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All that is old to free traders. Mr. Evarts called attention to it when he was secretary of state, and Henry George made much of it in his work on "Protection or Free Trade." Since then it has been widely used in the free trade press and upon the free trade rostrum in answer to the false pretense of protected manufacturers that they must have protection against foreign goods to enable them to pay American wages. To that pretense it is a complete answer. If, as the Journal truly says, the total cost of production, and especially the labor item in the cost of production, for nearly everything we produce, is lower here than it is anywhere else in the world, and this is especially noticeable in the case of the products of our highest-priced labor, why should any American employer need a protective tariff to enable him to pay American wages?

In a letter to the Mobile Daily Item, E. Q. Norton concisely expresses the insincerity of those who advocate educational qualifications for the suffrage upon pretense that they want better government. He says that those who would deny the ballot to uneducated men, do not propose to give the ballot to the educated women; and yet, if they are really sincere in their demands that intelligence shall rule, they cannot refuse the franchise to such women.

The truth is that in this so-called democratic country of ours, democracy is still in its infancy. Each of us has learned that he is entitled to the same rights as everybody else; but that everybody else is entitled to equal rights with him, is a lesson which as yet but few have learned. It is that ignorance, and not so much a desire for the best government for all the governed, that prompts all the measures for suffrage restriction.

The 55th congress, which went out of office on the 4th, has appropriated the sum of \$1,566,890,016. This is \$522,309,743 in excess of the largest appropriation ever made before. The country was indignant with what was

called "the billion dollar congress," which went out of office only six years ago; but here is a congress that not only equals the enormous billion appropriations of its predecessor, but piles half a billion more on top of it, and twenty-two millions on top of that.

Of course the cost of the war must be deducted from the above mentioned appropriations, as being extraordinary expenses which any congress must have incurred. These are computed by Congressman Cannon, chairman of the house committee on appropriations, at \$482,562,083. If that computation were right, the appropriations by the retiring congress would still be, in round numbers, \$39,700,000 more than those of the billion dollar congress. But Cannon's computation is not right; it is grossly excessive. He includes in war expenses the \$20,000,000 purchase money for the Philippines, and the increased cost of our standing army, besides other expenses which are incurred not in prosecution of the war, but in prosecution of McKinley's imperial policy.

The total expenditures for war and navy for the entire year from January 1, 1898, to December 31, 1898, as reported by the treasury department, are only \$281,347,267; and this amount exceeds the ordinary expenses of army and navy, as indicated by the report for the year 1897, by only \$190,553,749. As the war is now over, the latter sum covers all its legitimate cost, except for unpaid bills. Is it possible that unpaid war bills amount to \$292,000,000? Unless they do, Mr. Cannon's computation of war expenses is excessive, and the congressional appropriations for other than war purposes are much more in excess of all previous appropriations than Mr. Cannon admits. The appropriations of the retiring congress, over and above the legitimate cost of the war, are probably about \$1,300,000,000—a good \$300,000,000 more than was ever before appropriated by one congress.

FURTHER LEGAL ASPECTS OF THE PHILIPPINE QUESTION.

Last week we considered one branch of the legal relations of the United States to the Philippine islands. We purpose now to consider another. The relations to which our attention was then devoted were those growing out of the protocol exclusively; we now consider the effect of the treaty.

I.

Our former article, mentioned above, showed that the Philippine republic, at the time of the signing of the protocol last summer, was what is known to international law as a "de facto" government, its resistance to Spain having passed beyond simple or temporary acts of treason, mutiny or sedition, and assumed the character and proportions of civil war. In the prosecution of this war, the Philippine republic had expelled the "de jure" Spanish government from all the archipelago, except Manila, Iloilo, and a few other coast cities, where the Filipinos had the Spanish garrisons penned in. Not only was it a "de facto" government, therefore, but, with the exceptions noted, it was in possession of all the territory over which it claimed jurisdiction.

After the protocol, continuing its civil war with Spain, the Philippine republic so far completed the expulsion of the Spanish government that, at the beginning of the present year Spain occupied but little territory in all the Philippine archipelago, and governed none. Manila was governed by the United States, under the protocol, and all other important places were subject to the "de facto" government of the Philippine republic.

Any title, then, which the United States might thereafter acquire to the Philippines outside of Manila, must be derived from the Philippine republic, the "de facto" government in actual possession, and not from Spain, the "de jure" government, which had been expelled.

This conclusion rests securely upon the familiar principle of international law that when one government acquires territory from another by conquest, the deposed government cannot give title to a third government. Nor is it necessary, in order to divest a

deposed government of this power of transfer, that the conquest should be confirmed by treaty. It is enough that the conquest be actual.

