THE NEW CONGRESS MEETS.

THE USUAL CROWDS AND FLOWERS AND HANDSHAKING.

Starting Out for a Short and Business Session—Four New Senators Sworn In—Speaker Henderson Re-elected—Lavish Flower Show in Senate and House.

WASHINGTON, Dec. 2.—If the leaders of Congress have their way the session that opened to-day will be short and business-like. The starting of the machinery in the Senate and the House of Representatives was accompanied by the usual picturesque features of crowds and flowers and handshaking, but beneath all the display was the determination to get to work. It ought to be possible to do this more quickly than usual this year, because there are comparatively few changes in the personnel. All of the wheel horses were reëlected, and after a few square pegs have been fitted into round holes in the committees everything will be in working order. The important measures that the party in power really desires to pass will be forced to the front, and the others will be left in the fine new moth and dustproof metallic file cases with which both ends of the Capitol have been fitted up during the recess.

Everything was bright and fresh when the gavels fell in the Senate and House at noon to-day. The sunlight of a day more like October than December came through the stained glass ceilings and lighted up the new carpets and the new magogany desks and the decorations of gold that have been spread with lavish hands throughout the interior of the beautiful marble building. The flower show, too, was lavish in the extreme. All records seemed to have been broken to-day, and apparently everybody who ever received a favor at the hands of a Senator or a Representative, or who expects to receive one in the future, presented him with some kind of a floral offering. The flower show was plainly overdone, and to such an extent that influential men in both houses are mad about it. One of the big men in the Senate said to-day: "The chamber looked just like the horticultural booth at a county fair" and during a cloak room conference afterward it was decided to introduce and pass if possible a resolution prohibiting the bringing of flowers into the Senate chamber. It might not be easy to pass a prohibitory rule of this kind in the House, where a nosegay is often times the only recognition that a representative gets during his entire term, but it would undoubtedly be a step in the right direction and a benefit to the dignity of Congress if the flower show could be held hereafter in the corridors.

After the Senate had adjourned, out of respect to the memory of Senator Kyle of South Dakota, the Republicans held a caucus and appointed a committee, of which Senator Platt of Connecticut will be the chairman, to reorganize the committees, a task that nobody will envy him and that will keep him out of mischief for some time to come. The Senate being, nominally at least, "a continuous body," will go ahead with business with the committees as they stand. After listening to the reading of the President's message to-morrow an adjournment will be had out of respect to the memory of the late President McKinley and on Wednesday morning business will begin. The first thing on the programme will be the Isthmian Canal treaty, which the President will send in on that day, and it will be promptly referred to the Committee on Foreign Relations, of which Senator Cullom of Illinois is to be the chairman. It is hoped that the committee will report it back next Monday, so that the discussion of it in executive session can begin and ratification accomplished before the adjournment of Congress for the Christmas holidays.

The House spent the day in party sparring over the adoption of the rules as amended by the Republican caucus, and then the long monotonous drawing of seats was indulged in, the only legalized lottery in existence in the United States, and which is about the only Congressional function not attended by the application of the rule that kissing goes by favor. After the fathers of the House have been allowed to select their seats all the other members, without regard to politics, color or condition, stand on an equal footing and have to take what they can get in the general scramble.

At present President Roosevelt has his party behind him and the outlook for harmony between the executive and Congress is especially bright.

SENATE'S SESSION OPENS.

By 12 o'clock Senators had flocked into the chamber and nearly all were present when Mr. Frye let his gavel fall, announcing prayer. The blind chaplain, Mr. Milburn, in his invocation referred to "the unspeakable loss of the Nation" in the assassination of the late President; also to the death of Senator Kyle of South Dakota, and to the illness of Senator Sewell of New Jersey, who he prayed would come to his place "crowned with God's loving kindness."

The roll of Senators was called, and seventy-one answered to their names.

The credentials of Charles H. Dietrich and Joseph H. Millard as Senators from the State of Nebraska, A. B. Kittridge from the State of South Dakota and Paris Gibson from the State of Montana, were presented and read and the oath of office was administered to the four new Senators.

