

# The Forum

FEBRUARY, 1899.

## WHY THE TREATY SHOULD BE RATIFIED.

IN 1521 Magellan discovered the Philippines. In 1564 Spain took possession of them and named them after Philip II. She has held them ever since, except that England took and held Manila in 1762 for a ransom of 1,000,000 pounds sterling, which was never paid.

The archipelago covers about 1,000 miles north and south, and 600 east and west. The number of the islands is variously estimated at from 1,200 to 2,000. Some of them remain unexplored.

The principal islands are Luzon, Mindanao, Paláwan, Samar, Panay, Mindoro, Leyte, Negros, Cebú, Masbate, Bohol, Catanduanes, Tablas, Burias, and Ticao. Luzon is the largest. Its area is 41,000 square miles. Mindanao, the next largest, has 37,500 miles. The aggregate land area is 114,356 square miles, or greater than that of Arizona.

Owing to the great extent of the Islands from north to south, the climate varies. In Manila the hottest season is from March to June; the greatest heat being felt in May, before the rains set in. The temperature then varies from 80° to 100°. It is coolest in December, when the temperature varies from 60° to 75°. At Manila the average rainfall is from 75 to 120 inches per annum. In other parts of the archipelago it is heavier.

The estimated population is 8,000,000. The Philippine Malays are said to be superior to many other Asiatic peoples. They are orderly, amiable, courteous, honest, and superstitious. The inhabitants comprise Malays, Aítas, Negritos, pure blacks, Chinese, Japanese, Indians, Moors, Europeans, and mixtures of each with the others. There are

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many tribes and many languages and dialects. The inhabitants are generally tractable and amenable to government. They are fond of music, dancing, gambling, and cock-fighting.

Probably there are not more than fifteen or twenty thousand Spaniards who permanently reside in the Islands. Agriculture is not much developed. The people weave cotton and silk: they tan leather, excel in shipbuilding, and make wagons and carts.

The Philippines are rich in woods: ebony, cedar, iron-wood, sapan-wood, logwood, and gum trees are abundant. They produce gutta percha, cocos, bamboo, areca palm, the banava, and the melane. Mangoes, plantains, jack fruits, and the Malayan fruits are found. Rice, potatoes, peas, and wheat are raised.

Among animals are to be found deer, buffalo, horses, and monkeys. There are many reptiles, and birds of various kinds.

Among minerals gold, coal, iron ore, copper, galena, zinc, and sulphur have been found.

Commerce has been restricted; and transportation has been deficient. One railroad, running from Manila to Pangasinán (123 miles), has been constructed.

During the quarter ending December 31, 1897, there were exported from these islands to the United States and Great Britain 216,898 bales of hemp (280 pounds per bale), of which 138,792 bales went to the United States, and 78,106 bales to Great Britain. During 1897 hemp was exported to Continental Europe, Australia, China, and Japan. The total exports of hemp for the ten years ending in 1897 amounted to 6,258,965 bales; and 41 per cent went to the United States. During the same years the Philippines exported to the United States and Europe 1,582,904 tons of sugar, of which 875,150 tons went to the United States, 666,391 tons to Great Britain, and 41,362 tons to Continental Europe.

The exports of hemp and sugar during the ten years under review amounted to \$89,263,722.80, or an average of \$8,926,372 per year.

Taking into account the exports of cigars, tobacco, copra, woods, hides, shells, indigo, coffee, etc., the estimate is that the average of exports to the United States is \$1,000,000 per month.

In 1896 the trade of the Islands with Great Britain was in imports \$2,467,000, and exports \$7,467,500; with Germany, \$744,928 imports and \$223,700 exports; with France, \$1,794.90 imports and \$1,987,000 exports; with Belgium, \$272,240 imports and \$45,660 exports; with

the United States, \$162,446 imports and \$4,982,857 exports; with China, \$103,680 imports and \$13,770 exports; and with Japan, \$98,782 imports and \$1,387,909 exports.

In 1896 the total imports into the Islands were valued at \$10,631,250, and the exports at \$20,175,000. The chief imports are rice, flour, dress goods, wines, coal, and petroleum. These data have been taken from a publication entitled "Military Notes on the Philippines," issued by the War Department.

Let it be noted that the exports exceed annually by \$175,000 the sum of \$20,000,000, which is the amount to be paid for the Islands by the United States.

The immediate question now is not whether we shall endow the Philippines with independence by creating a new nation, but whether, by refusing to ratify the treaty made at Paris, we shall give the Islands back to Spain.

Call it destiny, call it the will of God, call it the overruling result of circumstances, call it what you will, it is plain that an overpowering necessity rested on the commissioners who made the treaty to force on Spain the cession of the islands.

