

The impact in question assessed on merchandise coming from Porto Rico into the United States after the cessation was within the power of congress and that body was not, moreover, as to the limit, controlled by the clause requiring that imposts should be uniform throughout the United States.

In concluding, it was said that the question when Porto Rico was to be incorporated was a political question, to be determined by the American people, speaking through congress, and was not for the courts to determine.

Justice Gray concurred. Justice Gray announced his concurrence in the majority's conclusion in the Downes case and in doing so said in substance:

"The civil government of the United States cannot extend immediately and of its own force, over territory acquired by war. Such territory under necessity, in the first instance, be governed by the military power under the control of the president as commander-in-chief.

"It can be put in operation only by the action of the appropriate department of the government, at such time and in such degree as that department may determine. There must of necessity be a transition period.

"So long as congress has not incorporated the territory into the United States neither military occupation nor cessation by treaty makes the conquered territory domestic territory in the sense of the revenue laws."

Chief Justice Fuller dissents. The chief dissenting opinion in the Downes case was announced by Chief Justice Fuller, Justices Harlan, Brewer and Peckham joining in the dissent.

"The majority, though widely dissenting, in their reasoning seemed to concur in the view that Porto Rico belongs to the United States, but, nevertheless, is not a part of the United States, subject to the provisions of the constitution in respect of taxes.

The Foraker act, under which the duties were levied, created a complete form of government for Porto Rico, with a special provision that the taxes levied in the United States upon Porto Rican exports should be held as a special fund for Porto Rico's benefit.

"It is said in one of the opinions of the majority that the chief justice 'made certain observations which have occasioned some embarrassment in other cases.'"

"I agree that the opinion of the court delivered by him must be embarrassing in this case, for it is necessary to overrule that decision in order to reach the result herein announced."

"United States" Defined. Chief Justice Marshall in that case, considering the provision requiring that the duties, imposts and excises shall be uniform throughout the United States, said:

"Does this term (the United States) designate the whole, or any portion, of the American continent? Certainly, the question can admit of but one answer. It is the name given to our great republic, which is composed of states and territories."

"The District of Columbia, or territory west of the Missouri is not less within the United States than Maryland or Pennsylvania, and it is not less necessary, on the principles of uniformity, that uniformity in the imposition of imposts, duties and excises should be observed in the one than in the other.

"Since, then, the power to lay and collect taxes, which includes direct taxes, is obviously co-extensive with the power to lay and collect duties, imposts and excises, and since the latter extends throughout the United States, it follows that the power to impose direct taxes also extends throughout the United States."

"Of the suggestion that this statement was a mere dictum, Chief Justice Fuller said:

"It is wholly inadmissible to reject the process of reasoning by which the chief justice reached and tested the soundness of his conclusion as merely obiter."

"The chief justice in the territories as well as the district to be part of the United States for the purpose of national taxation, and repeated in effect what he has already said in *Marbury vs. Madison*, 5 Wheaton, 408: 'Throughout this vast republic, from the St. Croix to the Gulf of Mexico, from the Atlantic to the Pacific, revenue is to be collected and expended, armies are to be marched and supported.'"

"This cannot be said, and, on the contrary, in order for the successful extension of our institutions, the reasonable presumption is that the limitations on the exertion of arbitrary power would have been made more rigorous."

Justice Harlan's Views. Justice Harlan then announced his concurrence with the dissenting opinion just delivered by the chief justice. He regarded the Foraker act as unconstitutional in its revenue provisions, and believed that Porto Rico, after the ratification of the treaty with Spain, became a part of the United States.

"The majority views that the power of our government with respect to new territory is the same power which other nations have been accustomed to exercise, Mr. Harlan said:

"I take leave to say that if the principles now announced should ever receive the sanction of a majority of this court, it would be a radical and mischievous change in our system of government. We will, in that event, pass from the era of constitutional liberty, guarded and protected by a written constitution, into an era of legislative absolutism, in respect to many rights that are dear to all people who love freedom."

"In my opinion, congress has no existence and can exercise no authority outside of the constitution. Still less is it true that congress can deal with new territories just as other nations have done or may do with their new territories."

In conclusion, Justice Harlan said: "The addition of Porto Rico to the territory of the United States has been recognized by direct action upon the part of congress. It has legislated in recognition of the treaty with Spain. If Porto Rico did not by such action become a part of the United States, it did become such at least when congress passed the Foraker act. I cannot believe that congress may impose any duty, impost or excise with respect to that territory and its people which is not consistent with the constitutional requirement that all duties, imposts and excises shall be uniform throughout the United States."

