

only remedy it can conceive, the commission proposes "leaving the roads to regulate their own rates and their own competition, subject to some assurances that the rates would not be forced too high!"

We sympathize with the commission. It was invested by government with governmental functions, for the purpose of controlling an institution which had been invested by government with still more powerful governmental functions. The failure might have been predicted. "Let me control the highways of a country," the railroad magnate may well sing, "and I care not what commission you appoint to control me." To properly understand and effectually solve the railroad question, we must first realize that it is at bottom a highway question. When that is done, all the rest follows. It can then be seen plainly that government cannot turn over public highways to private corporations, and at the same time protect the people from the depredations of the modern type of what was once known as "road agents." Public ownership of all highways is the only solution of the railroad problem.

In connection with the railroad problem, J. Sterling Morton's outspoken Conservative wants to know why "homesteaders" should not be treated as they try to treat railroads. It asks—

If it is right to prescribe the limit of the income of a railroad because the government has done so much for it, why is it not equally proper to fix the price of corn, wheat, oats, cattle and hogs grown by homesteaders upon land donated to them by the general government?

The question is framed a little carelessly. To "limit the income of a railroad" is not at all analogous to fixing "the price of corn, wheat" and so on. But fixing the price of transportation would be, and it is that doubtless that Mr. Morton had in mind. The answer is that it is neither right nor practicable to fix by law the prices either of corn and wheat or of railroad transportation. But it is right and would be practicable to "limit the income"

of railroads; and it would be right and practicable to "limit the income" of homesteaders. So much of the railroads' income as is due to the value of its monopoly right of way—the "water" in its stock, that is to say—and nothing more, should be taken from the railroad company. That could be done by making railway lines, as distinguished from rolling stock, public property, and allowing competition to regulate prices of transportation. Likewise, so much of the income of the homesteader as is due to his superior location—the "water" in his deed, so to speak—and nothing more, should be taken from him. That could be done by substituting for his present taxes a tax not to exceed the value of his location.

There is a trick to which plutocratic editorial writers, and economic professors in colleges endowed by robber barons of the period, are addicted, regarding which the general reader must be on the alert or his common sense will be taken captive. These writers defend corporations, production on a large scale, and so on, propositions that are quite defensible, and then rush the reader, with a literary hop-skip-and-jump, to the conclusion that the attacks upon railroad, telegraph, gas, street car and similar corporations are answered. The trick may with a little thought be readily detected. Its secret lies in the assumption that all corporations are alike, and that trusts are a method of production on a large scale. But in truth, trusts are combinations to prevent production, and some corporations are monopolies. A corporation to work a farm would be unobjectionable and might be desirable. But a corporation to run street cars is something more than a corporation; it is the owner of an exclusive right of way through the public streets. The evil is not in the charter of incorporation, but in the street franchise. With a clear understanding of the principle of this distinction, any reader can for himself detect in the editorial and

magazine writings of plutocratic hirelings the place where their trick comes in.

Questioning our approval of Tolstoi's criticisms of the czar's disarmament conference, Charles T. Dole, of Massachusetts, asks if all who love peace ought not, even though there be reason for distrusting the czar's proposal, to take advantage of the opportunity offered by the conference to promote the cause. Doubtless they ought. But they should be wise about it. War is not the worst of evils. It is one of the worst; but liberty-suppressing governments are worse still. Now, Russia is under the domination of such a government, which is reaching out to grasp more territory and subjugate other peoples. Autocratic dominion over Europe and Asia is its aim. And to accomplish its ends the Russian government now proposes to the other European powers that the armaments of all stop where they are. If that were agreed to, Russia could and doubtless would go on perfecting her armaments in secret. For Russia muzzles the press. Let the czar's government abolish press censorship, and every lover of peace, who loves liberty even more than peace, will gladly promote the czar's peace proposals. As matters now stand, those proposals are like the request of Esop's wolves to the sheep, that they discharge the dogs.

Some idea of the plans of the Russian government may be derived from the plight of Finland. Though Finland adjoins Russia and has for nearly a century been a Russian dependency, it nevertheless in great measure preserves its autonomy. It retains a language and literature of its own, and comprises an educated, intelligent and thriving people; and withal is a sort of protection to Norway and Sweden against encroachments by Russia upon them. But now Russia, with evident designs upon Norway and Sweden, is about to deprive poor Finland of all autonomy, and to extend the absolute powers of the czar to the Scandinavian borders. Fin-

land is being Russianized. Language, liberty, and all are to be submerged in Russian despotism. And then the word will be, "Next!" On this side of the Atlantic, we need not fear Russia. But in Europe, where natural defensive boundaries are few, an agreement for general disarmament would be almost equivalent to the cession of the continent to the czar.

