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HENRY L. STIMSON: GOVERNOR GENERAL

In his sixty-first year Colonel Henry L. Stimson of New York has been appointed governor general of the Philippines. That was Wood's age when he was appointed in 1921. Stimson was nominated for the office December 13 and confirmed December 17, he believes with no dissenting voice; and opinion in the islands promptly accepted the president's choice, Governor Gilmore commending it as an excellent one and being ready to relieve himself of the acting governor's job and resume his post as vice-governor and member of the cabinet. Gilmore has carried on well during the interregnum, he will have written his name high among the islands' chief executives at the end of the ten months or so he shall have been acting when his successor arrives in Manila and is inaugurated.

Governor Stimson is a very eminent man. In that fact, and in its respect and admiration for the president and confidence in his judgment, is found the source of Manila's ready approval of the appointment.

Naturally, for little is known of what Stimson will do, what he may do. When the Kiess bills were up in the lower house a month ago, he wasn't prepared to offer aid, he wanted to come to Manila first and familiarize himself with the facts. But now things have taken another tack, bills introduced in the senate by Willis of Ohio and in the house by Kiess, propose to use independently of the legislature for executive purposes only \$125,000 of the \$600,000 (more or less) annual internal revenue from Philippines products, chiefly cigars, sold in the United States. Unless there has been bad faith, and we don't believe there has, these bills will probably pass if congress gets around to consideration of them; and Chairman Kiess, according to the *Associated Press* of January 6, has indicated that Stimson now favors them. The legislature will probably not lobby against them, the field has been cleared for action. Wood and Carmi Thompson, who did not agree on everything, agreed on this, that by this means the position of the governor general should be strengthened; and Thompson ascertained that to \$125,000 a year there would be no serious objection. Willis now takes the initial steps, and Thompson seems to be gaining his point.

At time of going to press, Stimson was delaying his departure from the United States for the purpose of returning to Washington and appearing before the joint insular committee. It may be that he too has reached the definite conclusion that the action is advisable for the better administration of Federal and local laws applying in this territory. If so it will be a great help, for action, except as it may be affected by a jam in congress, would seem wholly to depend upon his attitude. It has been recommended by Coolidge.

Colonel Stimson is eminent and honest, and the governorship means nothing to him financially but a considerable sacrifice. It will pay him only \$18,000 a year, unless the new legislation goes through, and his law practice in New York is said to have been bringing him \$50,000. He is Yale A. B. '88, Harvard A. M. '89, and Harvard law '90. He was admitted to the bar in 1891. From December '17 to August '18 he served with the A. E. F. in France, and in August '18 he was made colonel of the 31st Field Artillery. He is high in the counsels of his party, his appointment to Manila at this time may have significance because of this fact: if any drafting is done in the next presidential convention, he is likely material for the draft, and to have been on missions to Nicaragua and Manila would detract nothing from the publicity of the campaign. In New York, too, his friends must have aspirations for him, even if he has none. Again, he is available for the supreme bench, or as ambassador to the court of St. James. It might be advantageous to have a man of his parts in Mala-

canang quite aside from the regular job of governing, when matters affecting the islands are considered in Washington, for his views would have much weight in congress and with the president.

But he is not being sent to Manila for that reason, he hasn't agreed to come here for that. Nor was anything pressing here, and therefore we must look somewhere else for the real explanation of the islands' good fortune. And we shall find it in the approaching presidential election.

The Republicans have a policy respecting the Philippines. They don't want it upset. Wood's administration was under a good deal of Democratic fire. Stimson, who spent five weeks with Wood in the summer of 1926, has ably defended his old-time friend's administration and is now coming out to the islands to continue it to the close—and we guess not much beyond that—of the Coolidge administration. If a remote possibility comes to pass and the Democrats get the Whitehouse, if they seek to turn things upside down Stimson will be relied upon to have enough knowledge of the situation and enough prestige with the American public to temper the purpose of the Democrats, if not to dissuade them altogether from repeating their earlier errors here. (The *Journal* isn't partisan, of course; it says *errors* because most Democrats here reckon them as such.

Then there's another angle, pointing toward a Republican victory. Most impartial prophets predict this. Still, nothing is certain in election but the votes. From the viewpoint of the Philippines the vital point is that policy is solidifying, attaining a degree of consistency.

STOCK DIVIDENDS NOT INCOME

In the decision in the case of Warner, Barnes and Company vs. The Internal Revenue Collector the supreme court has ruled void the provisions of the income tax law (2833) that consider stock dividends as taxable income to the amount of earnings or profits distributed. The government must return taxes paid by the plaintiff company on a distribution of stock made by the Central Azucarera de La Carlota. Justice E. Finley Johnson wrote the decision, one only from his division of the court. Chief Justice Ramon Avanceña and Justices Ignacio Villamor and Norberto Romualdez concur, while Justice George A. Malcolm concurs in a separate opinion which says in part: "It is of public knowledge that this case and a companion case have been repeatedly argued and considered *in banc*, (and) that the court has been deadlocked on them for years. . . . Aside from settling the two cases submitted, it (the Johnson decision) will have no effect on possible pending or future controversies. What will have to be done now, will be to commence another suit, secure a judgment in the Court of First Instance, elevate the record here, and, Mr. Justice Villamor no longer being disqualified, obtain an authoritative decision *in banc*, and then take the matter to the Supreme Court of the United States for final determination."

Anyway, two cases are disposed of in accordance with a long line of Johnsonian rulings respecting stock dividends, and progress is made toward a binding decision on this specific point. The chamber of commerce has printed copies of the Johnson decision, together with Malcolm's separate opinion, for anyone who wants them. Johnson simply holds that stock dividends are not subject to income tax because they are not income, they are evidence of increased capital holdings of the parties who receive them, from which income may or may not be derived, depending upon the fortune of the company. If and when dividends are paid on them, these dividends are income and taxable under the law. But Johnson sets forth the theory at length, and makes capital reading. We think of a company that began with \$400,000 and issued stock dividends until its present capital is \$1,200,000. It has retained in its control as capital utilized in the business \$800,000 of its actual earnings that might, if it had cared to get more capital by other means, have been alienated from its ownership and control by means of dividends in cash distributed on the original stock. These dividends would have been income to the stockholders, while the stock dividends are accretions to their capital holdings. The company is prospering, and taxable income is deriving from both the original stock and the stock dividends. But the earnings represented by the stock dividends were converted into capital and utilized for enlarging plant capacity.

AS IT SHOULD BE

The *Tribune* reports H. G. Keith of North Borneo in Manila to employ additional university men in Borneo's growing industries. That's good, that's returns on the university investment: foresters, engineers and other technical men are wanted. Unskilled Filipinos also migrate to Borneo, finding there lands and work. If the cadastral surveys were finished here, our thinly settled provinces could invite immigrants. They might do this now, but they seem not to think of it or desire it, so Borneo, like Hawaii, becomes an easement.