryan ended the war in the Philippines. The war has ended in the Philippines no more than the war has ended in South Africa. This has been evident for months, and the destruction of a military company only makes the fact emphatic. Shall we ask why the Filipinos so persistently resist our rule? Let every American answer for himself. What would the spirit of 1776 inspire him to do if conditions were reversed?

In reference to the proposition that one of the Philippine islands be appropriated "for a home for all those in the United States who are dissatisfied with our form of government in order that they may form an ideal government of their own, we to pay the expense of transportation," Mr. J. C. Lutz, of Gardner, Ill., asks in the *Chicago Chronicle* of September 19 the following pertinent and pregnant questions:

Would it not be wiser and more just to advocate that the inhabitants of the Philippine islands, who also seem to be dissatisfied with our form of government, be allowed to form an ideal government of their own, and thereby save to the taxpayers in the United States the expense of transportation of dissatisfied people here as well as the expense of maintaining a government in the Philippine islands that the inhabitants of those islands do not want? What moral right have we to take an island from people who have inhabited it for centuries, and bestow it upon dissatisfied people living in this country?

In appointing Prof. Edward W. Bemis as superintendent of the Cleveland water works, Mayor Johnson has taken an important step in the direction of demonstrating the advantages of municipal ownership and operation of municipal monopolies.

Some one proposes changing the name of the Philippine archipelago to the McKinley archipelago. So at least it is reported from Washington. This person, whoever he is, can be no friend of the late president.

THE NATURAL LIMITATIONS OF GOVERNMENT.

Simple as the word "natural" is, so various are its connotations that in writing or speaking which aims at exactness, it cannot be used safely without being first defined. The title of this article, for instance, is just as liable to suggest the idea of primitive limitations of government as to convey the meaning intended. Even scholars of great reputation have been known to sneer at the idea of natural law in the social world as something that passed away with prehistoric man. What they were thinking of, of course, was not natural law, but primitive customs. The difference is great. Primitive social customs do pass away, but natural social laws never.

Everyone agrees that natural law is eternal as affecting matter. No one doubts that the natural laws which govern the movements of a locomotive or the flight of a balloon, the click of the telegraph or the vibrations of the telephone, were as potential before the dawn of history as now; nor does anyone suspect that they will ever pass away. It is only in the realm of the moral and the social that any question arises. And here there is room for question only upon the hypothesis that human nature alone, of all things in the natural universe, is eccentric; that is, that though physical nature is regulated by eternal laws, human nature is not—that with man alone cause does not produce effect, nor effect proceed from cause. Yet who can doubt that human natural laws as well as physical natural laws are eternal? How many reasons there are to believe—and what reason is there to doubt?—that human nature always has been and always will be essentially the same.

If the manifestations of natural law in this field differ at different periods, the law is not therefore peculiar. As the laws of physical nature are differently manifested at different periods—at one time with arrow and bow, at another with powder and gun; at one time with fleet runners, at another with express trains and telegraphs; at one time with canoe and paddle, and at another with steamboat and propeller—so are the

laws of human nature, the natural laws of society. At one time they may be manifested in pastoral life, at another in an agricultural era, at another in an urban civilization, now in dynastic and again in republican forms of government. But everywhere and at all times the laws of human nature are the same. They are eternal and invariable. Given like environment and conditions, and human natural law will produce like results in social relationships as invariably as physical natural laws in a given environment and in given conditions produce like results in mechanics. As certainly as there are natural physical laws, there are natural social laws.

Upon this hypothesis there is a natural law of government. Being an agent of society, government must fall within the jurisdiction of natural social laws. It follows that there must be natural limitations of government. Now, what are those limitations? Or rather, since brevity is necessary, what principles determine them?

In any inquiry of this character, it is best to begin with opposite extremes. At one or the other of these, or somewhere between the two, the truth must lie.

The extremes in this case are anarchism and socialism. Anarchism denies a place for government in natural law; socialism would make government all-embracing.

Beginning with a consideration of these extremes, we find that every one who is not either an extreme anarchist or an extreme socialist, is in some degree both anarchist and socialist. To many persons this may not be a pleasant reflection. But there is only one escape from the dilemma. No verbal contortions will suffice. The only escape is a confession of mental imbecility. He who never thinks about government cannot be charged, of course, with thinking in any degree either as anarchist or as socialist. Out of nothing nothing comes. But men who do not think about government are, out of the very necessities of the case, either socialists or anarchists, or partly anarchist and partly socialist.

