

Commoner Comment.

Extracts From W. J. Bryan's Paper.

Constitutional Liberty.

The worst feature of the supreme court decision in the Downes case is that it strikes a blow at constitutional liberty. In attempting to defend the position taken by the majority of the court, Justice Brown used arguments which, if carried to their logical conclusions, would deny the necessity for a constitution anywhere. According to the decision of the court, congress can govern Porto Rico as a colony, without constitutional limitations, so far as the taxing power is concerned, and enough is said in the majority opinion to show that no political right is absolutely secure.

The question naturally arises: If the Porto Ricans do not need the protection of a written constitution, why do the people of the United States need a written constitution? If we concede that the Porto Ricans are safe without a constitution we must also admit that the Americans would be safe without a constitution. Justice Brown says: "Grave apprehensions of danger are felt by many eminent men—a fear lest an unrestrained possession of power on the part of congress may lead to unjust and oppressive legislation, in which the natural rights of territories, or their inhabitants, may be engulfed in a centralized despotism. These fears, however, find no justification in the action of congress, nor in the conduct of the British parliament toward its outlying possessions since the American revolution." * * * There are certain principles of natural justice inherent in the Anglo-Saxon character which need no expressions in constitutions or statutes to give them effect or to secure dependencies against legislation manifestly hostile to their real interests."

I shall at another time treat of his reference to the benevolence of the British parliament, but my purpose at this time is to emphasize the fact that he repudiates the arguments which have always been given in support of a written constitution. It was necessary to do so in order to justify the Porto Rican decision, and yet in doing so he surrenders one of the most vital principles of government. Some of the republican papers have most violently assailed me because I pointed out the political heresy uttered by the court. Will any republican paper quote the language which I have quoted above, and then answer two questions?

FIRST:—IS A CONSTITUTION A GOOD THING FOR THE PEOPLE OF THE UNITED STATES?

SECOND:—IF SO, DO NOT THE PORTO RICANS ALSO NEED A CONSTITUTION?

A special invitation is extended to the editor of Postmaster General Smith's paper to answer the questions, but any republican paper, great or small, conspicuous or obscure, is at liberty to try. The Porto Ricans do not elect the congress; we do, and yet we have the protection of a constitution while the Porto Ricans have none. We can retire the members of congress if we don't like their conduct, and yet we have a constitution and the Porto Ricans have none. The members of congress are chosen from among us, and they must live under the laws which they make for us; the congressmen are not chosen from among the Porto Ricans, and do not live under the laws made for the Porto Ricans, and yet we have a constitution and the Porto Ricans have none. If there are certain principles of natural justice inherent in the Anglo-Saxon character which need no expression in constitutions or statutes to give them effect or to secure dependencies against legislation manifestly hostile to their real interests," why were the people of revolutionary days unwilling to rely upon that "natural justice"? If there is no danger in "an unrestrained possession of power on the part of congress" why were our forefathers so careful to restrain the power? Has human nature so changed as to make unnecessary now the constitutional limitations which were thought necessary a century ago?

Constitutional liberty has been attacked and the attack must be met at once. The doctrine laid down by Justice Brown is antagonistic to all that the American people have been taught to believe sacred. If we admit his argument when applied to Porto Ricans, upon what ground can we stand when we claim for ourselves the protection of the constitution or the bill of rights? If the principle contended for by Justice Brown is established for the government of colonies, it will by irresistible logic become operative in the United States. That the readers of The Commoner may fortify their own views by the wisdom of Thomas Jefferson, the following extracts are made from his writings as collected in that invaluable volume "The Jeffersonian Cyclopedia."

In 1802 he wrote: "Though written constitutions may be violated in moments of passion or delusion, yet they furnish a text to which those who are watchful may again rally and recall the people. They fix, too, for the people the

The Cuban convention has accepted the Platt amendment, but as the Cubans had to accept it or fight, the action of our nation has not increased their love for our people. But the republicans think love is unnecessary as long as we have a large army.

There was but one Dred Scott, but the famous decision in his case brought about a revolution. The supreme court of the United States has decided that all Porto Ricans are Dred Scotts, and the nation will not long suffer the injustice to remain.

principles of their political creed."