Resolutions were offered and agreed to fixing the hour of daily meeting at 12 noon, to notify the House that the Senate has assembled and was ready to proceed to business, and for the appointment of a joint committee to wait upon the President of the United States and inform him that Congress was ready to receive any communication he might desire to make. Senators Hale of Maine and Morgan of Alabama were appointed such committee on the part of the Senate.

Mr. McLaurin (Dem., S. C.) asked leave to offer a resolution admitting free of duty foreign goods intended for exhibition at the Charleston, S. C., Exposition, but Mr. Hoar objected as involving a breach of parliamentary etiquette at this stage of the proceedings.

On motion of Mr. Foraker (Rep., Ohio) the Senate at 12:25 took a recess for half an hour.

At the close of the recess, no message having been received from the House announcing its organization, a further recess was taken until 2 o'clock.

When the Senate reconvened and there was still no message from the House, resolutions declaratory of the "profound sorrow" of the Senate at the death of the late Senator Kyle of South Dakota were offered by Senator Gamble of that State and were agreed to, and as a further mark of respect the Senate adjourned until to-morrow.

HOUSE PROCEEDINGS.

Speaker Henderson Reelected—The Free and Code of Rules Adopted.

WASHINGTON, Dec. 2.—The crowds thronging the aisles and pit in the chamber of the House of Representatives in the two hours before noon were unusually large. [illegible]

[illegible]

The assembled Representatives rose while Chaplain Couden offered prayer. He returned thanks for the unexampled prosperity of the nation, and its influence at home and abroad. He asked that all men might be able to distinguish between liberty and license, order and disorder, government and anarchy. He invoked the blessing and guidance of God upon the members of the House and upon the Speaker, and pleaded that the President might be spared from sudden and violent death and that in grace and wisdom he might be spared to discharge the duties of his high office. The death of President McKinley was referred to in closing as cause for lament. "We thank Thee," the Chaplain said "for the great character that stamped itself upon those with whom he came in contact, and especially for the example of his life and the profound faith and confidence that sustained him in the hour of death." His stricken widow was commended to the care and providence of an all wise and tender God.

The Clerk's roll of members was then called to demand whether or not a quorum of the Fifty-seventh Congress was present. Three hundred and eighteen members answered to their names.

Mr. Lacey (Rep., Iowa) offered a resolution, that the House proceed by viva voce vote to choose a Speaker of the House.

The resolution was agreed to, and nominations were made in the following order:

Mr. Cannon (Chairman of the Republican Caucus)—I nominate as a candidate for Speaker, David B. Henderson, a Representative from the State of Iowa. [Cheers.]

Mr. Hay, of Virginia (Chairman of the Democratic Caucus)—I nominate, as a candidate for Speaker, the Hon. James D. Richardson, a member from the State of Tennessee. [Cheers.]

Mr. Neville (Pop., Neb)—I nominate the Hon. W. L. Stark of Nebraska as a candidate for Speaker. [Slight laughter.]

Messrs. Rimple of Iowa, Bates of Pennsylvania, McClellan of New York, and Maddox of Georgia, acted as tellers. In announcing the call of members who did not respond on the first call, Clerk McDowell caused a laugh by asking for perfect order, saying: "Let us all behave ourselves while this is going on."

Mr. Stark, who was nominated by his colleague without his knowledge or consent and without consultation with any other member, received one vote, he himself voting for Mr. Richardson, who received 149 votes. Mr. Henderson received 190 votes. Mr. Richardson's vote went to Mr. Cummings of New York, the announcement being made just as he was walking across the area in front of the desk.

The Clerk announced that Mr. Henderson, having received a majority of all the votes cast, had been duly elected Speaker. He named Messrs. Richardson, Stark and Cummings a committee to inform the Speaker of his election and to escort him to the chair, which they did, finding the successful candidate in the Speaker's room. The entrance of the party at the main door was the signal for a great outburst of cheering, members rising to their feet as he came down the aisle on the arm of Mr. Richardson. There was another round of applause when Mr. Richardson presented the new officer to the House. Mr. Henderson said:

This high honor conferred upon me I profoundly appreciate, and I appreciate it all the more, coming, as it does, with this generous expression from both sides. There is left yet another method for a presiding officer to show his appreciation of the honor conferred by his selection, and that is by a kindly, firm and faithful administration of the rules governing the body. It is my aim to impartially discharge the duties of this high office. As I said at the opening of the House last Congress, no presiding officer can be successful without the support and sympathy of the members. I asked then for your support and you gave it throughout the entire Congress. Once more I invoke the patience, kind consideration and splendid support that were mine in the last Congress.

