

tory to the disposition of the government of the United States.

The government and disposition of territory so acquired belong to the government of the United States, consisting of the president, the senate, elected by the states, and the house of representatives, chosen by and immediately representing the people of the United States. Treaties by which territory is acquired from a foreign state usually recognize this.

It is clearly recognized in the recent treaty with Spain, especially in the ninth article, by which "The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the congress."

By the fourth and thirteenth articles of the treaty, the United States agree that, for ten years, Spanish ships and merchandise shall be admitted to the ports of the Philippine islands on the same terms as ships and merchandise of the United States, and Spanish scientific, literary and artistic works, not subversive of public order, shall continue to be admitted free of duty into all the ceded territories. Neither of these provisions could be carried out if the constitution required the customs regulations of the United States to apply in those territories.

In the absence of congressional legislation, the regulation of the revenue of the conquered territory, even after the treaty of cession, remains with the executive and military authority.

So long as congress has not incorporated the territory into the United States, neither military occupation nor cession by treaty makes the conquered territory domestic territory, in the sense of the revenue laws. But those laws concerning "foreign countries" remain applicable to the conquered territory until changed by congress. Such was the unanimous opinion of this court, as declared by Chief Justice Taney, in *Fleming v. Page*, 9 How. 603, 617.

If congress is not ready to construct a complete government for the conquered territory, it may establish a temporary government, which is not subject to all the restrictions of the constitution.

Such was the effect of the act of congress of April 12, 1900, c. 191, entitled "An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes." By the third section of that act, it was expressly declared that the duties thereby established on merchandise and articles going into Porto Rico from the United States, or coming into the United States from Porto Rico, should cease in any event on March 1, 1902, and sooner if the legislative assembly of Porto Rico should enact and put into operation a system of local taxation to meet the necessities of the government established by that act.

The system of duties, temporarily established by that act during the transition period, was within the authority of congress under the constitution of the United States.

### Industrial Combinations.

Below will be found an article written by Mr. Bryan recently for *Collier's Weekly* and reproduced by the courtesy of that paper:

In considering industrial combinations, the subject naturally divides itself into the condition to be considered, the probable result of present tendencies, and the remedy.

The word "trust" used to designate large corporations, does not accurately describe the thing complained of. In the beginning combinations in restraint of trade were formed by an agreement be-

tween separate companies, whereby the stock was held in trust by an association which controlled several corporations. At present there is no deposit of stock in trust, but in place of the old system we find a great corporation owning and controlling a number of plants. A distinction should be made between a corporation, however large, and a monopoly. In fact, it is impossible to consider what is known as the trust question without keeping in mind the proportion which the output of the corporation under discussion bears to the total output of all factories in the United States. For instance, if we have one hundred woollen factories scattered over the country, producing together the total amount of domestic woollens manufactured in the United States, a combination whereby two, or five, or even ten, were joined under one management would present a very different situation from that which would be produced by the consolidation of all of them into one corporation. The monopoly feature appears whenever a corporation is sufficiently powerful to control the market. The fundamental question to be considered, therefore, is whether competition is desirable or undesirable. I shall speak of this later in discussing remedies, but it must always be borne in mind that the elimination of competition is, temporarily at least, beneficial to the man who has the monopoly. This cannot be doubted, but is it not detrimental both to the consumer and to the laborer?

#### Rights of the Laborer.

The consumer has certain needs which must be supplied; under competition, he is protected from extortion by the opportunity which he has to purchase the article offered him at the lowest price. Under monopoly he has no choice, but must take what is offered him at the price fixed by the seller. A skilled laborer has a right to demand from his employer full value for his services. When there are many employers, each pecuniarily interested in securing the best service, the laborer is better protected than he is when there is but one employer. The labor organization is an aid to the laboring men in securing reasonable hours, just compensation, and fair conditions. At present the labor organization is practically the only protection the wage-earner has, but the labor organization, however perfect and complete, is no match for an absolute industrial monopoly. Workmen with families dependent upon them could not live long without work, neither could they afford to engage in another line of work where their special training would be of no advantage. The pressing every-day needs of the body make a contest of endurance between flesh and blood on the one side and capital on the other very unequal.

