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ROLAND REED WORSE.
NEW YORK, Dec. 17.—Roland Reed, who has been for some time at St. Vincent's Hospital, is worse. At the end of this morning it was said his condition had become critical. Mr. Reed has a very uncomfortable

CONSTITUTION DOES NOT FOLLOW FLAG

Able Argument of Attorney General Griggs Before Supreme Court.

DECISION TO FIX THE STATUS OF THE UNITED STATES ISLAND POSSESSIONS

Philippines and Porto Rico Furnish the Test Cases for Adjudication by America's Highest Tribunal Sitting in Washington.

WASHINGTON, Dec. 17.—In the United States Supreme Court today argument was begun in two cases, the decision of which is expected to fix the status of Porto Rico and the Philippine Islands and other insular possessions acquired through the war with Spain, with respect to the United States proper; to say whether they are citizens and to indicate whether the constitution follows the flag.

One of the cases is that of John H. Goetze, who in June, 1899, imported from Porto Rico a quantity of leaf tobacco into the United States through the port of New York and protested against the assessment of duty on the importation, claiming that the tobacco was not subject to duty because "Porto Rico at the time of importation was not a foreign country, and because, therefore, the imposition of duties on goods brought from a place within the territory of the United States into a part of the United States is not lawful and valid under the constitution."

The collector of the port and the board of general appraisers both ruled against him; as did the United States Circuit Court for the Southern District of New York, when Goetze took the case before that tribunal. From the opinion of that court the importer appealed to the United States Supreme Court.

The other case is known as the fourteen diamond rings case. In that suit the claimant is one Manuel Popke, who served as a soldier of the United States in Luzon, Philippine Islands. While there he purchased or acquired the rings in question and brought them to the United States without paying duty on them some time in the year 1899, between July 21st and September 25th. The rings were seized on May 8, 1900, at Chicago by a United States custom officer as merchandise liable to duty which should have been invoiced, and was fraudulently imported and brought into the United States contrary to law. An information for the forfeiture of the rings was filed on behalf of the Government June 1, 1900, to which the claimant pleaded, setting up that at the time he acquired the property Luzon was a part of the territory of the United States and that the seizure was contrary to the claimant's rights as a citizen of the United States under the constitution and particularly under section 2, article IV, thereof, and he insisted that under article I, section 6, Congress is required to see that all taxes and duties shall be uniform throughout the United States. To this plea the United States demurred and upon hearing of the demurrer the District Court gave judgment of forfeiture to the Government. This judgment the claimant removed into the Supreme Court by a writ of error.

Mr. Griggs' plea was based upon a brief of 200 pages, the greater part of which is devoted to presenting the argument of the United States, while the remaining portion is in the shape of an appendix giving the text of the peace treaty between the United States and Spain and also the text of other treaties supposed to bear upon the question.

GENERAL PROPOSITIONS.

In presenting the Government's side of the controversy the Attorney General first stated the two first cases upon which the proceeding is based. This was followed by a general explanation and summing up of the Government's position, after which came the citation of innumerable authorities, under appropriate headings, with pertinent running comment upon them. The Attorney General contended that the United States has the power to acquire territory, that having acquired it it has the right to govern it; that administrative construction, Congressional action and judicial precedent affirm that every port in a ceded country is properly regarded as foreign until laws are extended by Congress to the new possessions; that the clause of the Constitution of the United States declaring duties uniform throughout the United States is not applicable to new possessions, and that the Constitution does not extend its own force over acquired territory.

In his general contention on behalf of the United States, Mr. Griggs argued that his opponents were wrong from both a legal and constitutional point of view. Referring to the legal aspect of the case he asserted that the Dingley Act applied to merchandise imported from Porto Rico and the Philippines after their cession to the United States the same as it did before, and that in

thorities were adduced in support of this position, among others the decision of the Supreme Court in the Mormon Church case in which the court said that "it would be absurd to hold that the United States has power to acquire territory and no power to govern it when acquired."

In this case the court said further on that the United States having acquired the Territory of Louisiana and the Territories west of the Rocky Mountains, "the United States Government was the only one which could impose laws upon them and its sovereignty over them was complete." In the course of his argument in this connection Mr. Griggs asserted that "international law declares that the new sovereign may deal with the inhabitants of conquered or ceded territory and give them such laws as it sees fit."