Law makers should not be law breakers, and we proceed under laws and rules. In the discharge of the duties devolving upon members of the House, it will be better for all concerned if this principle be kept in view and acted upon.

Again thanking you all, I am now ready to take the prescribed oath of office.

Amid deep silence the oath was read by Gen. H. H. Bingham of Philadelphia, by reason of longest continuous service the "Father of the House," and at its close Speaker Henderson firmly made answer, "I do."

In squads that accommodated themselves to the size of the area in front of the desk, the members gathered and took the oath prescribed by law, administered by the Speaker.

This having been disposed of, the Speaker laid before the house the resignation of Nicholas Muller as Representative from the Seventh district of New York, which was laid on the table.

The resolution of the Republican caucus to reëlect the present corps of officers was agreed to and they were sworn in as follows:

Clerk, Alexander McDowell, of Pennsylvania; Sergeant-at-Arms, Henry Casson, of Wisconsin; doorkeeper, W. J. Glenn, of New York; Postmaster, J. C. McElroy, of Ohio; Chaplain, Henry M. Couden, of Michigan.

Chief Clerk Rose was announced to communicate the fact that the Senate was organized and ready for business, and that Messrs. Hale and Morgan had been appointed to act with the committee appointed by the House to notify the President of the readiness of Congress to receive any message he might have to communicate.

Thereupon the usual resolutions were offered and adopted directing the Clerk to notify the Senate and the President of the election of Speaker Henderson, and providing for the appointment of three Representatives to act with the Senators to call on the President. For this purpose the Chair appointed Representatives Bingham, Payne and Richardson.

Mr. Moody (Rep., Mass.) introduced a resolution for the appointment of a special committee to investigate the last Congress election in Louisiana and the right of the members from that State to seats in the House. Mr. Moody believes that under the election laws of Louisiana the right to vote is unconstitutionally abridged and has adopted this method to bring the matter before the House, which is the final judge of the qualifications of its members.

Mr. Dalzell (Rep., Pa.) presented a resolution to carry out the decision of the caucus regarding the rules, adopting the present code of rules, with the exceptions that the Committee on Census shall become a regular committee and that the Committee on the Centennial Celebration of the Louisiana Purchase be changed to one on Industrial Arts and Expositions.

Mr. Richardson, the minority leader, asked if Mr. Dalzell would not give an opportunity for debate and amendments. He had an amendment to propose which Mr. Dalzell might not object to. It had been asserted that the rules were satisfactory to the members of the majority of the House. If that were so, said Mr. Richardson, he had been misinformed. He had read that the gentleman from Iowa, long an advocate of a change, had forty men at his back. If that were so, and he would bring that forty up to the mark, he would promise the votes of 160 Democrats, and their combined forces could effect a change. In any event the public were not satisfied with the rules; they wanted a change whereby such business as the House desired could be despatched.

Mr. Dalzell expressed his surprise at the attitude of the gentleman from Tennessee, because the mode of procedure proposed now—to submit the resolution and then ask for the previous question—was that which the gentleman had frequently indorsed and engineered. He briefly explained the changes to be made and then gave Mr. Richardson five minutes. These he used to poke a little fun at Mr. Hepburn for failing to come to the help of the Democrats, criticising the Republicans for adopting such an arbitrary course concerning so great questions and telling what motions he would make if permitted. One of these would be to limit the present use of the rules to forty days. [Laughter.] This was not new, he said, in surprised explanation. Such a motion had been made by no less a distinguished man than the Hon. Thomas B. Reed, then a Representative from Maine. Another would be to commit the rules to the Committee on Rules when appointed.