#### Impossible Competition.

The man who attempts to manufacture an article in competition with a thoroughly established monopoly has before him a difficult, if not an almost impossible task. To recur to the above illustration, if all the woollen mills now in existence should be gathered under the control of one corporation with a capital of half a billion, who could compete with it successfully? If a person amply supplied with capital to conduct under ordinary conditions a successful mill were to compete with a monopoly, such monopoly would be able, at a very small expense to itself, to undersell him in his particular field, while maintaining prices in other parts of the country. If an organization of equal capital attempted rivalry, it would first have to overcome the advantage which the established industry had secured by the advertisement of its wares, and then, if it were successful, the country would have more woollen plants than necessary to supply the demand, and more skilled laborers than would be required for the work.

#### Sage's Note of Warning.

Private monopolies have always been regarded

as unlawful, and there are numerous instances where the people have overthrown them when their exactions become intolerable. Mr. McKinley has condemned the trusts, although, it must be confessed, with ever diminishing emphasis. Organized capital has been making such gigantic strides toward the control of industry during the last few months that even those who have been in the habit of belittling reformers, and accustomed to regard all criticism of corporations as evidence of discontent, are becoming alarmed. Mr. Russell Sage has never been considered a demagogue, neither has he shown himself unduly hostile to capitalists as a class; his note of warning, therefore, is the more significant. In a recently published article in the *North American Review* he thus describes the industrial situation as it appears to him:

"The chief owners of the Standard Oil business have grown so enormously wealthy that, in their individual as well as in their corporate capacity, they dominate wherever they choose to go. They can make or unmake almost any property, no matter how vast. They can almost compel any man to sell them anything at any price."

He fortifies his own observations by quoting the language of Henry Clews, another Wall Street operator. This presents one phase of the question. When combinations of capital "can make or unmake almost any property, no matter how vast," and when they can "almost compel any man to sell them anything at any price," then they cease to be private affairs and become matters of public concern. The question is not whether the public has a right to interfere with the manner in which these combinations use their own property, but whether the public will allow them to appropriate or destroy the property of other people.

Of the new steel company, Mr. Sage says:

"The consolidations of today begin at the very outset with capitalizations that cast all past experiences into the shade, and that almost stagger the imagination. The steel combination now forming, we are told, is to start off with a capitalization of \$1,000,000,000. This is more than one-half of the national debt. It is one-seventieth of the entire wealth of the United States. The total money in circulation in the United States, according to the treasurer's statistics, is \$2,113,294,938. It will be seen, therefore, that this company's issue of securities will represent practically one-half of the entire volume of money in America. In a year or two, if precedents count for anything, this capitalization will be very largely increased, and that in spite of the fact that stockholders in the steel company, which was the basis of the new combination, got three shares of stock in the new company for one in the old—scores of millions being thus added to the interest-earning securities in the United States, by merely the stroke of a pen. When wealth is created in that way, what security is there for the whole scheme? Not another furnace added to the plant; simply a lifting process, and what was one million before is three millions now. The great experience and strength of the men who produced this change will make us accept the new valuation, and that is all there is in it.

"If any of the men in whom we very properly have this confidence should die suddenly, everything would be disorganized. Even as it is, things may break at a critical period, and then we shall have to find a new level with considerable trouble and agitation to ourselves. Just at present, no one can say, with anything like accuracy, where we stand."

#### Underestimated Capitalization

This corporation was being formed when Mr. Sage's article was written, and he underestimated the capitalization, but his remarks in regard to the watering of stock are in point; the illustration used to set forth the magnitude of the corporations is apt, and his comment upon the effect of