BOTH SATISFIED. Messrs. Root and Griggs Happy Over the Decision. Washington, May 28.—Secretary Root says of the supreme court's decision:

"Unquestionably the decision of the court sustains the contentions, theories and the policy adopted by the administration in conducting the affairs of the Spanish islands in the first place, prior to the Spanish-American war, Porto Rico was a province of Spain, and as such foreign territory in every sense of the word. The island remained foreign territory in a legal sense, notwithstanding conquest, until the ratification of the treaty of peace, when it ceased to be foreign territory, but not a part of the United States. Being a dependency of this country, it was domestic territory. It is domestic territory still, but it underwent a further change in

its legal relations to this country when congress enacted the law of April 12, 1900, providing a civil government and tariff duties. What the court decided was that while we were occupying Porto Rico prior to the ratification of the treaty of peace, it was foreign territory, and our occupation and government was military, and all that was done was in the nature of a military necessity and valid on that account; that from and after the ratification of the treaty of peace it was no longer foreign territory, but domestic territory within the meaning of our tariff laws, according to which tariff duties can be collected only on imports from foreign countries, and that consequently the duties collected on imports from Porto Rico after the ratification of the treaty of peace and before the date of the ratification of the treaty of peace, were illegally collected—illegally collected, however, not because congress was without constitutional power to impose such duties on imports from Porto Rico, but because during that period congress had not so legislated."

The third proposition decided by the court, and the one of such supreme importance, was that Porto Rico being a territory of the United States, is not a part of the United States, but only territory belonging to the United States, and that it is, therefore, within the constitutional power of congress to so legislate with respect to it, including the imposing of tariff duties, as it may see fit; and the congress having so legislated on the 12th day of April, 1900, the provisions of that law are valid and to be upheld and enforced; in other words, the effect of the decision is that the constitution does not follow the flag, and that congress has plenary power under the constitution to govern our insular acquisitions according to their several necessities."

Will Continue Collecting Duties. Washington, May 28.—The treasury officials discussed with much interest to-day the decisions of the supreme court yesterday in the insular cases, and the conclusion has been reached that nothing in these decisions compels the government to change its administration of the customs laws as to the Philippine islands, and therefore duties will continue to be collected on imports from those islands as heretofore and until the court shall have decided specifically that the islands are in the same situation with respect to the United States as is Porto Rico.

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When the president returns to Washington he will take steps to relieve Judge Noyes, who gave decisions in mining suits and will transfer him to the court at Sitka or force his resignation.

Flowers

For Decoration Day. Fresh cut Roses and Carnations, per dozen, \$1.00 to 25c. Potted plants in bloom—Geraniums, Fuchsias, Verbenas, Heliotropes, Marguerites, Vincas, Vinces, Feverfew, Ageratum, Lobelias, etc., at 25c to 7c.

Ladies' Hosiery

Ladies' fancy and black Reynear made Hose, double heel 15c. Children's 1-1 ribbed black cotton and polka dot Hose, double heel, sole and toe; regular made, fast dyes, 15c goods 9c.

Ladies' Underwear

Ladies' Swiss Ribbed Cotton Vests, low neck, no sleeves, lace trimmed 17c and silk taped, 35c value 17c.

Millinery

Some of the newest, prettiest Outing Hats of the season can be bought at the New Store Millinery parlors, Wednesday, one day, usual prices as high as \$2.50, for... 98c. A Sailor in Jumbo Straw, white only, fully worn 75c. Another lot in smooth or rough braid, usually sold at \$1.50. Choice 98c. A special lot of Children's Outing Hats at 25c and 19c.

Corsets & Undermuslins

Decoration Day Sale Wednesday—Corsets—50 dozen, girder and straight fronts—genuine J. B. R. & G. and American Lady in all colors and lengths—values to \$2.00. Wednes- 98c day choice.

Petticoats—Extra—Two big lots—moerens, mercerized, and madras, deep plaitings and ruffles, black and colors, worth to \$4.50 and \$2.00. Choice \$1.98 and 12c.

Children's Day—Silk and muslin caps, hats and sun bonnets—one big special lot, worth 50 cents 25c. Choice 25c. Children's Muslin Drawers—cluster of tucks, 8c, 10c and 12c.

Wash Goods

Ginghams—Best quality (Lancaster and Amoskeag) apron ginghams, best size checks and colors, every day 7c yd., Wednesday 5c.

Foulardines Sheer Batistes, 30-in., fine fancy Lawns, beautiful sheer, cool fabrics, pretty styles, worth 15c, 9c Wednesday.