There was no other outcome or outlook. Honor forbade that we should turn over to the tender mercies of Spain the insurgents, whom we had armed and fed and encouraged in revolt. The insurrection against Spain existed before we set foot in Luzon. If we had never sent a sailor or a soldier to Manila, it cannot now be said that the just cause of an oppressed people would have failed. It would be the irony of fate, if, after we, with the aid of the insurgents, have raised the starry flag over the Islands, we ourselves should tear it down, and raise the Spanish flag in its place. Whatever may happen, let this humiliation be spared us. Let us not pillory our good name. Let us not prove recreant to the instincts of humanity.

If the treaty be ratified, as even the Anti-Expansionist now agrees that it shall be, there will be grave problems upon us. The acquisition of territory of itself presents no new problems. The right to acquire new territory has always been affirmed by the Supreme Court. In 1824 Chief Justice Marshall (in *American Ins. Co. vs. Canter*, 1 Peters, p. 542) held that "The Constitution confers absolutely on the Government of the Union the power to make war and to make treaties; consequently the Government possesses the power of acquiring territory either by conquest or by treaty." Should other authorities be desired, I refer to a very able recent pamphlet entitled "Our Treaty with Spain," by Mr.

Charles Henry Butler, wherein many of them are very industriously and accurately collated.

It is curious that, although we have accepted eleven cessions of territory made to the United States, it should now be doubted by any person that we have the right to acquire territory.

Under our first Treaty of Peace with Great Britain that Power renounced all jurisdiction over what afterward became the Northwest Territory. On October 21, 1803, Napoleon Bonaparte ceded to us, for \$12,000,000 cash paid, and the relinquishment of certain claims, the territory of Louisiana. Spain ceded Florida in 1819. Oregon was acquired by discovery, but Spain quitclaimed to us in 1819. Texas was admitted as a State by joint resolution in 1845. California, Colorado, Nevada, Utah, New Mexico, and parts of Arizona and other States, were acquired under the Treaty of Guadalupe-Hidalgo with Mexico in 1848. Horseshoe Reef in Lake Erie was ceded by Great Britain in 1850. The Navassa Islands, and other guano islands in the Pacific, were occupied by discovery, and so were the Midway Islands. Parts of Arizona and New Mexico were acquired by the "Gadsden purchase" in 1853. Alaska was acquired in 1867, and Hawaii in 1898.

We are three or four times as big as we were when the first acquisition was made; and our population is more than fifteen times as great as it then was. We have taken land by discovery, by conquest, by treaty, by joint resolution, and by annexation. We have sounded the gamut of acquisition of land; and in every case the Supreme Court, the tribunal which governs the United States by its judgments, construing the Constitution, has ratified, supported, and sustained the brave and wise Executive who dared to be an Expansionist.

And now the question arises, Shall we, in the face of all this body of law, halt and stop in the onward path to national greatness?

When, as the result of war, an hostile army possesses territory of the enemy, that territory is said to be occupied. From occupation follows supreme jurisdiction over the territory. The original sovereign ceases to reign; and the mailed hand of the conqueror writes the laws, civil and military.

In other lands and other wars the condition of the conquered people has been hard and deplorable. In our case we march bearing gifts, the choicest gifts—liberty and hope and happiness. We carry with us all that gives to the flower of life its perfume. The dusky East rises at our coming; and the Filipino springs to his feet and becomes a free man. This is not poetry, but reality wrought out by a people to

whom freedom is the breath of life, and who would scorn to enslave a country or a race.

We hold Cuba, Porto Rico, and the Philippines as conquered soil. We will hold them by our armies from necessity until Congress, in its wisdom, shall turn them over to the civil power. We have assumed the duty of keeping order in these possessions. We shall not interfere with private rights. It is well settled by the law of nations, and has been adjudicated many times by the Supreme Court, that the inhabitants, citizens, or subjects of a conquered country, territory, or province retain all the rights of property which have not been taken from them by the orders of the conqueror. There is no question, there can be no question, as to the retention by the people of the Philippine Islands of all the rights, civil and religious, that they ever had; nor can there be any doubt that these rights will be greatly enlarged. The treaty with Spain wisely leaves these rights unmentioned. It says simply that

“the civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by Congress.”

In other treaties it had been provided that the inhabitants of annexed territory might become citizens of the United States, and entitled to all the privileges of such citizens. In the Spanish treaty there is no such provision.