At another time he described our constitution as "the ark of our safety, and grand palladium of our peace and happiness."

It will be remembered that the federal constitution was opposed by some because it did not contain a bill of rights, and the first ten amendments were immediately adopted to remedy this defect and provide additional guarantees to life, liberty and property. Jefferson was a firm believer in the doctrine which led to the adoption of the bill of rights. In a letter written in 1789 he said: "I disapproved from the first moment the want of a bill of rights (in the constitution) to guard liberty against the legislative as well as the executive branches of the government; that is to say, to secure freedom in religion, freedom of the press, freedom from monopolies, freedom from unlawful imprisonment, freedom from a permanent military, and a trial by jury in all cases determinable by the laws of the land."

In a letter written to James Madison, in 1787, Jefferson said: "A bill of rights is what the people are entitled to against every government on earth, general or particular; and what no just government should refuse, or rest on inferences."

At another time he defined his position as follows: "By a declaration of rights I mean one which shall stipulate freedom of religion, freedom of the press, freedom of commerce against monopolies, trial by jury in all cases, no suspensions of the habeas corpus, no standing armies. These are fetters against doing evil which no honest government should decline."

Jefferson was a believer in popular government, but he also believed in the inalienable rights of individuals—rights which the government does not give and ought not to take away—rights which cannot be safely entrusted to the keeping of any legislative body. Until recently, Jefferson's position on this subject was unanimously endorsed.

Every state has adopted a constitution placing restrictions upon the legislative branch as well as upon the other branches of the government. The state of Ohio has a constitution and a bill of rights; how can Senator Hanna and President McKinley favor a constitution and then declare that the people of Porto Rico need no such protection? If the farmers, laborers, and business men of Ohio are not willing to trust the wisdom and justice of an unrestrained state legislature, by what process of reasoning do they reach the conclusion that the people of Porto Rico can entrust their rights to the protection of an unrestrained congress?

Justice Brown is a citizen of the state of Michigan, and Michigan also has a constitution and a bill of rights. Is Justice Brown willing to go before the people of his own state and tell them that their legislature should be vested with full and unrestrained power to act on all questions affecting the rights and property of the citizens? If not, why not? Is a congress more reliable than a state legislature? Is a representative body more trustworthy as it gets farther away from the people? Is delegated authority more carefully exercised in proportion as the seat of government is farther removed from the voters?

The position taken by Judge Brown would be ludicrous if it were not so serious. It is strange that his language is not challenged by the republicans. Two republican judges out of six dissented from this position; have the republican newspapers less independence than the judges? Have the rank and file of the republican party, who are under no obligation to the party less independence of thought and action than the justices who hold their commissions from republican presidents? Unless the people are wholly absorbed in money-making and entirely indifferent to that constitutional liberty so highly prized and so dearly bought by our ancestors there will be so emphatic a protest against the imperialistic utterances of the court that no body of officials on the bench or elsewhere will soon again disregard the spirit of American institutions.

The trustification, republicanism and subsidization of the democratic party is making progress only among those who have been democrats when there was neither campaign nor election on hand. Men who have been democrats in season and out of season because the principles of democracy were their principles, are not demanding any retreat from advanced positions taken by the party.

By comparing the crookedness at Manila with the embezzlements at Havana we are able to formulate a rule for carpetbag governments—The stealing increases as the square of the distance increases.

Mr. Perry S. Heath can now revive the Hanna presidential boom.

When a man who calls himself a democrat finds himself supported by men who thrive on anti-democratic policies his democracy may well be called into question.

As the country understands it, taxation without representation is wrong when we are the taxed, but quite proper when we are the taxers.

Will Grosvenor say that McKinley—as he said Washington did—declined a third nomination for fear of defeat?

GET AFTER CONGRESS.

PEOPLE MUST TAKE A HAND IN SUPREME COURT DECISION.

Our Senators and Representatives Must Be Informed As to the Kind of "Rule" We Want in the Philippines and in Porto Rico.