In view of Richardson's allusions to himself, Mr. Hepburn (Rep., Ia.) thought a few words from himself were due. His opinion that the rules were far from perfect, he said, was no new thing. The provisions that gave the Speaker his great power had been adopted by the unanimous vote of the Democratic majority in the Forty-sixth Congress. As far back as the Fifty-third Congress he had endeavored to secure desired modifications in the code, and none objected more bitterly than the gentleman from Tennessee to making them. He had recently submitted to his Republican colleagues the question of making these changes, and they had decided by an overwhelming majority that they were not judicious. "Now," said Mr. Hepburn, in closing, "I am a modest man, and when I find the Democrats unanimously and a great majority of my political brethren opposed to me, why I must doubt the wisdom of my own conclusions." [Great laughter.]

An unavailing filibuster against the adoption of the resolutions was led by Mr. Richardson and Mr. Swanson (Dem., Va.), chagrined at not being permitted to speak on the rules, demanded a separate vote on each of the resolutions presented by Mr. Dalzell and attempted to secure the yeas and nays on each, but received substantially no support. The resolutions were adopted by a party vote.

The House then proceeded to the drawing of seats, former Speaker Grow of Pennsylvania, Representative Bingham of Pennsylvania, "the father of the House," Mr. Creamer of New York, who was a member of the Forty-third Congress, and Mr. Richardson having unanimous consent to select their seats without drawing. Griffin Halstead, chief page, drew the balls from the box. After the drawing had been completed the Speaker appointed the Committee on Mileage.

On motion of Mr. Elliott (Dem., S. C.), a joint resolution was adopted admitting exhibits for the Charleston Exposition free of duty.

At 4:30 the House adjourned until to-morrow.

Bills Introduced in the House.

WASHINGTON, Dec. 2.—Bills were introduced into the House to-day by hundreds, a bushel of them being carried out at one time. Most of them were private pension and claim bills, but a few were of public interest. The Tawney Oleomargarine bill was honored with the first number, followed by bills for statehood for New Mexico and Oklahoma, the Corliss Pacific Cable bill and many others.

Several bills were introduced growing out of the assassination of President McKinley. Of these, one by Mr. Bromwell of Ohio provides for an amendment to the Constitution giving Congress the right to prescribe the punishment for assaults upon the President, Vice-President, Cabinet, Justices of the Supreme Court and heads of departments. Another, by Mr. Gibson of Tennessee defines anarchism and provides for its punishment.

A number of oleomargarine, irrigation of arid lands, for the establishment of a department of commerce and Pacific cable bills were introduced.

Among the most important bills and resolutions were these: By Mr. Cousins of Iowa, to repeal the Bankruptcy law; by Mr. Fowler of New Jersey, establishing a tariff and reciprocity commission; by Mr. Newlands of Nevada, irrigation of arid lands; by Mr. Bartholdt of Missouri, for a Federal election law, also declaring Lincoln's birthday a national holiday, and a resolution giving the thanks of Congress to Admiral Kempf, who commanded at Taku; by Mr. Sulzer of New York, protesting against the Boer war.

A bill introduced by Mr. Littlefield of Maine requires all corporations doing an interstate business to file statements with the Secretary of the Treasury of their true financial condition, and of their capital stock and imposes a tax of 1 per cent. upon such as have outstanding capital stock unpaid in whole or in part. The Secretary of the Treasury is directed to publish the returns made by the corporations.

Mr. Littlefield also introduced an anti-trust bill providing for the punishment of combinations formed to illegally restrain interstate commerce.

These other bills were introduced: By Mr. Overstreet of Indiana, to maintain the parity of money; by Mr. Crumpacker of Indiana, incorporating Porto Rico into the United States; by Mr. Taylor of Ohio, amending the Constitution to give Congress power to enact uniform laws of marriage and divorce; by Mr. Bromwell of Ohio, admitting hides free of duty.

NEW MESS SYSTEM IN NAVY.

Stewards, Cooks and Bakers Wanted for Our Warships.

WASHINGTON, Dec. 2.—"Men of education, force and personality" are wanted for commissary stewards, cooks and bakers on board United States warships. That's the statement in a circular issued by the enlistment branch of the Bureau of Navigation. A cooking school for their examination has been established on the receiving ship Columbia at the Brooklyn navy yard.