Surely that principle applies as well when the conquering government grows out of a civil war against tyranny, and even though it be still only a "de facto" government, as when the conquering government is an invader. The moral right would be stronger in the former case than in the latter. And if that principle does apply, Spain cannot now convey the Philippines to the United States, for the "de facto" Philippine republic has already acquired the territory by conquest from Spain.

It follows that the pending treaty, even when it shall have been ratified by Spain, will afford no legal justification for the war which the United States is now waging against the Philippine republic. Spain cannot give any better title than she has; and the only title she has is to the right to carry on the civil war with the new republic for the recovery of her lost sovereignty. That right she may convey. That right the United States may purchase. But he would be a bold innovator who should contend that such a transaction would fall within any approved principle of international law.

II.

It may be asked, however, whether the United States would not by the ratification acquire permanent sovereignty over the harbor, bay and city of Manila, and thereby over the archipelago.

Inasmuch as Spain was sovereign over Manila and its environs at the time of the protocol, when that place came into the possession of the United States, and would by ratification of the treaty transfer her sovereignty to the United States permanently, a colorable claim to Manila and its environs might be made. But that could form no valid basis upon which to set up a claim to the archipelago. The validity of such a claim would depend on whether the dog ought to be recognized as wagging the tail or the tail as wagging the dog—whether sovereignty over Manila should give sovereignty over the rest of the archipelago, or sovereignty over the rest of the archipelago should give sovereignty over Manila.

Upon that point the principles of international law are not obscure.

While it is true that title of sovereignty over an island which has been appropriated extends over the whole, though only a part be actually occupied, it is not true that lawful possession of one coast city out of several on such an island would give title to the whole island, much less to a whole archipelago. If Manila commanded the mouth of a river which drained the island of Luzon, and the United States were in lawful possession, not only of Manila, but also of the river course, then the United States would have lawful sovereignty over that island, provided the natives did not dispute it. If the natives did dispute it, the title would have to be abandoned, or made good by treaty or conquest. But when Manila is only one of several Luzon coast cities, and lies at the mouth of only one of several Luzon rivers; when the United States is not in occupation of the course of the river, the mouth of which it does possess; and when the natives, organized in a "de facto" government and occupying all the island outside of Manila, dispute the American title—when those are the conditions, there exists in the principles of international law no warrant for any contention that lawful title to sovereignty in Manila gives to the United States sovereignty over the Philippine archipelago, or even over the island of Luzon. Either contention would be utterly unfounded.

On the other hand, sovereignty by the Philippine republic over all the rest of the archipelago—even over the rest of the island of Luzon alone—would give to that republic a reasonable claim against the United States to sovereignty over the city, harbor and bay of Manila. While Manila does not comprise the island of Luzon, the island of Luzon might very well be regarded politically, as it is geographically, as including Manila.

III.

In the light of the foregoing considerations, which rest upon indisputable facts and acknowledged principles of the law of nations, the American war now in progress for the overthrow of the Philippine republic and the subjugation of the Philippine archipelago, is a war of conquest. It is unauthorized by the Spanish pro-

ocol. And it can gain no authority from the Spanish treaty when that shall have been finally ratified; for Spain cannot convey to the United States any right in the Philippines—with the possible exception of Manila city, bay and harbor—for the all-sufficient reason that prior to any act that can possibly be construed into a validation of the treaty assuming to make such a sale, Spain possessed nothing there to sell.

Unless the United States government intends, therefore, shamelessly to make wars for the mere sake of fighting and conquering, it should lose no time in coming to an honorable understanding with the Philippine republic. In that way alone can it save the real honor of the nation and add to the real glory of the flag.

IV.

There is still another reason founded in international law, why the United States cannot consistently subjugate the Philippines. This reason would have force even against such a treaty with Spain as might otherwise be valid. We refer to that principle of international law to which, though it is not generally adopted and therefore is not incorporated in the body of international doctrines, this country is committed—the principle of self government.

The United States was first committed to this principle by the declaration of independence, which holds it to be axiomatic that governments are instituted to secure equal rights, and that they derive "their just powers from the consent of the governed." The principle was recognized again in the Ordinance of 1787, under which Illinois, among other new states, was admitted into the Union. It was recognized still later in the Louisiana purchase, when we stipulated with France, of whom we bought, to vest in the inhabitants of our new territory the rights of American citizens. Similar recognition of the principle was made in connection with the purchase of Florida, and upon the annexation of Texas; and it was repeated when the Mexican territory was acquired, most of which has since been carved into independent states. The principle was again acknowledged in international intercourse upon the acquisition of Alaska. Even

in dealing with the Indian tribes, we have always acknowledged their sovereignty as to matters exclusively concerning themselves. Ungenerous and halting as our recognition of the principle of self government has often been, incomplete as is its application even now among ourselves, we have never deliberately repudiated it, and our statesmen have frequently proclaimed it as our ideal.