Will our own people never learn that we are a nation? Have we shed vast quantities of blood and spent countless treasure in vain? Are we still to stand manacled before the world by the doctrine that we are a confederacy of sovereign states? It is impossible for any man to read our judicial history without recognizing that

“the United States are a sovereign and independent nation, and are vested by the Constitution with the entire control of international relations and with all the powers of government necessary to maintain that control and to make it effective.”<sup>1</sup>

As long as lawyers exist—and I beg to pay to the profession the compliment of saying that liberty cannot prevail in a country that is without lawyers—questions of the construction of written language will arise and will be argued. The list of cases holding that, as Story says,

“the power of Congress over annexed territory is clearly exclusive and universal; and their legislation is subject to no control, but is absolute and unlimited, unless so far as affected by stipulations in the cession,”

or by some prior ordinance, stretches back to the adoption of the Constitution. Still we find to-day that distinguished gentlemen deny the power of Congress to govern the Philippines.

<sup>1</sup> 149 U. S. Reports, 711.

There are men in France who were born on the wrong side of the barricades. There are men in the United States whose political theory is to antagonize the Government. There are others—bright, glorious fellows—who are so devoted to human rights that they pass their lives in treading the dangerous line which separates freedom from anarchism. It will not do to say, as a Congressman said, "What is the Constitution between friends?" but it may be said that it is the wisest and the most expansive document ever written by the hand of man. It is like the tent that Saladin gave to Richard. When it was folded it rested in a nutshell: when it was expanded whole armies could recline under its shade. The dear, glorious old document, it is always on the side of common sense, always on the side of progress, always ready to strengthen the glowing periods of the judiciary devoted to our country's honor, and to stamp legality on the great statutes of freedom. Expansive? Why, it is expansive enough to cover the world, if necessary; and it can contract when the time and the occasion demand contraction.

The Constitution declares that no man shall be tried except by a jury of his peers. A jury is supposed to be twelve men. Bless you! we try Americans every day in China by a consul and two assessors. We try men accused of murder by a consul and four assessors; but the Minister must approve the death sentence. The Constitution provides that all civil cases involving more than \$20 shall be tried by a jury. In China the Consul hears cases involving more than \$20 by himself if he chooses. He calls two assessors to help him if he pleases; but the judgment is his judgment alone.

An adventurous American in Shanghai refused to pay his city taxes because he had no right to vote—not holding real estate. The Consul-General made short work of him; and the Minister approved his finding. The Consul-General held that the Constitution was not operative in China; that the treaties made between China and the United States, and the regulations made by the Ministers in accordance with them, governed. The man got the benefit of the advantages of the Shanghai municipality, and he must pay his taxes.

The Supreme Court has passed on all these questions. When a man was confined for life in a penitentiary in New York for a murder committed off Japan in a ship that flew the American flag, a writ of *habeas corpus* was refused to him by the Supreme Court. It held that his conviction was legal, although he was not tried by a jury. The Constitution had contracted to suit the case!

When a Turkish gentleman sued for damages because an attachment

had illegally issued against his goods, and cited the Constitution, it was held that in civil, as in criminal, matters the laws made in pursuance of the treaties to govern Americans in the East, or the Far East, need not comply with the provisions of the Constitution.

The Constitution is a great document. Interpreted by men supremely great, as it has been and is, it will consecrate just and wise laws made by Congress to take from the army the burden of maintaining law and order; and again, as often before in our history, *cedant arma togæ*. Is it possible that we are degenerate? Is it possible that a generation which put down a gigantic rebellion, and rebuilt from their ruins the fair edifices of the governments of the States, will not be equal to governing the Philippines?

I know that we who wear the rosette of the Loyal Legion, or the badge of the Grand Army, or the iron disk of the Confederacy, "lag superfluous on the stage"; but the war with Spain has demonstrated that our sons are worthy of their sires. This generation—do not doubt it, do not despair of your country—will meet all questions with wisdom and courage and honor. Difficulties as they arise will vanish at the touch of the spear of Ithuriel held in the hands of one who stands today for a reunited country. He has vanquished the prejudice of the North and the rancor of the South. He has displayed conspicuous ability under the most difficult circumstances that can attend any administration. Let us trust him to find a way out of the difficulties that lie before us. These difficulties will vanish as we approach them.

I put aside mere criticisms of past action as empty babble. The war was originally waged to secure Cuban independence. Yes; and when the revolutionary war commenced men did not dream of independence. Still it came. In the beginning of the Civil War no man thought of abolishing slavery. Still it was done. Wars rarely keep within projected bounds. Personal ambition, national aggrandizement, are factors which control the issue of events.