Camera Department

Get your plates and supplies for Decoration Day. All the best plates at cut prices. Quilt Developer Powders, 10c. Standard Toning Solution, no 25c. better made. Monarch Paper, just out, 1 dozen 15c. Jar Paste, brush and water well 12c. Have your films and plates developed here. Best work and lowest rates. We prepare your own formula from fine ingredients at New Store prices.

Laces

Sample Strips 18 inches in each, of lace and embroidery combination effect, all-overs, a very hand- 22c. some range of styles, each.

White Goods, Linens

Lace Stripes—Very handsome styles, worth 15c yard 5c. Batiste—30 inches wide, sold early in the season at 20c yard 9c.

Windsor Ties

Brocades, chinams, stripes, a swell collection of ties, worth 25c, each 12 1/2c.

THE NEW STORE

We Close All Day Thursday, Decoration Day, in honor of the memory of a nation's heroes. That means extra specials for Wednesday.

EXTRA SPECIAL SHOE DAY

It will be a grand Sale Day. The prices we will quote are record breakers. Boy's Bicycle Shoes—The best light weight boarded calf skin, solid oak tan soles, the very best leather all through. They were made to retail at \$2.00 a pair, tans and black, special for Wednesday. (Sizes for youth 11 to 2, and boys' 2 1/2 to 6) \$1.19.

Women's \$3.00 and \$4.00 Tan Shoes. They will please you. Special \$1.69. Women's Vici Kid Oxford Ties, tan and black, worth to \$2.00. Special 98c.

Women's \$4.00 and \$5.00 Bicycle Shoes at only \$1.98. Women's kid and tan Shoes, mixed lot at only 98c. Misses' Strap Slippers, tan and black kid, 69c. Men's Shoes, tan and black kid, worth \$2, at \$1.49.

Women's Strap Slippers, Oxford ties and opera slippers, Wednesday, while they last 49c. Women's Julia Marlowe Oxfords, tan and black, worth \$2.00; special \$1.49. Women's Strap Slippers, Vici Kid and Patent Leather, 98c. The Victor—Shoe for Women, vici kid, patent leather and dark tans at only \$2.00. Children's Strap Slippers, tan and patent leather at only 59c. Boys' Tennis Shoes and Oxfords, special 49c.

Men's Fancy Silk Ties in all the new shapes, styles and colors, Teeks, four-in-hand, bat wings, string ties and shield bows, values up to 35c, choice 12c. Men's fancy and solid colored Cotton Hose in stripes, polka dots and black with white feet, regular made 12 1/2c and fast dyes, 25c goods 12c. Men's fancy Oxford and percale laundered negligee shirts with or without collars, soft or stiff bosom, none worth less than 75c, 49c. Men's fancy laundered Madras shirts, link cuffs to match in the new shades of ox-blood, blues and lavender sold everywhere at \$1.00, 75c. Men's fancy and plain Balbriggan Shirts and Drawers, 35c 23c. Men's (imported) fancy and solid colored Balbriggan Shirts and Drawers light and medium weight none worth less than 75c 39c.

A car load of Men's Hats—Soft, stiff and straw Hats, \$4, \$3.50, \$3 values, in one lot \$1.89. Boys' and Children's Straw Hats—Play Hats, yacht shapes and 20 kinds of summer caps, Weds. 18c.

500 bottles Warner's Root Beer; regular price 10c, special 5c. Toilet Soap, Violet de Parma, 2c per cake. Fountain Syringes, 2-quart, three hard rubber pipes, not guaranteed, 19c. special.

Ladies' Two Clasp Kid Gloves, Black and Good Colors, sizes 5 1/2 to 7 1/2, while they last, per pair 45c. Mordica black brush Binding, 2c. Hooks and Eyes, 2 doz. on card, black and silver, card 1c.

Suits and Waists

97 ladies' man-tailored Suits in homespun and chevrons, Eton and blouse Jackets, new flaring skirts, worth to \$19.50 \$6.50. 100 dozen White Waists, several styles to select from, worth \$1.50, Wed- 77c nesday. 50 dozen Percalé Waists, broken sizes, worth to \$1.25, choice Wed- 29c nesday.

Draperies

Rope Portieres—50 only \$1.50 Cord Draperies, wide enough and long enough for all usual openings. 75c. All Wool Rug Fringe—The usual 12 1/2 and 15c double head Knotted Fringe, yard 8c. Nottingham Lace Curtains—The sort that wears the longest; all fine, pretty patterns; worth \$1.50 and \$1.75 pair. 98c. Strongest Brass Extension Sash 3c. Couch Covers—A miscellaneous lot of fine \$6 a pair Draperies in Tapestry and Oriental effects, suitable for substantial couch covers. \$2.50. Each.