QUOTES THOMAS JEFFERSON.

Mr. Griggs gave considerable attention to the views of Thomas Jefferson on the power of the United States to acquire territory. An examination of his writings and of his whole course of action with reference to the acquisition of territory, he said, shows conclusively that Mr. Jefferson's doubt was not with reference to the power of the United States to acquire territory, but rather as to the right to annex it to and make it a part of the United States. Liberal extracts were also made from the annuals of Congress to show that the only doubt in the minds of members of Congress in connection with the acquisition of Louisiana was the right to attach it to the United States.

Referring to the doubts of Jefferson, Madison and various others of their time as to the power to bring acquired territory into the Union, Mr. Griggs said that the power had now been affirmed by the judiciary, and he quoted numerous opinions in support of the statement.

He contended also that "the conceded power to acquire territory by treaty or by conquest, includes the right to pre-emptively annex it to the United States will agree to in fixing the future status of its inhabitants," and in support of this contention said:

"The political status of native Indian tribes within territory acquired by the United States by treaty has been uniformly regarded as unaffected by the doctrine of long line. A special treaty with such tribes, and numerous acts of legislation by Congress on the subject of Indians and Indian rights show that these people have always been regarded as quasi foreigners."

He asserted that "the treaty making power of the Government has exercised the right to deal with the status of the inhabitants of ceded territory in every treaty of cession from 1803 to 1898."

FLA. NOT FOLLOWED.

The status fixed, he said, has not been uniform, but exceedingly varying. He then proceeded to argue that this practice is entirely at variance with the doctrine of the constitution follows the flag, and that when territory is ceded to the United States the inhabitants become immediately proper citizens of the United States. "If that doctrine be true," he said, "every treaty that has brought us new lands and new inhabitants has violated in this respect the principles of the Constitution. It convicts of error and usurpation Thomas Jefferson, James Madison, James Monroe, James K. Polk, Franklin Pierce, Andrew Johnson, their Cabinets and the Senates that ratified their treaties."

Arguing this point, he asks: "If Congress may properly define the classes of emigrant or aboriginal inhabitants who may become citizens and the proper period of probation and the terms and conditions upon which they may be admitted to full rights as citizens of the United States, why is it unreasonable or unjust to leave their judgment and discretion to time, the terms and conditions upon which the inhabitants of lately acquired foreign islands may be admitted to the same high status?"

"Are the United States so bound and tied by this Constitution of ours that it can never acquire an island of the sea, a belt across the isthmus, a station for a naval base, unless it be at the cost of admitting those who may happen to inhabit the soil at the time of the purchase to full rights as citizens of the United States, no matter how incongruous or unfit they may be, while the foreign-born inhabitant or the aboriginal red man must depend upon the grace of Congress, though he dwelt half a century among us?"

NO NEEDLESS LIMIT.

"What reason can be suggested for denying to this nation such full power and discretion as are possessed by the nations in respect? Why should the framers of the Constitution have wished to put shackles on the national limbs or to strip the nation of powers necessary to the preservation of its dignity and the maintenance of its maritime and national functions? Why the full exercise of those ordinary powers tends to the exaltation of the dignity, influence and welfare of the nation. These powers are inconsistent with no principle of personal liberty. Why seek to needlessly limit and restrain the national functions? Why, not rather, with the same largeness of view and purpose that characterized such statesmen as Jefferson and Marshall seek, by liberal interpretation, to give broad and ample scope to the spirit of national development, looking forward as Marshall expressed it, 'To the ages to come,' when never, grander and more potential opportunities for national growth and influence should have come to us than our fathers ever dreamed of?"

Mr. Griggs laid it down as a fact that "administrative construction, Congressional and judicial precedent all affirm that under our revenue laws every port in a ceded country is to be regarded as a foreign one until such laws are expressly extended by Congress to the new possessions," and he gave very complete citations of proceedings under these heads in support of his contention.

In this connection he quoted the clause in the thirteenth amendment, saying that slavery shall not exist in the United States "or any place subject to their jurisdiction," and commenting upon it as follows:

"The clear significance of this language is that there may be territory pertaining to and under jurisdiction of the United States which is not a part of the United States, and to which the Constitution of the United States does not apply unless it be expressly made to apply thereto, as in the case of slavery."

POSITION OF TERRITORIES.

