

# The Commoner.

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## LARGE CONCESSIONS IN THE DOWNES CASE

Justice Brown in delivering the majority opinion in the Downes case clearly shows that he was willing to make "large concessions" in order to sustain the administration. He concludes his argument, or rather his explanation, by presenting the expediency excuse in all its baldness. He says:

A false step at this time might be fatal to the development of what Chief Justice Marshall called the American empire. Choice in some cases, the natural gravitation of small bodies toward large ones in others, the result of a successful war in still others, may bring about conditions which would render the annexation of distant possessions desirable. If those possessions are inhabited by alien races, differing from us in religion, customs, laws, methods of taxation and modes of thought, the administration of government and justice, according to Anglo-Saxon principles, may for a time be impossible; and the question at once arises whether large concessions ought not to be made for a time, that, ultimately our own theories may be carried out and the blessings of a free government under the constitution extended to them. We decline to hold that there is anything in the constitution to forbid such action.

The inference is clear that he would have joined the minority but for the fear that "a false step," as he called it, "might be fatal to the development" of the administration's plan. He assumes that conditions might make "the annexation of distant possessions desirable," and recognizing that such lands might be "inhabited by alien races, differing from us in religion, customs, laws, methods of taxation and modes of thought," he surrenders the principles of constitutional government in order to vest in Congress power to administer a different kind of government from that contemplated by our forefathers. Of course, he does not expect to suspend the constitution forever, but in order to justify a temporary suspension of the constitution he employs arguments which destroy the foundations of constitutional liberty. It is the old story—as old as history. It is yielding to temptation; it is the conscious departure from the right path with lame and halting apologies therefor. It is the ancient argument that the end justifies the means—an argument that has been used to bolster up every thing bad and to excuse all villainy. When a person starts to "making concessions" whether from moral principles or from constitutional provisions, he always increases the concessions until they become as large as the case requires. Justice Brown makes the mistake of weighing desire against duty. Nothing can be desirable which requires a surrender of our ideas of government. That ought to be a starting point. If the truths set forth in the Declaration of Inde-

pendence are self-evident truths; if the rights enumerated are inalienable rights; if the people are the only source from which a just government can derive its powers—if these things are true, then nothing can be desirable which requires a repudiation of them. The very fact that Justice Brown discusses the question, or entertains the thought of comparing the desirableness of distant possessions with the duty of maintaining the principles of free government shows that his heart has wandered from the paths trod by the revolutionary patriots. He may delude himself with the idea that he can ultimately extend the blessings of "free government" by denying the principles of free government now. But it is a vain hope. To justify a temporary surrender we must relax our hold upon American doctrines and when that hold is once relaxed it is not apt to be regained. Power is fascinating. It flatters our vanity to be told that we are "a superior people" and owe it to "inferior people" to take care of them. As we never can convince them that we are disinterested or make them satisfied with our sovereignty, it is not safe to give them a voice in their own government.

If our subjects protest against carpet bag officials, it is proof positive that they lack the intelligence to govern themselves. When a superior race is dealing with an inferior one, lack of appreciation is a heinous offense; and when did the subject ever appreciate an effort to deprive him of his liberty?

Progress, civilization, capacity for self government—all these are relative terms. Individuals differ from each other, races differ, nations differ. Let us suppose that ten represents the capacity of the Filipinos for self government while one hundred represents the capacity of the American people; how can they come nearer together unless the Filipinos make more rapid progress than the American? Is it probable or even possible that the Filipinos, denied the experience which self-government gives, would improve as fast as we so long as we are in the full enjoyment of self-government?

Justice Brown referred with evident pride to England's methods of dealing with her colonies, and yet England is making no progress toward self-government. The Indian people are complaining that Englishmen are sent out to fill the important offices at high salaries; the native papers of influence do not attempt to defend the policy of the English government and the educated classes are especially hostile to British rule.

Japan has made more progress in the last forty years than India has made in a hundred and fifty. Mexico, half Spanish and half Indian, has made greater strides in the last quarter of a century than India has made in a century and a half. When the Mexican war was ended our flag was hauled down from the heights of Chapultepec and both the United States and Mexico have prospered more as sister republics than either would have prospered had we adopted an imperialistic policy.

The "destiny" argument obliterates all distinction between right and wrong; it assumes that there is somewhere an irresistible force which impels the American people to do what they do not want to do and ought not to do, whereas the only force behind imperialism is the commercial argument that the constitution and all moral principles must give way to the almighty dollar. The "destiny" argument justifies grand larceny and wholesale slaughter, provided that they will pay, and then imperialists, conscious that the means employed cannot be defended by argument, throw the blame upon Providence. There is no more reason to believe that God commands a big nation to destroy, subjugate or rob a weaker nation than there is to believe that God commands a strong man to kill or rob a cripple, and yet the imperialists invoke the law to punish the individual as a criminal while they extol a war of conquest as patriotic.

If concessions are made they ought to be made for the support and maintenance of republican government, not for its overthrow, but Justice Brown made all the concession away from liberty rather than toward it. His policy would send this nation out upon the highways of the world as a bully and a braggart. Unless he knows that moral principles will be suspended for the protection of our nation, he must know that this nation cannot exercise the powers conferred by the supreme court without destroying its moral prestige among the nations and inviting a terrible retribution. The victims of arbitrary power may survive, but those who exercise arbitrary power become hardened and calloused until they lose respect for liberty and then lose liberty itself.

The concessions made by the court are so large that no material advantage however great could compensate the nation for them. What shall we say, then, when these concessions are made to secure advantages which are seeming rather than real—advantages which but a few can enjoy?