The circular is appended to an executive order carrying into effect the recommendation of a board of officers, that an official commissary system be established in the navy to supersede the present method of messes, largely supported by contributions from the enlisted men and under no regular official control. [illegible]

Movements of Naval Vessels.

WASHINGTON, Dec. 2.—[illegible] the training ship Topeka at Boston, the dispatch boat Dolphin at Washington and the collier Sterling at New Orleans. [illegible] the battleships Massachusetts and Alabama from Hampton Roads for Charleston, the training ship Lancaster from Port Royal for Charleston, the cruiser New Orleans from Tsingtau for Chefoo, the training ship Monongahela from Gibraltar for Barbadoes, and the training ship Buffalo from San Juan for Fort de France.

STATUS OF THE PHILIPPINES.

SUPREME COURT'S DECISION IN THE TARIFF CASES.

It Is to the Effect That the Philippines Became American Territory by the Treaty of Paris, and That Therefore Duties Cannot Be Collected on Goods Passing Between Those Islands and the United States—Court Divided 5 to 4

WASHINGTON, Dec. 2.—The Supreme Court to-day announced its judgment in the "Fourteen Diamond Rings" case, involving the status of the Philippine Islands, the decision following that rendered last spring in the Porto Rican and Hawaiian cases, and as in those cases by a divided court—5 to 4. It was to the effect that under the conditions obtaining in September, 1899, the Philippines were not foreign territory and articles of merchandise coming into this country from the islands were not subject to the payment of duties under the Dingley Tariff law. Briefly, the facts of the case are these:

Emil Pepke, a North Dakota volunteer, upon his return to the United States was discharged at San Francisco Sept. 25, 1899. He brought with him fourteen diamond rings which he had purchased in the Island of Luzon. These were seized in Chicago in May, 1900, and held for the payment of tariff duties, Pepke protesting that the property was not thus liable. The District Court held that they were liable, declared them forfeited to the United States and ordered sale. Thence a writ of error was prosecuted to the Supreme Court. Announcing the opinion of the Court, Chief Justice Fuller said:

"Were these rings, acquired by this soldier after the ratification of the treaty was proclaimed, when brought by him from Luzon to California, on his return with his regiment to be discharged, imported from a foreign country?

"This question has already been answered in the negative, in respect of Porto Rico, and unless the cases can be distinguished, which we are of opinion they cannot be in this particular, that decision is controlling.

"The Philippines, like Porto Rico, became, by virtue of the treaty, ceded conquered territory or territory ceded by way of indemnity. The territory ceased to be situated as Castine was when occupied by the British forces in the War of 1812, or as Tampico was when occupied by the troops of the United States during the Mexican War, 'cases of temporary possession of territory by lawful and regular Governments at war with the country of which the territory so possessed was part.' The Philippines were not simply occupied, but acquired, and having been granted and delivered to the United States by their former master, were no longer under the sovereignty of any foreign nation."

The opinion after quoting from the cases of Cross vs. Harrison and Delima vs. Bidwell, decided last spring, continues:

"No reason is perceived for any different ruling as to the Philippines. By the third article of the treaty, Spain ceded to the United States the archipelago known as the Philippine Islands, and the United States agreed to pay to Spain the sum of $20,000,000 within three months. The treaty was ratified, Congress appropriated the money, the ratification was proclaimed. The treaty-making power, the executive power, the legislative power concurred in the completion of the transaction.

"The Philippines thereby ceased, in the language of the treaty, 'to be Spanish.' Ceasing to be Spanish, they ceased to be foreign country. They came under the complete and absolute sovereignty and dominion of the United States, and so became territory of the United States, over which civil government could be established. The result was the same, although there was no stipulation that the native inhabitants should be incorporated into the body politic, and none securing to them the right to choose their nationality. Their allegiance became due to the United States and they became entitled to its protection.

"But it is said that the case of the Philippines is to be distinguished from that of Porto Rico because on Feb. 14, 1899, after the ratification of the treaty, the Senate resolved (the McEnery resolution) that it was not intended to incorporate the inhabitants of the Philippines into citizenship of the United States, nor to permanently annex those islands.