Mr. Griggs then went at length into the claim that the constitutional clause which provides that "duties, imposts and excises shall be uniform throughout the United States," prohibits im-

ENGLAND'S TURN NOW

Rumored Defeat of the Boer Troops.

HOW DEWET CONQUERED

Details of Battle Which Resulted So Disastrously to Clements' Force.

LONDON, Dec. 17, 5 p. m.—The report of another severe battle, resulting in a British victory, is current here. According to the story the fighting began at daybreak today and lasted for several hours. The Boers, who numbered from 1,500 to 2,000 men, were surrounded at the Orange river and totally defeated with very heavy losses in killed and wounded. A number of Boers, it is added, were captured.

DEWET'S FIERCE ATTACK.

MASERU, Dec. 17.—It appears that Dewet's forces were twice repulsed before breaking through the British lines in the neighborhood of Thabanchu. In the third attack, Dewet led in person. With a few determined men he charged and broke the British lines, the rest of the commando following. He was forced, however, to leave the hands of the British a 15-pounder and fifteen wagons with ammunition and stores.

Commandant Haasbroeke, with a commando and two guns, tried to get through Springkantsck, but was driven back, losing forty men.

NEW YORK, Dec. 17.—A dispatch to the Tribune from London says: "The release of prisoners and other incidents reported by General Kitchener fail to reassure the public. The last phase of the campaign, is remarkable for the miscalculations on the British side, and excited many outbursts of candor. The staying power of the Boers has been underestimated, and their preparations for continuing hostile operations in the extremity of their fortunes by means of buried stores of ammunition have not been taken into account. There has been a futile discussion for months on the requirements of the police work and fox hunting, and suddenly Nicholson's Nek has been reproduced within forty miles of Pretoria, with an isolated command surrounded and forced to surrender after its ammunition had been exhausted, and with the main body retreating without making an effective effort to retrieve the disaster. General Clements' explanation that the Northumberland Fusiliers were short of ammunition makes every Englishman grit his teeth. The collapse of the Boer cause has been assumed as the inevitable consequence of the exhaustion of war material, and here is the 'Fighting Fifth,' without powder and shot, compelled to surrender. The generals now receiving the congratulations of their friends upon their return frankly confess that they have an uncomfortable feeling in being toasted and feasted. Lord Dundonald said before the public banquet at the Hotel Cecil that he could not help regretting his premature return, since the war evidently had not ended, and a soldier's place was at the front. General Pole Carew, who is overwhelmed with the kindness of Devonshire friends, probably finds it equally difficult to reconcile his soldierly sense of duty with a full appreciation of the delights of home hospitality. Lord Methuen's friends are emphasizing the fact that while he has been more sharply criticized than any other general except Gatacre, he has at least remained on the fighting line, bent on seeing the job through. De Wet and Delarey are spolling in advance the stately Thanksgiving service in honor of Lord Roberts' return. The book-writers have also been taken back by the recrudescence of hostilities, which cannot be minimized as guerilla warfare. Dr. Conan Doyle, who has written what was considered a complete history of the Boer war, anxiously waited during the Vagabonds' dinner for some explanation of the revival of hostilities, which seem to involve the necessity of additional chapters, if not a fresh volume. The war correspondents were equally ill at ease on the same occasion. Among them was Julian Ralph, with an article over his signature in the Spectator, on a hypothetical question of the censorship of despatches, but with the admission on his lips that the newspapers had made a mistake in withdrawing their men from the field prematurely, and in leaving some of the most interesting exploits and events of the war unrecorded.

The latest editions of the newspapers all comment upon the seriousness of the defeat which befell the British force under Clements last Thursday. The Telegraph considers that the reverse was only rendered possible by the carelessness of those in command and that a heavy responsibility rests upon some one for neglecting to see that the troops were in position to hold the hill against all comers. Broadwood's conduct seems inexplicable, and people are asking why there was no co-operation between him and

Clements. The authorities are quite alive to the ugliness of the present situation in South Africa, and additional contingent of 5,000 mounted infantry will shortly be sent out. General Kitchener, it is stated, is to be allowed an absolutely free hand.

BRITISH WERE BAGGED.

ALIWAAL NORTH, Dec. 16.—A party of Brabant's Horse, consisting mainly of raw recruits, engaged a superior force of Boers December 13th near Zastron, Orange River Colony, losing 4 killed, 16 wounded and 120 taken prisoners.