It is possible, therefore, to make a preliminary classification of theories of government into three clearly distinguishable ideals. The first is anarchy, or no-government; the second is socialism, or government unlimited; the third includes all theories which contemplate government but place limitations upon its scope.

It is not within the purpose of this article to discuss either anarchy or socialism. Since the one rejects all government and the other places no limitations upon government, neither calls for more than preliminary notice in a discussion of governmental limitations. The question before us is this: Conceding that government is not an arbitrary institution, but has the sanction of natural law, and that its functions have natural limitations, by what rule or principle shall the line be drawn between the natural field of government and the field upon which it cannot enter without trespassing? We are dealing, that is to say, with the third general class of governmental ideals distinguished above, the one which includes all theories that contemplate government but place limitations upon its scope; and are consequently addressing people who are not wholly either anarchists or socialists, but who partake somewhat of the distinguishing characteristics of both.

This class will doubtless agree to the proposition that what is known as the police power is one of the natural functions of government.

By police power is not meant the power of policemen. To some extent that power as now used is included, while to some extent it is excluded. The police power of government consists in the authority to preserve public order. Society cannot exist without order. Disorder is disintegrating. Whatever, therefore, is reasonably necessary to preserve the public order is a function of government. And this necessarily includes protection to private natural rights. Protection from murder and robbery, and from assaults upon person and character; sanitary protection, in so far as public as distinguished from individual health is concerned; and a variety of

other measures, all fall within the police power. If government does not redress these grievances mobs will. Thereby the peace will be broken. And as virile men will maintain their own natural rights in a disorderly way, if government does not protect them in an orderly way, the police power may be fairly generalized as the power of preserving the public peace, and its limitations may be determined by that test. We may say, therefore, that any reasonable provision, one not subversive of natural rights, for the preservation and maintenance of the public peace is legitimately within the police power, and therefore one of the natural functions of government.

Perhaps the class we are now especially addressing, though agreeing that the police power is a natural function of government, will not be unanimous in conceding the next point. But a very large majority will concede it. This point is that it is one of the functions of government to regulate the tenure of land.

Since access to land is an indubitable natural right, for which men will fight and thereby disturb the public peace, this second function might be regarded as involved in the first, as one of the legitimate uses of the police power. But it is of sufficient importance in itself to rank with, instead of being made a subdivision of, that primary function.

To regulate the tenure of land and freely to change methods of tenure as new conditions arise or a better understanding is acquired of the relations of men in society to the planet upon which they live, is one of the functions of government. Rights to land are equal. No individual can set up a better natural right to it than inheres in every other individual. Every child that comes into the world—the babe of the slums no less than the heir of an Astor—brings with him, in right of his existence and the necessities and prerogatives of human life, this equal right to a place upon the bosom of mother earth. But inasmuch as the stronger might disinherit the weaker, government has the function, in the interest of each and in the interest of all, of making these natural rights to the earth

in usufruct inviolate. This is its power of regulating land tenure.

But the land tenure function is not unlimited. Any reasonable regulations intended in good faith to preserve equality of rights to land, are within the natural office of government; but regulations calculated to defeat those rights are what lawyers call "ultra vires"—they are outside the scope of the governmental power. Consequently an absolute and unqualified sale of land by government is by natural law valid as a regulation of land tenure only so long as society acquiesces. It would be absurd, after placing the authority of government to regulate land tenure upon the basis of the necessity of preventing the strong from disinheriting the weak, to concede that government itself may disinherit. The natural right of each as an equal heir to the earth can be abrogated by no power whatever; and to the extent that government assumes to abrogate this right, or to perpetuate such abrogation, it oversteps its limitations and becomes a trespasser.

Another function of government is the establishment and regulation of highways. The highway is as necessary to the life of society as are veins and arteries to individual men. In order that they may properly subserve their uses, every individual must have an equal right to their enjoyment. This necessitates governmental regulation. But here again the power to regulate is limited. Should government deny the uses of highways to particular persons or classes, it would manifestly exceed its powers. But this it does as truly when it gives special highway advantages to particular persons or classes. Though the functions of government extend naturally to the maintenance and regulation of highways, they are limited by their own object, which, in this particular, is to maintain equality of rights of passage and transportation.

The fourth function of government is taxation. This function is incidental to the others. Taxes are, as Mr. Shearman says, the food upon which government lives. If it cannot tax it must die. To believe, therefore, that government has any nat-

ural functions at all, is to concede that the function of taxation, without which it could not exist, is natural also.