"We need not consider the force and effect of a resolution of this sort if adopted by Congress, not like that of April 20, 1898, in respect to Cuba, preliminary to the declaration of war, but after title had passed by ratified cession. It is enough that this was a joint resolution; that it was adopted by the Senate by a vote of 26 to 22, not two-thirds of a quorum; and that it is absolutely without legal significance on the question before us. The meaning of the treaty cannot be controlled by subsequent explanations of some of those who may have voted to ratify it. What view the House might have taken as to the intention of the Senate in ratifying the treaty, we are not informed, nor is it material; and if any implication from the action referred to could properly be indulged, it would seem to be that two-thirds of a quorum of the Senate did not consent to the ratification on the grounds indicated.

"It is further contended that a distinction exists in that while complete possession of Porto Rico was taken by the United States, it was not so as to the Philippines, because of threatened resistance of the native inhabitants to a greater or less extent.

"We must decline to assume that the Government wishes thus to disparage the title of the United States, or to place itself in the position of waging a war of conquest.

"The sovereignty of Spain over the Philippines and possession under claim of title had existed for a long series of years prior to the war with the United States. The fact that there were insurrections against her or that uncivilized tribes may have defied her will did not affect the validity of her title.

"She granted the islands to the United States and the grantee in accepting them took nothing less than the whole grant.

"If those in insurrection against Spain continued in insurrection against the United States, the legal title and possession of the latter remained unaffected.

"We do not understand that it is claimed that in carrying on the pending hostilities the Government is seeking to subjugate the people of a foreign country, but, on the contrary, that it is preserving order and suppressing insurrection in territory of the United States. It follows that the possession of the United States is adequate possession under legal title, and this cannot be asserted for one purpose and denied for another. We dismiss the suggested distinction as untenable.

"But it is sought to detract from the weight of the ruling in Delima vs. Bidwell because one of the five Justices concurring in the judgment in that case concurred in the judgment in Downes vs. Bidwell.

"In Delima vs. Bidwell, Porto Rico was held not to be a foreign country after the cession, and that a prior act exclusively applicable to foreign countries became inapplicable.

"In Downes vs. Bidwell, the conclusion of a majority of the Court was that an act of Congress levying duties on goods imported from Porto Rico into New York, not in conformity with the provisions of the Constitution in respect to the imposition of duties, imposts and excises, was valid. Four of the members of the court dissented from and five concurred, though not on the same grounds, in this conclusion. The Justice who delivered the opinion in Delima's case was one of the majority and was of opinion that although by the cession Porto Rico ceased to be a foreign country, and became a territory of the United States and domestic, yet that it was merely "appurtenant" territory, and "not a part of the United States within the revenue clauses of the Constitution."

This view placed the territory, though not foreign, outside of the restrictions applicable to interstate commerce, and treated the power of Congress when affirmatively exercised over a territory, situated as supposed, as uncontrolled by the provisions of the Constitution in respect of national taxation. The distinction was drawn between a special act in respect of the particular country, and a general and prior act only applicable to countries foreign to ours in every sense. The latter was obliged to conform to the rule of uniformity, which was wholly disregarded in the former. The ruling in the case of Delima remained unaffected, and controls that under consideration. And this is so, notwithstanding four members of the majority in the Delima case were of opinion that Porto Rico did not become by the cession subjected to the exercise of governmental power in the levy of duties unrestricted by Constitutional limitations.

"Decree reversed and cause remanded with direction to quash the information."

Justice Gray, in announcing the dissent of himself and Justices White, Shiras and McKenna, said they based it on grounds they took in the Delima, Downes and Dooley cases in Porto Rico.

PORTO RICO CASE DECIDED.

The Validity of the Foraker Act Reaffirmed by a Divided Court.