As the decision of the supreme court in the Porto Rican cases has decided that congress alone is the governing power in our new territorial possessions, it is incumbent on the people to impress their senators and representatives before the next session with the kind of government the people of these territories are to have, and if the constitution is to be extended to them the same as in Alaska and other possessions. Shall they have the right to administer their own local government, the right of trial by jury, and tax themselves for school and other purposes as seems best to them? Speaking of the decision the New York World says. Here are four facts which ought not to be overlooked:

First—Five of the nine justices were opposed to the oriental expansion delusion—White, Fuller, Peckham, Harlan and Brewer. If White had not disagreed with the others as to the constitutional method of avoiding the expansion that contracts, the vote of the court would have to be reversed.

Second—Eight of the nine justices dismissed the pet theory of the colonialists—the "extra constitutional" powers of the government whereunder the colonialists would have been the political slaves of our officials, instead of, as now, legally entitled to some of our constitutional rights.

Third—The court put the responsibility squarely upon congress, so that congress will have to answer directly to the people for whatever is done in the colonies. There can be no playing of shuttlecock between the president, congress and the supreme court.

Fourth—While the supreme court has held that the constitution does not forbid colonial expansion, it has not held that the constitution enjoins colonial expansion.

From the great question all factors are now eliminated, except the political. The fundamental questions, Does it pay? Is it sensible? Is it just? Is it worthy of the beliefs and the aspirations of the people of the republic—can and must now be answered.

And if the people cannot answer these questions sensibly and justly, how long would a constitutional bar have been effective to restrain them from self-destruction? If the principles of the republic have departed from the people, if the only force or even if the chief force of those high principles had been in a supposed constitutional restraint from injustice and folly, then indeed it is excusable to tremble for the republic.

SHIP-SUBSIDY AND CORRUPTION.

It will not be long before congress will meet again, and Hanna will again be introducing his one hundred and eighty million dollar ship subsidy scheme. The only chance to defeat it is to urge your senators and representatives to vote against it and call on your neighbors to do likewise and mark every congressman for slaughter that does not openly oppose it when caucus and convention times comes around.

There has never before been attempted a more barefaced scheme to loot the United States treasury than is proposed in the bill fathered by Senator Hanna and recommended by President McKinley. The republican party has in the past often forced subsidy steals through congress and in nearly every case great scandals were brought to light of the corruption used in passing them. This bill will lead to a much greater corruption, as the modern trust surpasses the old time commercial company, and will smirch the characters of all who favor it.

The advocates of subsidies for ocean shipping still harp on the old subject of reviving American commerce, says the Chicago Chronicle. They describe the infrequent appearance of the American flag in foreign ports and say that it must be restored to its former popularity on the high seas. American shipping has been driven from the ocean because the tariff has raised the cost of every article used in the construction of American vessels. Having made the cost of vessel construction so high as to drive our commerce from the ocean, the subsidists now want the taxpayers to make up the difference in cost between building ships in England and building them in the United States. They tax the people to the extent of robbery for the purpose of making shipbuilding costly and then would tax the people to pay the shipbuilders for the extra cost of building ships. That is subsidy and tariff statesmanship.

BOSS PLATT'S RUFFIANS.

The amazing amount of smuggling that is carried on by the rich on their return from abroad led congress to limit the personal belongings purchased in other countries to \$100 and the customs authorities made regulations to enforce the law, the nabobs have greatly resented this attempt to collect revenue from them, they seem to be filled with the idea that it is an infringement on their personal rights and that protection is all very well when applied to the common people, but should be free trade for millionaires.

As this law and regulations are of Republican origin, it is surprising to see that the Philadelphia Press, an ultra-administration organ, edited by one of the cabinet of President McKinley, and a rampant protectionist, should so far forget the "living issue" as to indulge in the following tirade

against carrying out the law. Here is what the Press says:

"Persons spending some weeks abroad must purchase articles of ordinary wear. They are permitted under the law to expend \$100 on personal effects. If they take oath to the fact that they have not made purchases subject to duty that oath ought to be sufficient. Every one of them is obliged to sign a paper while the vessel is coming up the harbor. What is the sense, then, in making these passengers open their trunks for some ruffian—and under the present regulations the average inspector feels it incumbent upon himself to act like a ruffian—to paw over and scatter the contents upon the dirty flooring? The regulations under which the New York custom house is run are something abominable."