Furniture

Mattresses—40 lb. Black eared hair mattress, worth \$14.00, \$8.98. Special. Dining Tables—42-inch top, 6-foot extension table, worth \$5.00, \$3.98. Special. Dining Table, 45x45-inch top, selected quartered golden oak, 6-foot extension table, worth \$13.60, \$9.98. Special.

We do upholstering and would like to estimate on your work. Ribbons. Handsome Novelty Striped Wash Tafeta Ribbons, summer colors, values to 25c, 3 1/4 in. wide, yard 15c.

Jewelry Dept.

Japanese folding fans, regular 25c values. Decoration 10c. Belt Buckles—Choice of our entire line of \$1.00 buckles, Wednesday 23c. Hat Pins—Jeweled spiral hat pins, also enameled. Value 10c. 3c. Cuff Buttons—Manufacturers' samples, gold filled, warranted 20 years. Values to \$2.00; choice 25c.

Cigars

Decoration Day Smokers' Martha—A straight 5c cigar, full size and full weight, put up 12 in a tin box which keeps them in perfect condition. Per box 25c. Optate—A straight 10c cigar. Box of 50, worth \$5.00, Wednesday \$2.98.

Carpets

Ingrain Carpets—Beautiful line finest all wool; Lowells, Bromleys and Caledonians; the best 75c yard 49c goods made. Yard. Wilton Velvets, Moquettes, Axminsters, Hartford Body Brussels and 10-wire Tapestry Brussels; worth to \$1.25 yard 75c. Linoleums—Finest Scotch Linoleums, worth 75c yard; tile and carpet patterns. Yard 50c.

Parasols

For Children, not the best but they satisfy the little ones, each 9c. Basement. Sale of Fishing Tackle and Bicycle Sundries at lowest prices ever quoted! 5c. Buys \$1.50 Braided Trawling Lines, worth 50c. 3c. Buys a 15-foot Braided Fishing Line. 10c. Buys a nickel plated Imitation Skinner Trawling Spoon. 10c. Buys an all-reel, worth 25c. 35c. Buys a Hen-drix double Multiplying Reel; worth 60c. 48c. Buys a Hen-drix Reel; worth 75c. 35c. Buys a Tackle Box, Larger sizes at 49c. 13c. Buys a nickel plated brass chain Fish stringer; cheap at 20c. Bicycle Sundries. 69c. Buys a good Inner Tube, worth \$1.00. 79c. Buys a guaranteed Inner Tube, worth \$1.25. 1.35. Buys a 10-year Single Tire, worth \$2. 1.69. Buys a 10-year four-ply Tire, worth \$2.50. 1.98. Buys a Victory season guaranteed Tire, worth \$3.00. \$2.19. Buys 1901 Morgan & Wright Double Tube Tire. \$1.18. Buys the Brilliant Gas Lamp, worth \$2.00. 1.98. Buys a Banner Gas lamp; self regulating; worth \$3.00. 49c. Buys a pair of Bicycle Pedals, worth 90c. 79c. Buys a year of Pedals, best ball bearings; cheap at \$1.25. 48c. Buys a Trump Cyclometer registering 1,000 miles; worth \$1.00. 69c. Buys a Veeder Cyclometer, worth \$1.00. 39c. Buys a hammock 10 ft. long, worth \$1. 69c. Buys a hammock with spreader, 11 1/2 feet long, worth \$1. 98c. Buys a hammock, with two spreaders, size 12 1/2 feet, worth \$1.50. \$1.98. Buys a large hammock with spreader, worth \$3.

Women's Woes

are in a great measure due to lack of vitality of the liver and kidneys. During periodical sickness, change of life, pregnancy, and for all the ills which afflict womanhood, the use of

McLean's Liver and Kidney Balm will bring relief, and benefit every woman. It is unsurpassed in all troubles affecting the liver and kidneys; for Rheumatism, Lame Back, Lumbago, etc. Its efficacy has been proved for many years in thousands of homes. Better buy a bottle to-day, and have it in the house. \$1.00 at druggists. Made by The J. H. McLEAN MEDICINE CO. St. Louis, Mo.

The Bitters makes health and prolongs life. It cures Indigestion, Constipation, Biliousness, Flatulency, Chills and Fever. It also acts gently on the bowels, purifies the blood, strengthens the stomach, and nourishes the nerves. Try it.



HOSTETTER'S CELEBRATED STOMACH BITTERS

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