Lincoln had this principle in his thought when, in his memorable oration at Gettysburg, he referred, in behalf of the American people, to their devotion to "government of the people, by the people and for the people." McKinley could not have been wholly indifferent to it when, in two messages to congress on the Cuban question, he said that "forcible annexation" would, under our code of morals, be "criminal aggression."

But except in the treaties through which the United States has acquired new territory from other nations, this American principle of government was not brought under international consideration until 1885, when it was considered briefly at the African conference in Berlin.

The United States was represented in that conference by John A. Kasson, as its plenipotentiary. In that capacity Mr. Kasson, one of our greatest diplomats, distinctly committed his government, on that occasion, to the doctrine of self-government as a principle of the law of nations. And he did so with reference to classes of people far below the Filipinos in point of civilization.

The conference was laying down international rules for the appropriation of territory on the coast of Africa. Two paragraphs under consideration related to the conditions which would be regarded as justifying an appropriation. To these principles Mr. Kasson, in behalf of the United States, officially proposed an addition. That was on the 31st of January, 1885. His proposition was as follows:

Whilst approving the two paragraphs of this declaration as a first step, well directed though short, it is my duty to add two observations to the protocol:

(1) Modern international law follows closely a line which leads to the recognition of the right of native

tribes to dispose freely of themselves and of their hereditary territory. In conformity with this principle, my government would gladly adhere to a more extended rule, to be based on a principle which should aim at the voluntary consent of the natives whose country is taken possession of, in all cases where they had not provoked the aggression.

(2) I have no doubt as to the conference being agreed in regard to the significance of the preamble. It only points out the minimum of the conditions which must necessarily be fulfilled in order that the recognition of an occupation may be demanded. It is always possible that an occupation may be rendered effective by acts of violence which are foreign to the principles of justice, as well as to national and even international law. Consequently it should be well understood that it is reserved for the respective signatory powers to determine all the other conditions from the point of view of right, as well as of fact, which must be fulfilled before an occupation can be recognized as valid.

Mr. Kasson's proposition was not adopted, because the first clause "touched on delicate questions, upon which the conference hesitated to express an opinion;" but it was reproduced in the protocol for the purpose of presenting "the views put forward by the plenipotentiary of the United States of America."

Commenting upon this, Prof. Westlake, of the University of Cambridge, from whose "Chapters on the Principles of International Law," page 138, we have made the foregoing extract, disagrees with Mr. Kasson as to "an uncivilized population." He objects to the principle that "except in the case of unprovoked aggression justifying conquest, an uncivilized population has rights which make its free consent necessary to the establishment over it of a government possessing international validity." But Prof. Westlake holds, nevertheless, that it cannot be doubted that if an accession of territory was made—

at the expense of a civilized population without its consent, or was attended with proceedings of great inhumanity to an uncivilized population, this would be a good ground of objection on the part of any power that pleased to take up the cause.

So it appears that upon general principles of international law, as understood by Prof. Westlake, the territory of a civilized people ought not

to be appropriated without their consent; and that the United States is committed, not only as a matter of national polity, but also in an international conference, to the proposition that this principle applies even to the uncivilized.

What right, then, has the United States, treaty or no treaty, to undertake to appropriate the Philippine islands against the will of the Filipinos?

Without ignoring acknowledged principles of international law if the Filipinos be civilized, without repudiating its own declared views of what international law ought to be even if they be uncivilized, it has not so much as the shadow of such a right.

V.

To sum up the subject, the considerations of last week's article and those of this together—

The United States is making war upon the "de facto" government of the Philippine republic.

It is doing so for the purpose of making conquest of the Philippine archipelago, under color of purchase from Spain.

It bases its claim of purchase upon a treaty which has as yet no legal force.

It can set up for that claim at present no other legal sanction than the protocol, which distinctly restricts the occupancy of the United States to the harbor, bay and city of Manila, and is, therefore, for any further occupancy, no sanction at all.

It can find in the treaty with Spain no sanction for its claim of purchase, even after that treaty shall have been finally ratified; because Spain has no sovereignty in the Philippines to sell.

It could not justify its attempted seizure of the Philippines against the will of the inhabitants, irrespective of the invalidity of the treaty; because, in the first place, international law does not permit the subjugation without their consent of civilized people, and, in the second, the United States is committed to the proposition that consent of the governed is the prime condition of all government.

VI.

The American government is publicly charged by Prof. James, of Harvard university, in connection with

its war upon the Filipinos, with having engaged in piracy. Prof. James is right. If there were a friendly power to intercede for the Philippine republic, or an international tribunal to which it could appeal, the United States would be compelled, upon principles of international law, to abandon her Philippine policy. She maintains it now by force, and by force alone.

