

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 withholds 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of his party in supporting government by injunction, whereby the right of jury trial in criminal cases at home is withdrawn from labor strikers accused of crime.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—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

the Cubans became a necessity. But the Cubans would have established a civil government long ago had not Mr. McKinley's imperial policy obstructed them with a view to getting hold of Cuba as well as Puerto Rico and the Philippines. The two counts, then, in the indictment against the administration regarding Cuba are that it destroyed the Cuban government, and that it has for nearly two years delayed the organization by the Cubans of a new government.

We are asked to state the exact nature of an order issued by Gen. Brooke, while American military governor of Cuba, which affected the marriage laws of that island. The order in question bears date May 31, 1899, and is as follows:

The military governor of Cuba directs the publication of the following order:

I. Hereafter civil marriage only shall be legally valid. The contracting parties may conform to the precepts of whatever religion they may profess, in addition to the formalities necessary to contract the civil marriage.

II. The officials in charge of the execution of the laws respecting marriage shall not accept as legal the written license or consent of the parent, when it shall have been taken before an ecclesiastical notary, nor shall any such certificate be accepted which is not attested by the civil functionaries.

III. Clergymen of the different religious denominations represented in this island, in performing the ceremony of marriage, shall not be required to take other action than that imposed upon them by their respective religious beliefs; but the performance of this ceremony shall have no civil effect.

IV. All marriages heretofore solemnized in the island of Cuba shall be deemed and adjudged to be valid and the validity thereof shall in no wise be affected by any want of authority in the person solemnizing the same, if consummated with a full belief on the part of the persons so married, or either of them, that they were lawfully joined in wedlock. Provided, That such marriage shall be duly recorded within a period of one year from the date of this order. Record of such marriages shall be made upon presentation of satisfactory proof thereof.

V. The said marriages shall be proved by the presentation of documentary evidence of the same. If no such proof can be furnished, the fact of the marriage may be established in

the form prescribed in article 2001 to 2008, both inclusive, of the law of civil procedure, by the declaration of the functionary performing the ceremony, and of the witnesses thereto; or by such other proofs as the law allows.

VI. The regulations to be observed in recording marriages, under this order will be issued by the secretary of justice and public instruction.

VII. The fee for performing the ceremony of marriage shall be one dollar in United States money, or its equivalent.

VIII. All decrees, orders, laws, or parts thereof in conflict with the provisions of this order, are hereby revoked.

Under the pressure of severe criticism from prominent Catholic sources, and in evident fear of the effect of this order upon the approaching election in the United States, Gen. Wood, the present American military governor of Cuba, has so far rescinded Gen. Brooke's order as to reestablish the civil validity of ecclesiastical marriages.

Every now and again some McKinley orator or paper renews the charge against Aguinaldo of selling out his compatriots to the Spanish for a bribe. This infamously slanderous charge has no other foundation than that Aguinaldo did make a treaty of peace with the Spanish by which they were to grant all the reforms he had been fighting for and to pay him \$800,000 for distribution among his followers, who were to go into exile. The Spanish paid \$400,000, but never paid the balance and never granted the stipulated reforms. These facts we have from Gen. Greene, of our own army, who relates them in a report published in senate document 62, of the Fifty-fifth congress, third session (to be had for 35 cents of the government printing office at Washington), in which he says at page 421:

The governor general, Primo de Rivera, entered into written agreement with Aguinaldo. . . . In brief, it required that Aguinaldo and the other insurgent leaders should leave the country, the government agreeing to pay them \$800,000 in silver and promising to introduce numerous reforms, including representation in the Spanish cortes, freedom of the press, general amnesty for all insurgents, and the expulsion or seculariza-

tion of the monastic orders. Aguinaldo and his associates went to Hong-Kong and Singapore. A portion of the money, \$400,000, was deposited in banks at Hong-Kong, and a lawsuit soon arose between Aguinaldo and one of his subordinate chiefs named Artacho, which is interesting on account of the very honorable position taken by Aguinaldo. Artacho sued for a division of the money among the insurgents according to rank. Aguinaldo claimed that the money was a trust fund, and was to remain on deposit until it was seen whether the Spaniards would carry out their promised reforms, and if they failed to do so, it was to be used to defray the expenses of a new insurrection.

How this \$400,000 actually was used is told at page 328 of the same document 62, by the American consul, Mr. Williams, who reports:

To-day I executed a power of attorney whereby Gen. Aguinaldo releases to his attorneys in fact \$400,000, now in bank in Hong-Kong, so that money therefrom can pay for 3,000 stand of arms bought there and expected here to-morrow.

As these reports are known to every intelligent man who discusses public affairs, it may be reasonably charged that the orator or newspaper that accuses Aguinaldo of having accepted a Spanish bribe is a malicious defamer of Aguinaldo's character and a shameless misleader of his own countrymen.

A most remarkable criminal sentence has been imposed by a San Francisco judge upon a convict. The prisoner had been upon trial for robbery, and the jury convicted him of "an attempt to commit robbery." No such offense is enumerated by the statutes of California in the category of specified penalties; but a general provision of the penal law requires persons convicted of attempts to be sentenced to terms of imprisonment not exceeding half the longest term prescribed for the crime attempted. It happened that the prisoner in the case in question was a professional criminal, who on that account would have been sentenced to life imprisonment had he been convicted of the robbery. Life sentences are, in fact, mandatory in such cases. But as this convict had only attempted the crime, he could be sentenced for only one-half of his life.