If the argument made herein has any force, the legal and constitutional difficulties which were quoted against expansion have disappeared; and the cold, hard, practical question alone remains, Will the possession of these islands benefit us as a nation? If it will not, set them free tomorrow, and let their people, if they please, cut each other's throats, or play what pranks they please. To this complexion must we come at last, that, unless it is beneficial for us to hold these islands, we should turn them loose.

I have answered this question elsewhere, and I do not like to repeat

in one magazine arguments made in another. Therefore I must be brief. By holding them we gain 8,000,000 of people who are ripe for the opening and extension of a magnificent commerce.

We furnish to our young men a new and splendid field for industry and ability. We open up new markets for our manufactured goods. We build up our merchant marine. We become an Asiatic Power; and we shall have something to say about the dismemberment of China.

How is it that every extension of our area has brought us benefactions, and that this one alone will do us harm? If colonies in Asia are injurious to national greatness, why is it that all Europe covets them? Why do England, France, and Germany divide Africa between them, and seize besides portions of China, if the policy of expansion is wrong? Why, if the idea of expansion is futile, has Russia come steadily without a shadow of turning, across the Asiatic continent until now her iron horses drink from the Pacific?

Of course no man disputes the material advantages which will come from greater markets and wider trade; but a sentimental element enters into the antagonism, based on the idea that we are going to govern people, and not all at once make them equal citizens of the United States with ourselves. There is great talk of justice and peace, as if we were going to oppress anybody—which we could not do if we wanted to. Elastic as the Constitution has been shown to be, it will stand forever as the bible of freedom.

We are going to govern the Philippines. Of course we are. Did we not govern the Southern States until they adopted new constitutions? Do we not govern Alaska? Did we not permit the governor, secretary, and judges to make laws for the Northwest Territory?

Why shall we not take the people of the Philippines kindly by the hand and lead them into the blessed light of perfect freedom?

In the government of them there are going to be insuperable difficulties. Are there? Do these difficulties bid England pause in India, or in the myriad settlements that owe allegiance to the Queen? Have the Dutch failed in Java? Is the experiment of colonization in Africa a failure?

In China there are thirty-five treaty ports; and at each one of them the European and the American rule the natives who are resident in the concessions. They rule them absolutely, and generally peaceably and quietly. Sometimes, when a city of a million of natives lies alongside of a small European concession, there will be fear and tremor in every home, and the pale-faced mother will not sleep at night: but the stalwart

man is there, and he has his rifle and his Gatling; and, perchance, the flag of an American, or European, or Japanese gunboat flies on the river which flows by the town.

These conditions are not uncommon. But the soil is Chinese; while in the Philippines our flag would wave over land that belongs to us. It is said that we cannot make these people citizens. Why not? We have made the Indian, the Mexican, and the Negro citizens; and recently the Supreme Court has held that every Chinese child born on our soil is a citizen of the United States.

But the question of citizenship lies a long way off in the future. Let us leave it to be met by a race which has encountered and solved every difficulty that stood in its path to greatness.

CHARLES DENBY.

## THE WAR AND THE EXTENSION OF CIVILIZATION.

THE year just closed has revealed more than any other in a century of extraordinary development the extent of the energies inherent in the American people. The idea of disinterested duty, which has seldom animated nations, has nerved the Republic to the prosecution of a costly foreign war, as the result of which a decadent system of colonial exploitation has been swept out of existence, and our flag is found floating in triumph on distant seas.

If the war with Spain was a necessity imposed by "humanity" and "civilization," these principles do not cease to be imperative in the moment of victory. Whatever justified the war has demanded a peace in harmony with its motives; and it was, therefore, the desire and the duty of the Chief Executive of the nation to secure by treaty, through his commissioners, the great ends for which the war was undertaken.

Expressed in a single phrase, the purpose of the American people in assuming the task of intervention was "enforced pacification." A strife rendered interminable by resistance to oppression, on the one hand, and by administrative incapacity, on the other, demanded the interference of a Power strong enough to command a cessation of hostilities. If the theatre of our intervention was unexpectedly extended by our victories in the Pacific, the principles upon which it was based were not thereby modified; and a duty clearly recognized in the case of Cuba became equally imperative in the Philippines.

When the Peace Commissioners of the United States met those of Spain at Paris, it had become evident to our Government that there was no logical justification of the war which did not involve the abdication of Spanish sovereignty in all the territories in question. To claim the abdication of Spanish rule over Cuba and Porto Rico and to permit it to continue over the Philippines, would have been to assert that our motives and purposes were different from those which really inspired and authorized our war for Cuba.

It was, therefore, a moral and logical necessity that Spain should surrender her islands in the Pacific as well as those in the Atlantic. And, if we consider the history of the Philippines, it is still more clearly