Now these ruffians are Republicans selected by Boss Platt and approved by the officers whom President McKinley has appointed. Yet it does seem a shame that when the Postmaster General returns from a trip abroad, after having hobnobbed with the crowned heads and nobility of England and Europe, with probably a dozen pairs of kid gloves, some suits of genuine Scotch tweed—all wool and a yard wide, unlike the Philadelphia imitation—and perhaps a piece of silk velvet that may hereafter adorn the wife of the secretary, to have a "ruffian" paw over all this finery, even after he has declared nothing subject to duty and worst of all, scatter these beautiful importations on the dirty floor is a sin and a shame. But what can the secretary do about it, the law is no respecter of persons, no matter how high and august they may be, and the penalty for smuggling covers all classes.

The only redress that appears available is to repeal the law and return to the good old American custom of tariff for revenue only, and as even then the baggage would be examined, to replace the "ruffians" with some honest Populists who have clean hands and not such beasts with paws, as Secretary Smith describes so graphically.

HOW TO TAX MONOPOLIES.

The monopoly in the iron and steel industry is now as complete as in the coal industry and in the oil industry, says the Modern Culture Magazine. It is noteworthy that these three great monopolies are all of mineral productions upon the use and enjoyment of which the industrial life of the nation depends. They are controlled by a small group of allied capitalists, some of whom hold shares in all of them. They employ the cheapest, as well as some of the better paid, grades of labor in extra hazardous occupations, and the relations between employer and employed in the past have been extremely unsatisfactory. The contrast between the lot of the ill-paid miner taking his life in his hands to toil and grub in the dark, ill-ventilated tunnels in the bowels of the earth for the bare pittance that will keep soul and body together and his family from the poorhouse, and that of the president of the corporation which employs him, whose every clock-tick counts a miner's daily wage added to his salary, is the most startling of all the inequalities of fortune the world has yet seen.

It will hardly be contended that the fathers of the republic contemplated such a superstructure when they laid the foundations of American liberty on the common law with its exaggerated regard for the "sacred rights" of property. It is to the common law that we owe the definition of land titles which makes them include the minerals beneath the soil and the sunlight and atmosphere above it. Yet it is an absurdity of reasoning which makes the ownership of each square foot of surface extend from the center of the earth to the limits of space, and it is within the power of congress and the state legislatures to correct this absurdity whenever it is made clear to the public conscience that a monstrous injustice is worked by it. The power of the steel trust, the coal trust, the oil trust, and of every other great monopoly is "based in the last instance upon some monopoly of unused land."

The ability to control the available supply of some commodity and to withhold from use the surplus product, is the essential feature of every trust. If the state would exercise its undoubted right and power to tax oil and mineral lands for their full rental value so long as a monopoly existed in any mineral product it would at once become unprofitable for any corporation or individual to hold such lands idle. They must be worked to their full capacity or they would revert to the state for taxes. In either case the "corner," or destructive monopoly, would cease. The average royalty paid to owners of bituminous coal lands is ten cents per ton of coal mined. The average royalty paid to owners of iron lands is thirty cents per ton of ore mined. A tax of like amount levied on the full productive capacity of mineral lands owned, leased, or operated by trusts would put a handicap on the efforts of great corporations to gain absolute control of the earth and all its productions; and some portion of the revenues so secured might be wisely employed in alleviating the toll and wretchedness of the lives of miners.

Mr. Justice Brown is the most florid judicial flopper of the age. He is said to have flopped not long before the decision in the Porto Rican cases was delivered, and he certainly flopped from one side of the question in the first decision to the other side in the latter one.

According to the New York Herald there are 3,828 millionaires who own sixteen thousand millions of the nation's wealth. Nearly all this has been created in the last fifty years, and has taken a vast amount of labor of other people than those same millionaires.

WILL IT FOLLOW?

CONSTITUTION MAY NOT PROTECT TERRITORY.

