

# The Commoner.

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## P E R H A P S !

Justice Brown would be happier if he had contented himself with a decision without attempting to give any reasons for it. There are many vulnerable passages in the opinion which he delivered, but there is one passage which shows the uncertainty produced by the court's decision. Heretofore, the people have regarded liberty as an inalienable right, and freedom of speech and freedom of the press have been considered absolutely necessary to its defense. Those who prize liberty and regard freedom of speech as above price will not take kindly to the word "perhaps," used by Justice Brown in discussing this subject. He said:

"To sustain the judgment in the case under consideration it by no means becomes necessary to show that none of the articles of the constitution applies to the island of Porto Rico. There is a clear distinction between such prohibitions as go to the very root of the power of congress to act at all, irrespective of time or place, and such as are operative only 'throughout the United States' or among the several states.

"Thus, when the constitution declares that 'no bill of attainder or ex post facto law shall be passed,' and that 'no title of nobility shall be granted by the United States,' it goes to the competency of congress to pass a bill of that description. Perhaps, the same remark may apply to the first amendment, that 'congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people to peaceably assemble, and to petition the government for a redress of grievances.' We do not wish, however, to be understood as expressing an opinion how far the bill of rights contained in the first eight amendments is of general and how far of local application."

He is not willing to go at once to the full extent of his logic. He seems to have faith in congress; he does not doubt that it will deal fairly with subject races, and yet he shrinks from the thought of annihilating, at one blow, the whole bill of rights. He boldly declares that "there is a clear distinction between such prohibitions as go to the very root of the power of congress to act at all, irrespective of time or place, and such as are operative only 'throughout the United States,' or among the several states"—not merely a distinction, but a "clear distinction." And yet he becomes perplexed as soon as he begins to draw the "clear distinction." He is quite sure that congress is entirely prohibited from passing a "bill of attainder or ex-post facto law," or from granting "a title of nobility." He thinks that "perhaps, the same remark may apply" to laws respecting the establishment of religion to laws pro-

hibiting free speech, to laws abridging the freedom of the press, and limiting the right of the people to peaceably assemble and petition or redress. Perhaps! PERHAPS!! PERHAPS!!! How soon he becomes entangled in his own web! And this is constitutional law! Justice Brown wants it distinctly understood that the court is not at this time "expressing an opinion how far the bill of rights contained in the first eight amendments is of general and how far of local application." It will be interesting to American patriots to learn that rights for more than a century considered inalienable are now divided into "general" rights and "local" rights; that some belong to everyone, while others belong only to some, and that the some who enjoy all rights are to decide what rights are safe in the keeping of others. The Boston Herald very properly says that imperialism "does not consist in having an emperor, but in governing a country on the well established basis that all men are not free and equal." It is not the form but the essence which controls; it is not the name, emperor, but the thing, emperor, that is hateful. The Herald adds:

"It does not matter whether the form of rule is that of a czar, or that of an imperial parliament which rules over subject people in the name of a conquering and governing nation. The government of England is just as imperialistic as the government of Russia. The inhabitants of Somali Coast Protectorate, an English colony, have no more political rights accorded to them by the British parliament, representing the English people, than the czar accords to the inhabitants of the Crimea. The government of England is imperial, because, while arrogating to themselves the right to do what they please, the English people control the industrial and political existence of hundreds of millions of people, and settle these in such manner as they see fit. The government of the czar is imperialistic because, while arrogating to himself the right to do as he pleases, the czar dictates the political and industrial development of scores of millions of people. But in each instance there is a denial of the democratic theory of government, that the people of a country have a right to regulate their own affairs."

The decision of the Supreme Court in the Downes case places the inhabitants of Porto Rico at the mercy of Congress and the executive. There is not a vital right that they can claim as theirs. They must bow before the American flag; they must swear allegiance to it; they must follow where it leads; their property and their lives may be demanded for its maintenance and defense, and yet what is there in that flag which represents right or hope for

them? Heretofore, a territory has looked forward to the time and condition of statehood; its embarrassments have been considered temporary and during its period of waiting its people have been protected in the enjoyment of all the rights guaranteed to citizens by the constitution. If its delegate in congress has had no vote its people have been reasonably safe from harm because the general laws made for the territories were also operative in the states. Now comes a new order of things; the nation has caught the spirit of conquest; it has stained its hands with the blood of subject races. The people of Porto Rico are notified that they are to be with us, but not of us. They are to have neither our government nor their own government, but such a government as we think good for them. We shall buy of them what we please upon our own terms: we shall make their laws for them; we shall tax them; we shall govern them, and if they dare to quote our declaration of independence against us we shall shoot them. "Perhaps," we shall allow them freedom of religion—five Judges in a court of nine, speaking for us, say that we are not sure about this. "Perhaps," we may allow them freedom of speech—the question is not settled; "perhaps," their newspapers may be allowed to criticise carpet-bag officials—but it is not yet determined whether this is a general right to be enjoyed by the Porto Ricans or a local one to be enjoyed only by the people of the United States. "Perhaps," they may be allowed to peaceably assemble—this is a matter for future consideration; "perhaps," they will be permitted to petition for redress of grievances; we shall see about this later.

The Porto Ricans had heard of our revolutionary war; they had read our state papers; they had been inspired by our patriotic songs, and so, when General Miles landed upon the Island, the people of Porto Rico met him with music and spread flowers in his path. Theirs is a rude awakening! While they dreamed of American liberty the republican leaders were calculating the trade value of eight hundred thousand Porto Ricans.

"Perhaps," Justice Brown's opinion will convince the rank and file of the republican party that our institutions are in danger and that the republican party should be repudiated. If liberty becomes a "perhaps" in Porto Rico how long will it be a certainty in the United States?