Our opinion published in *The Public* of February 4, in connection with the question of remitting the extreme penalty for murder in the case of a woman in New York, because she is a woman, has evoked an inquiry from one of the best known and justly loved executives in the United States. We said that "it is not one of the functions of an executive to determine whether a penalty is proper or not; it is his function to execute the law as he finds it." Referring to this, the executive to whom we have alluded, writes us, asking if we are certain that our position is a tenable one. He says:

Does not an executive have a duty as a citizen, as well as an executive? And might he not contribute quite as much to the education of the public mind by calling pointed attention to a law that was unscientific, and therefore wrong, and even using the powers of his office of executive clemency, if you please, or any other power that he may possess, in behalf of a better and more just law?

Upon further reflection we are confirmed in the opinion that the position we took regarding Gov. Roosevelt's possible use of the pardoning power regardless of the law, and which is questioned above, is tenable. Indeed, we think it unassailable from any other point of view than that of the monarchical theory of government. Upon the democratic theory of government, it is not a function of the executive to pass upon the propriety of laws. His single duty as executive is to execute. That he has also a duty as a citizen is true. But when that duty conflicts with his duty as an executive he must distinguish his functions by performing his duties as a citizen in his capacity of mere citizen, and his duties as executive in

his capacity of executive. To concede that the executive may in his individual discretion obey or disobey laws which he has been chosen to execute, is to put him above the laws which the people, whose servant he is, have made; and that is to establish what is in essence an absolute, even if elective, monarchy.

It must be observed, however, that there are circumstances in which executives are justified, upon democratic principles, in virtually abrogating laws that they have been appointed to enforce. But these are not "exceptions proving the rule;" they are really within the rule, and exceptions only in appearance. When, for example, offensive laws are superimposed upon a community from without—as when England undertakes to regulate the internal affairs of Ireland, or an American state attempts arbitrarily to regulate the purely local concerns of its towns and cities—it may be quite within the democratic right of locally elected executives to ignore those laws. In such cases, that is what they are elected for. Disregard of the law is then in a high sense obedience to the popular will. But when both the law and the executive are regularly chosen by the community to be affected, the simple function of the executive is to execute.

Joseph Edwards's fifth issue of his "Labour Annual," is more valuable than the best of its predecessors. What the Statesman's Year Book is to the general student of the world's politics, this annual is to students of the progress of social reforms. It keeps track of the men and movements and doctrines that are related to social, economic and political reform the world over. The book in paper is mailed to any part of the world, free of postage, for 31 cents, and may be had directly of Joseph Edwards, Wallasey, Cheshire, England.

The Outlook proposes an experiment in the Philippines with the

single tax. We have no right to experiment there with the single tax or anything else. If the justice and practicability of the single tax commend it, here among ourselves is the place to experiment with it. Let the Filipinos learn from our teaching and our experience, not from enforced obedience to our irresponsible authority.

LEGAL ASPECTS OF THE PHILIPPINE QUESTION.

I.

It is remarkable if not significant that the advocates of Philippine subjugation have been so very reticent about the application to our Philippine question of the principles of international law. They have not lacked occasion to refer to those principles. But their speeches and writings will be examined in vain for any appeal to that source of authority.

There is no accounting for this upon any theory of the nice technicalities of international law, which might make the subject too obscure for ordinary citizens to understand. International law is not at all a highly technical subject. While it includes numerous specific rules and precedents which only special students are familiar with, yet in its broad applications it need not be at all mysterious to the ordinarily intelligent citizen. No branch of legal science is so free from technicality; none rests so solidly upon simple apprehensions of right.

We do, indeed, look to the international practice of governments for expressions of international law; but no such practice is accepted as authoritative unless it has been adopted deliberately and from a persuasion that the practice is right. A practice is no part of international law, if it have nothing to support it but force.

With a knowledge, then, of the facts in a given international problem, the citizen of reasonable intelligence, provided he be a just man, can without much difficulty or danger of going wrong, discover and correctly apply the principles of international law. He can at least readily understand and estimate the value of a coherent explanation.