Under Republican Administrations—Varied Opinions on Recent Supreme Court Decision—President Cannot Be Legally Vested with Authority to "Rule" Filipinos.

The more decision of the Supreme Court is analyzed by the ablest lawyers, the less it seems that the future is settled. One says: "Justice White one of the majority judges, in one case in delivering his opinion did so by saying 'the court would decide that a tax on goods going from Porto Rico to the United States was legal; he took great pains not to allude to traffic going both ways. Perhaps this was due to the limitation of 'today' in his assertion, but, in any event, the deferring of an opinion on that point is significant."

"If it should decide that the 15 per cent duty was valid on goods coming this way, but invalid on goods going the other, it would be very embarrassing for congress to legislate for the colonies. Free trade one way and protection the other would not accord with the spirit of fair play of the American people. Four of the justices are ranged against the tariff, even on colonial imports, but the only one of the remaining five needs to scruple on exports to turn an administration victory into a practical defeat."

And regarding the Philippines some of the ablest lawyers in Washington say without hesitation that congress cannot invest the President with authority to make revenue laws and that the Supreme Court is bound to declare all collections of duties under present conditions without authority. This leads to the opinion that when another case comes before the court or if a rehearing is granted on one of the cases already decided the court may reverse its decision and the edict will go forth that the constitution does follow the flag and this result is the more likely, for Justice White said in effect—at least, many able lawyers who listened intently to his words as they were uttered, so interpret them—that his sole reason for sustaining the act was because its revenue provisions expire by limitation in a few months. This frank statement raises the question in the minds of lawyers "Will Justice White vote to sustain a similar act if Congress should decide hereafter to continue the Porto Rico tariff?"

The answer to this by many of the distinguished persons who were present at the proceedings is negative. Senator Mason, who sat throughout the reading of the opinion, said tonight that he felt quite sure Justice White had made it clear that his only reason for sustaining the Foraker tariff was because it does not run indefinitely.

POLITICAL CORRUPTION.

Since the discovery of the Cuban postal frauds for which Rathbone and Neely have not yet been brought to trial and the corruption in the Philippines, it is necessary that the civil service should be filled by men whose antecedents assure a faithful and honest performance of their duties. This is especially necessary in the appointments for the positions in the new territories or colonies, but the administration does not take this view of the case. It has used no diligence in ascertaining if those recommended were these requirements, but merely if partisan purposes were to be favored and its most obnoxious henchmen rewarded. So great has this evil become and so notorious has been most of the appointments, that even those newspapers, that otherwise have supported the policy of the president, are now strongly rebuking him.

We think that President McKinley, says the New York Times, ought to put a stop to this sort of thing. There is no doubt of his power to do it. There is no doubt that he is in a perfectly safe position to do it. He would not endanger the success of his party, and he has no personal ambitions to serve. The backward drift of his party from the standard of merit in appointments that was set his predecessor is discreditable to him and dangerous to the best interests of the party. It tends directly to the guidance of the party action by the least worthy and the most ignorant, and that in the long run must be disastrous. Especially it tends to bring into positions of activity and control in the party men of corrupt purposes and men who can be bought. In the near future the Republican party will have need of all its virtues and firmness to resist the venal forces seeking to use it. The president should see that his indulgence to the spoilsmen is weakening it.

TRADE BALANCE A "MYTH."

There is no doubt that there is a screw loose somewhere in the figures given out by the Treasury Department on what is known as "the balance of trade." The political economists have for some time claimed that the figures are unreliable as we have evidently received pay for only a part of their enormous balance—on paper—in our favor. Prodded by public opinion Secretary Gage has promised to investigate the matter, but his experts evidently have been unable to furnish the information, unless a very lame statement given out by the bureau of statistics is claimed as an explanation.