NEWS

The American censorship of the cable at Manila is reported as becoming more strict, and official reports as published give less information than ever; so that but little more is positively known of the situation in the Philippines than that almost daily conflicts are occurring between the Americans and the Filipinos, in which the latter appear to be driven back repeatedly from the same places. Regarding the censorship, the staff correspondent at Hong Kong of the Chicago Record says it is becoming so strict that he finds it "impossible to send dispatches giving a satisfactory explanation of the present situation."

Our account of last week brought such news as had then filtered through, down to the 1st, when an attack was made upon the American line at the water works and another at San Pedro Macati. On the night of that day unusual quiet was reported, the Filipinos being supposed to be busy in throwing up defenses in anticipation of having to meet American reinforcements; and from later reports this unusual quiet would seem to have continued through the 2d, for no account appears of any fighting on that day. But beginning with the 3d there has been fighting every day without exception.

San Pedro Macati was fired upon by Filipinos on the 3d from Guadalupe church, which they had captured from the Americans a fortnight before, as reported by us two weeks ago. They are reported to have been driven out by shells from a gunboat on the Pasig river; but they could not have been driven far, for on the 4th a large body was discovered attempting to re-enforce them. The gunboat thereupon advanced under a heavy fire and poured shot into the jungle and also shelled the Filipino position at Guadalupe. This is reported as having "ef-

fectually but temporarily" scattered the Filipino forces. From the village of San Jose, a suburb of Manila, also on the 4th, the Filipinos fired upon a gunboat, which thereupon shelled that place and other Manila suburbs. On the 5th there was an all night battle waged at two points for the possession of the Manila water works. The double attack was made by the Filipinos in the night and the battle continued until along in the forenoon of the 6th, when an American brigade succeeded in dispersing the assailants. Desultory firing and a skirmish occurred on the 6th after the affair at the water works, and fighting was renewed on the 7th. A body of Filipinos having taken a position where at a favorable opportunity they might injure the Manila water pipes, they were discovered and a sharp skirmish followed, in which the Filipinos were driven to their position at Guadalupe. But on the 8th they forced their way back. On the 8th, also, sharpshooters persistently annoyed the Americans at San Pedro Macati, as they had previously been doing daily both there and at other points. The Filipinos have an advantage in sharpshooting, because they use Mausers, which have a longer range than the Springfields with which the Americans are armed. They are also supplied with smokeless powder.

The hot season is now well on in the Philippines, and the American troops are beginning to feel its severity. At 3 o'clock on the 7th the temperature was at 84 degrees; and the heat was so oppressive that on the American lines 25 men were prostrated during the day. The temperature on the 8th rose to 87, and the humid air was like steam; but there were fewer prostrations.

Reinforcements for both army and navy are hurrying to Manila. The hospital ship "Relief" sailed from New York on the 2d, and on the same day the transport "Portland" sailed from San Francisco. On the 3d the transport "Sherman" with 1,700 men touched at the Island of Perim, Straits of Bab-el-Mandeb, having left New York just a month before; and the transport "Sheridan" with 1,800 arrived at Gibraltar, leaving there on the 4th. Five regiments of infantry and part of one regiment of artillery, numbering in all 7,500 men, stationed now in different parts of the United States, are under orders to go to Ma-

nila. It is understood that they are to relieve volunteers already there. On the 4th Gen. Lawton's command of 700 arrived at Singapore; and on the 5th the transport "Valencia" sailed from San Francisco. The transport "Senator" has arrived at Manila. The total army and navy strength at Manila, on the way there, and now under orders to go, is 41,000. Gen. Otis has announced that he would confer with Aguinaldo, but only to require unconditional surrender. Admiral Dewey is reported to be in almost a dying condition, from the strain of his responsibilities and the unhealthy climatic conditions.

Provision has been made at Iloilo for quartering American troops in the custom house at an expense of \$40,000 to be met from the public revenue of Iloilo. One report has it that all is quiet there and business brisk; while another declares that business is dead and skirmishes beyond the city continue at intervals. A third mentions continuous operations of Filipino sharpshooters against the American outposts.

An agreeable reception of troops upon the Island of Negros was reported on the 6th by Gen. Otis, who cables to Washington the following congratulatory address from a native commission to Gen. Miller:

Government congress inhabitants of Negros to Gen. Miller, Iloilo: We affectionately salute you and congratulate ourselves for the happy arrival of Col. Smith and troops under his orders, and beg you to send this salute and congratulations to Gen. Otis, Manila, as representative of the government of the United States in the Philippines.

Pursuant to the arrangement between the German and American governments, which we reported last week, the American authorities at Manila have assumed responsibility for the protection of German interests there; and the German warship, Kaiserin Augusta, has left Manila bay.

Two members of President McKinley's Philippine committee, J. G. Schuerman, President of Cornell University, and Prof. Dean C. Worcester, of the University of Michigan, have arrived at Manila. They came in on the 4th on board the cruiser Baltimore from Hong Kong. This commission was appointed to act as an advisory board to the president.