When these four functions of government—namely, police power, land tenure regulation, highway regulation and taxation—are named and their limitations considered, all the natural functions of government are named, and all the natural limitations of government are in general considered.

It might be said that some functions of a business character, such as water supply for cities, have been overlooked. But this would be a mistake. They are included in the functions already named. The only legitimate business function of government is in connection with services which cannot be rendered unless government renders them itself through its own employes, or invests private individuals or corporations with power to render them as monopolists. Upon examination these business functions will be found to be either incidental to general governmental action, as official bookkeeping, the constructing and heating and lighting of public buildings, and so on, or subservient to the highway function. The general principle regarding such functions may be stated in this form: When in its nature a business cannot be carried on without governmental permission, that business is in its nature governmental and its management consequently within the legitimate functions of government.

Now it is evident that government has not observed these principles. All governments are sinners in this respect, our own included. On the one hand they neglect functions that are governmental, and on the other they overstep the natural limitations of government and trespass upon private rights. It is this neglect that makes socialism plausible in its demands for more governmental interference, and this overstepping of natural limitations that makes anarchism plausible in its objections to all government.

Under cover of the police and taxing powers, government has invaded the field of private life and pri-

vate business. It taxes private occupations, for instance, to raise public funds which it should obtain, not by levying upon individual incomes, but from the obviously natural sources of public income which it persistently neglects; and it levies taxes upon the many to secure benefits for the few, as in the case of protective tariffs. Those are instances. The indictment against government for misuse of the police and taxing powers is too long to repeat in full.

In the land tenure power it is equally derelict. Instead of so regulating land tenure as to conserve the rights of all, it assumes to give perpetual titles to the planet, for the peculiar benefit of a few and to the perennial robbery of the masses of mankind.

Likewise with highways. Under color of governmental authority a class of robber barons has sprung up which it is the duty of government to suppress, but which, instead, it fosters by abandoning its own highway functions to private manipulation.

In these derelictions of government are to be found the explanations of socialism and anarchy. Let government faithfully administer its natural functions, and the cry of the socialist for more government would subside; let it keep within its natural limitations, and the complaints of the anarchist would be answered.

NEWS

Although the people of the United States have been confidently assured from Washington that the war in the Philippines ended nearly a year ago and that the islands have since that time been in a forward state of pacification, the Americans have just suffered their greatest disaster. This is less surprising to readers of current news who have read between the lines of dispatches from Manila or given serious thought to interviews with persons recently returned from the islands or who are in correspondence with friends located there, than to such as have taken Washington assurances on faith. Indications of the true situation in the Philippines have appeared from time to time during the summer in these columns. At page 250 we recorded the fact that the Filipinos were still in arms for inde-

pendence in the islands of Cebu and Bohol, and in the province of Batangas, Luzon, and that after an unsuccessful trial of civic government in those districts by the Americans it had been abrogated. In a later issue, at page 312, we told of a five hours' fight in Batangas province, and also of the capture of Cabrera, whom the dispatches described as controlling the Filipinos in southern Batangas. Congressman Hull was quoted on page 345 as reporting that a full military equipment is necessary to hold together the civil governments in the islands; and a news dispatch was given as authority for assurances that "everything points to the early capture or surrender of Miguel Malvar, the insurgent leader," which would make everything "favorable to the establishment of permanent peace." In our latest reference to the subject (p. 395) we quoted a mail dispatch predicting "a renewal of guerrilla hostilities," and saying that "Malvar still has enough men to be troublesome." Besides these indications that the Filipinos are struggling desperately for the independence of their country, occasional interviews in the newspapers have pointed in the same direction. On the faith of a private letter from Manila, Gen. Wesley Merritt was cabled from London as saying on the 26th of September:

The present situation is a source of great anxiety to the authorities in the field. There is a strong feeling among them that the real facts in the case have been kept back by the Washington government. The United States are in possession of a rich but small area of the whole territory. The insurgents are likely to maintain guerrilla fighting for an indefinite period, thus seriously retarding the final conquest of the island. The enemy is blackmailing the native towns and villages without difficulty, obtaining all necessary supplies, since a native can live on a handful of rice a day. Doubtless the American people will be sorry to be assured that a permanent army of 40,000 soldiers will be required to hold the Philippines, but conservative officers on the spot are convinced that this view of the situation is correct.

And Gen. Hall, who left Manila last April, was reported, September 29th, as having said:

The conditions were not satisfactory when I left, and I understand there has been considerable fighting ever since. The southern end of Luzon, whence I came, is peopled largely by the Tagalos, a vast majority of