LONDON, Dec. 16.—The following dispatch has been received by the War Office from Lord Kitchener: "PRETORIA, Dec. 15.—Five officers and 316 men, Magaliesberg prisoners, have been released.

"The Boers surrounded and captured 120 of Brabant's Horse in a defile in Zastron district.

"Colonel Blomfield, moving on Vryheid, defeated the Boers with heavy loss, driving them from Scheepers Nek and capturing a quantity of arms. The Scheepers Nek movement occurred December 13th.

"The Boers, who attacked Vryheid December 10th, lost 100 killed and wounded before they retired. The fighting lasted all day, the enemy drawing off at 7:30 p. m. The British loss was 6 killed, 19 wounded and 30 missing. Our casualties include two officers, who died of their wounds.

DETAILS OF FIGHT.

LONDON, Dec. 17.—The Magaliesberg affair is described as follows in a dispatch to the Standard from Reitfontein: "The scene of the engagement was a horseshoe-shaped depression. The Northumberland occupied the center. General Clements' camp was pitched 1,000 yards lower down at the eastern point of the horseshoe and Colonel Legge's camp was about 300 yards distant.

"General Delarey's 1,000 men, against whom General Clements had fought repeated actions, were suddenly, unknown to General Clements, re-enforced by 3,000 from Warm Baths under Commandant Boyers. At daybreak Colonel Legge's pickets descried what seemed to be a fresh force of British troops thirty yards distant. The strangers were challenged. They replied with a volley, revealing 400 Boers in khaki. The firing became heavy and the noise aroused Colonel Legge's troops, who arrived just in time to save the outposts from capture. A furious engagement ensued. Artillery was brought up and compelled the Boers to retire. Colonel Legge followed up the withdrawal, but was shot dead by a bullet through the head.

"General Clements and his staff soon arrived. The staff suffered severely, but General Clements appeared to have a charmed life. While mounted men were driving the enemy back along a slope thickly covered with dead Boers, a deafening rifle fire suddenly broke out on the plateau above. The signallers telegraphed that the Northumberland Fusiliers were being attacked. General Clements, convinced that they would easily hold their own, deposed the remainder of his forces on the flanks and rear of his two camps.

"At 4:30 a. m. a telegraph from the western peak announced that the Boers were about to overwhelm the Fusiliers. General Clements was unable to send adequate help, but dispatched Yeomanry to climb the hillside and create a diversion. Before the Yeomanry could come into action the Boers had overlapped the Northumberland and were in possession of the entire horseshoe, flying down on the Yeomanry, entangled by the bushes and bowlders. The Northumberland made a magnificent defense as long as their ammunition lasted. According to Boer accounts, many, even when resistance was hopeless, died fighting.

"General Clements, now left with 700 men, made superhuman efforts against the bullets from the Boers pouring over the peaks and managed to save his guns and camp equipment. He retired in splendid order, and at 4 p. m. started to march to Reitfontein, fighting a rear-guard action all the way, and arriving the next day at 4 a. m."

Lord Methuen, according to another dispatch from Lord Kitchener, dated yesterday, attacked and captured a Boer laager near Lichtenberg, December 14th, securing large supplies of cattle and sheep and a considerable quantity of ammunition.

A further dispatch from Lord Kitchener, dated Pretoria, December 16th, says that Lord Methuen has officially confirmed the report of the death of General Lemmer, the Boer commander.

The Christmas Advertiser.

The price of the Christmas number of the Advertiser was five cents, and only five cents, the price of the regular issue of the paper. Those who paid more for the Christmas number at the demand of those who had the paper for sale, were overcharged. On account of the great demand for the Advertiser on Christmas morning, it no doubt occurred to some of the newsboys and others that an unusual price could be obtained. The New Year's number of the Advertiser, which, by the way, will be an artistic and literary souvenir of Honolulu and these Hawaiian Islands well worth preserving, will cost no more than the usual price of the Advertiser—five cents.

Dr. James Armstrong of Chicago was fined \$500 and sentenced to serve one year in jail for selling medical diplomas.

La Flanders, the new French steamer on which work has just started, is expected to exceed the Deutschland in speed.

Three highways in San Francisco started a reign of terror on the 16th, such as the city had not known for months.

Mr. Krueger was fired from The Hague on the 19th that he had not arrived at any decision with regard to visiting America.