WASHINGTON, Dec. 2.—A reaffirmation of the validity of the Foraker Act for the government of Porto Rico was made by the Supreme Court to-day in the case of Henry W. Dooley et al vs. the United States by a divided court. Dooley, Smith & Co. sued to recover duties paid on a shipment of merchandise from New York to San Juan, P. R., after the passage of the Foraker Act. Here, as in the cases decided last spring to the same effect, Mr. Justice Brown delivered the opinion, parting company from the Chief Justice and Justices Harlan, Brewer and Peckham, and arraying himself with Justice Gray, White, Shiras and McKenna. The validity of the act fixing the rate of duty to be collected at 15 per cent. of the figures given in the Dingley law assessed upon imports from foreign countries was attacked upon the ground that it violated that clause of the Constitution that "no tax or duty shall be laid on articles exported from any State." The meaning of the words "exports" and "imports" and the power of Congress in relation to taxing them were first discussed, and it was argued that if the goods in question were neither exports nor imports, they were still liable to be taxed by Congress under the ample and comprehensive authority conferred by the Constitution "to lay and collect taxes, duties, imposts and excises."

In the view of the Court it was clear that the tax in question was levied upon imports into Porto Rico. "Now," the opinion continued, "while an import into one port almost necessarily involves a prior export from another, still, in determining the character of the tax imposed, it is important to consider whether the duty be laid for the purpose of adding to the revenues of the country from which the export takes place, or for the benefit of the territory into which they are imported.

"Now, there can be no doubt whatever that if the Legislative Assembly of Porto Rico should, with the consent of Congress, lay a tax upon goods arriving from ports of the United States, such tax, if legally imposed, would be a duty upon imports to Porto Rico, and not upon exports from the United States; and we think the same result must follow if the duty be laid by Congress in the interest and for the benefit of Porto Rico. The truth is, that in imposing the duty as a temporary expedient, with a proviso that it may be abolished by the Legislative Assembly of Porto Rico at its will, Congress thereby shows that it is undertaking to legislate for the island temporarily and only until the local government is put into operation. The mere fact that the duty passes through the hands of the revenue officers of the United States is immaterial, in view of the requirement that it shall not be covered into the general fund of the Treasury, but be held as a separate fund for the government and benefit of Porto Rico.

"The action is really correlative to that of Downes vs. Bidwell, in which we hold that Congress could lawfully impose a duty upon imports from Porto Rico, notwithstanding the provision of the Constitution that all duties, imposts and excises shall be uniform throughout the United States. It is true that this conclusion was reached by a majority of the court by different processes of reasoning, but it is none the less true that in the conclusion that certain provisions of the Constitution did apply to Porto Rico, and that certain others did not, there was no difference of opinion.

"It is not intended by this opinion to intimate that Congress may lay an export tax upon merchandise carried from one State to another. While this does not seem to be forbidden by the express words of the Constitution, it would be extremely difficult, if not impossible, to lay such a tax without a violation of the first paragraph of Article I, section 8, that 'all duties, imposts and excises shall be uniform throughout the United States.' There is a wide difference between the full and paramount power of Congress in legislating for a Territory in the condition of Porto Rico and its power with respect to the States which is merely incidental to its right to regulate interstate commerce. The question, however, is not involved in this case, and we do not desire to express an opinion upon it. These duties were properly collected and the action of the Circuit Court in sustaining the demurrer to the complaint was correct, and it is therefore affirmed."

Justice White, while agreeing to the judgment of affirmance and in substance concurring in the opinion of the Court, delivered a separate opinion, summarizing in his own language the reasoning which the opinion embodied as understood by him.

A vigorous dissent to the judgment of the Court was entered in this case by the Chief Justice, with whom were associated Justices Harlan, Brewer and Peckham. Quoting the declaration in the Foraker Act that "All tariff duties on merchandise and articles going into Porto Rico from the United States or coming into the United States from Porto Rico shall cease," the Chief Justice said:

"Assuming that the 'United States' as referred to in the United States as constituted at the date of the proclamation of the treaty the act explicitly recognizing the distinction between tariff duties and internal taxes [illegible] The fact that the net proceeds of the duties are appropriated by the act for use in Porto Rico does not affect their character any more than if so appropriated by another and separate act. The taxation reaches the people of the States directly, and is national and not local, even though the revenue derived therefrom is devoted to local purposes. Customs duties are duties imposed on imports or exports, and, according to the terms of this act, these are customs duties, not levied according to the rule of uniformity and laid on exports as well as imports."