The claim of the Democrats that the figures given were misleading and had probably been padded for political effect to show the enormous prosperity attained under the protective tariff and the beneficent rule of the trusts, is being proven. The matter has caused so

much attention that the financiers have been making investigation on their own account for the Chicago Chronicle says:

Certain New York bankers are quoted as saying that the enormous balance apparently due the United States on account of foreign trade is a myth. One of them points out that since about the 1st of April large amounts of sixty and ninety day bills of exchange have been drawn by American banking houses. These are not drawn against balances abroad, but are essentially loan bills. If balances existed abroad there would be demand bills. He expresses the opinion that the rich Americans residing abroad spend a very large amount in the aggregate which they draw from the United States and a large part of the balance apparently due us is absorbed in this way. At the time when the drawing of these long bills began the merchandise balance in our favor for the preceding nine months was over \$540,000,000. Add to this a net export of \$21,000,000 in silver and deduct a net import of less than \$20,000,000 in gold and we still have \$535,000,000 apparently due us on nine months trade, or at the rate of \$715,000,000 for entire fiscal year. This is an enormous sum to be consumed in payment of freights to foreign ship owners, in expenditures of Americans touring and residing abroad and in payment for securities sent home. During the last three fiscal years and the first three-quarters of this year the apparent balance due us on account of merchandise, gold and silver, was \$2,144,000,000, round figures. The merchandise balance was \$2,230,000,000, in settlement of which the net import of gold and silver was only \$86,000,000. If all the apparent balance remaining is a myth our treasury statistics are very far from exhibiting the true state of our foreign trade.

THE WOOL TARIFF.

The low price of wool and the light demand for woolen goods of American manufacture under the almost prohibitive duties of the Dingley tariff shows the utter absurdity of ultra protection. It kills the goose that lays the golden eggs by too high and pampered feeding. The farmers were led to believe that their small flocks would be so remunerative when the Dingley tariff was enacted and that the exactions that the tariff demanded on the other necessities of life would be more than compensated for and they would grow rich. They have now found out their mistake and the wool growers and the woolen manufacturers are about ready to return to the tariff for revenue, under which they were more prosperous than they are today.

If it was not for the mutton sheep, the raising of which has done away with the dislike for mutton which was distasteful to many American palates, the decrease of our flocks would be greater than it has been. The further reason for the decline in the price of wool and the demand for woolen goods is told by the Courier-Journal, which says:

The present high duty on raw wool is producing the effect which has often been pointed out by free traders. The high duties on imported woolsens excludes them as elements of competition except by the payment of greatly advanced prices. But there is no way to force people to buy woolsens if they are unwilling to pay the price. Higher prices, other things being equal, mean reduced consumption. In the case of woolsens, the manufacturers are compelled to meet the demand for goods at a moderate price, and they can only do so by a deterioration of the products. Hence the increased rise of cotton and shoddy in the manufacture of so-called woolsens.

SLAVERY UNDER "THE FLAG."

When once men have been enslaved how difficult it is to reinstall them with love of freedom. The English foreign office reports concerning the working of the decrees freeing the slaves of Zanzibar and Pemba. Fewer slaves appeared for freedom in 1900 than in 1899, because the British commissioner avers, most of the slaves know they are not likely to gain much present advantage, seeing that those who were thrown on their own resources have a difficult time to make a living.

The masters have been kinder since the slave legislation was enacted, and seek to make their services more attractive.

Perhaps this is the reason that President McKinley has not taken steps to free the slaves in our islands of the sea, but then our flag floats over Republican institutions or has until the new imperial policy was inaugurated and Britain is an empire. Surely we should not be behind the English in at least attempting to free our slaves, especially as the constitution commands it.

THE GROWTH OF TRUSTS.

The present year will be a record breaker in the organization of trusts if the rate continues as it has since January 1. New consolidations of capital have been made since that date aggregating considerably over \$2,000,000,000. Here is a short list of the most important of them and their capitalization:

The steel trust.....	\$1,100,000,000
Accident insurance trust.....	50,000,000
Trust companies consolidation.....	50,000,000
Tin can trust.....	80,000,000
General machinery trust.....	50,000,000
Ship-building companies combine.....	85,000,000
Locomotive trust.....	50,000,000
Cotton duck combine.....	50,000,000

All present indications make it probable that the record of 1901 will far surpass that of 1900 in the formation of these huge industrial combines. Negotiations are now preparing the way for another large batch, including a combine of the great farming machine firms and another of the leading watch-making works with capital stocks of \$75,000,000 each.