The Chief Justice at some length discussed the origin of the power to govern and regulate interstate commerce, reviewing some decisions referring thereto, and concluding that "if that power of regulation is absolutely unrestricted as respects interstate commerce, then the very unity the Constitution was framed to secure can be set at naught by a legislative body created by that instrument. Such a conclusion is wholly inadmissible. The power to regulate interstate commerce was granted in order that trade between the States might be left free from discriminating legislation and not to impart the power to create antagonistic commercial relations between them.

"The proposition that because the proceeds of these duties were to be used for the benefit of Porto Rico they might be regarded as if laid by Porto Rico itself with the consent of Congress, and were, therefore, lawful, will not bear examination. No money can be drawn from the Treasury except in consequence of appropriations made by law. This act does not appropriate a fixed sum for the benefit of Porto Rico, but provides that the money collected, and collected from citizens of the United States in every port of the United States, shall be placed in a separate fund or subsequently in the Treasury of Porto Rico, to be expended for the Government and benefit thereof. And although the destination of the proceeds in this way were lawful, it would not convert duties on articles exported from the States into local taxes.

"Congress may lay local taxes in the Territories, affecting persons and property therein, or authorize Territorial Legislatures to do so, but it cannot lay tariff duties on articles exported from one State to another, or from any State to the Territories, or from any State to foreign countries, or grant a power in that regard which it does not possess. But the decision now made recognizes such powers in Congress as will enable it, by means of taxation, to exclude the products of Porto Rico from the States as well as the products of the States from Porto Rico, and this notwithstanding it was held in De Lima vs. Bidwell that Porto Rico, after the ratification of the treaty with Spain, ceased to be foreign and became domestic territory."

SCOPE OF THE DECISIONS.

Do Not Affect the Power of Congress to Levy Duties That Are Declared Invalid.

WASHINGTON, Dec. 2.—An official of the Department of Justice to-night gave THE SUN correspondent the following statement as to the scope and effect of to-day's decision of the Court:

"The Court, following the decision in the De Lima case, held that by the cession of the Treaty of Paris the Philippines became territory belonging to the United States, appurtenant to the United States, and therefore ceased to be a foreign country, so that goods brought from the Philippines into the United States could not be considered as goods imported into the United States from a foreign country, and therefore subject to duty under the Dingley act. The Court pointed out that there was nothing to distinguish the situation of the Philippines from that of Porto Rico so far as importations into this country from the Philippines were concerned.

"In the second Dooley case the duties levied by the Foraker act on goods carried into Porto Rico from the United States were assailed on the ground that in imposing the duty there was a violation of that prohibition of the Constitution which says that Congress shall not impose any duty upon articles exported from any State. The court held that within the meaning of the Constitution only those articles which are exported to foreign countries constitute 'articles exported from any State,' that Porto Rico was territory belonging to the United States, and that goods carried into Porto Rico from the United States were not exports. Therefore there was no violation of this provision of the Constitution.

"The decision in the second Dooley case is of importance because it sustains the power of Congress to levy duty on goods carried from the United States into the insular possessions.

"It is to be observed that the decision in the Philippines case is limited to the facts of the particular situation involved. The diamond rings were brought into this country in 1899. What the court says applies only to goods brought from the Philippines into the United States at that time before Congress had acted at all with respect to the Philippines.

"Two interesting questions yet remain: First, whether, in view of the insurrection in the Philippines, the President had authority to impose duties on goods brought into the Philippines for the purpose of sustaining and enforcing the power he was then exercising in the suppression of the insurrection.

"In the second place, it may become a question later as to whether the action of Congress in passing the Spooner resolution changed the status of the Philippines so as to take the commerce between the Philippines and the United States out of the decision in the De Lima case.

"Obviously, however, in view of the decision in the Fourteen diamond rings case, the wise thing for Congress to do is to pass at once an act levying upon all goods brought into the United States from the Philippines the duties levied by the Dingley law on imports from foreign countries, and also to impose upon all goods carried into the Philippines from the United States and foreign countries the duties described in the tariff now enforced in the Philippines."

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