

DE LIMA AND DOWNES CASES DISTINGUISHED

How the Two Must Be Separated in Considering the Meaning of Yesterday's United States Supreme Court Decisions.

The De Lima was the first to receive the attention of the court, and, as it appeared to be quite sweepingly opposed to the Government's contentions, many persons precipitately arrived at the conclusion that the Government had been worsted all along the line. This view suffered a decided change when the conclusion was announced in the Downes case. The court was very evenly divided on both cases, but political lines were not at all controlling.

The De Lima case involved the power of the Government to act on goods imported into the United States from Porto Rico after the ratification of the treaty of Paris and before the passage of the Porto Rican act. The court said the Government's contention in this case was substantially a claim that Porto Rico is foreign territory. The entire case turned upon that contention. The court held that the position was not well taken; that Porto Rico was not at the time foreign territory, and that therefore the duty which had been collected must be returned.

The decision in the Downes case followed the history of the dealings of the United States with Porto Rico a step farther. That case dealt with the legality of the exaction of duties on goods imported from Porto Rico into New York after

the passage of the Foraker act providing for a duty upon goods shipped from the United States into Porto Rico, and also on those shipped from Porto Rico to the United States. In this case the court held that such exaction was legal and constitutional.

The point of the two opinions, considered collectively, is that Porto Rico was never after the acquisition of that island foreign territory; that until Congress acted upon the question no duty could be collected, but that as soon as Congress outlined a method of controlling the island's revenues that action became binding. In other words, that Congress has power under the Constitution to prescribe the manner of collecting the revenues of the country's insular possessions, and has the right to lay a duty on goods imported into our insular possessions from the United States or exported from them into the United States. It holds, in brief, that for taxation purposes they are not a part of the United States to the extent that goods shipped between their ports and the United States are entitled to the same treatment as though they were shipped between New York and New Orleans.

ADMINISTRATION'S COLONIAL POLICY

THE IDEA . . . IS WHOLLY INCONSISTENT WITH THE SPIRIT AND GENIUS AS WELL AS WITH THE WORDS OF THE CONSTITUTION.—Justice Harlan.

The opinions, substantially complete, handed down by the Supreme Court in the De Lima and Downes insular cases, will be found on Page Three.

"CALLS FOR NO CHANGE OF POLICY."

BY SOLICITOR GENERAL RICHARDS.
Washington, May 27.—The decision of the court calls for no change of policy. It sustains to the fullest extent the so-called insular policy of the administration. The Government now has the sanction of the Supreme Court for governing the islands as their needs and our interests require.

The Republic Bureau, 11th St. and Pennsylvania Ave., Washington, May 27.—The United States Supreme Court today rendered decisions in the long-pending and far-reaching Porto Rican cases. The net result of the decisions is to sustain the administration, in so far as its policies since the passage of the Foraker act are concerned, and to reverse the administration as to its policies prior to the passage of the Foraker act.

The collection of duties upon imports from Porto Rico by the Treasury Department, for the period between the signing of the treaty of Paris in April, 1899, and the passage of the Foraker act, is held to have been unconstitutional; and all these duties will be refunded by the Treasury Department. The amount is estimated at about \$3,000,000. The court holds that the Constitution does not, in all cases, follow the flag, by its own force. It distinguishes between organized territory and the States of the Union for the purpose of levying Federal duties.

Justice Harlan characterized it as absurd that there could be two governments of the United States, one under the Constitution and the other outside of the Constitution. Briefly stated, the decision in the Goetz case supports the contention of the administration in regard to the power of Congress to legislate for the territories regardless of the limitations of the Constitution.

The court was filled to suffocation with prominent lawyers, among them being James Hagerman of Missouri, ex-Senator Lindsay of Kentucky, one of the St. Louis World's Fair Commissioners; Senator Lodge of Massachusetts, chairman of the Insular Affairs Committee; Chairman Cannon of the Appropriations Committee, Attorney General Knox, Secretary of War Root and many other of the foremost lawyers who practice before this court.

The decision in the Supreme Court was by a divided bench, the opinion of Mr. Justice Brown, who delivered the judgment of the court, being concurred in by Chief Justice Fuller and Associate Justices Harlan, Brewer and Peckham; and dissented from by Justices McKenna, White, Gray and Shiras.

In the case of Goetz against the United States, involving the collection of duties under the Foraker act, the opinion was also written by Mr. Justice Brown. In brief, it held that in legislating for territories the United States does not follow the flag. It does not go, of its own power, into newly acquired territory, but can only be carried into such territory by the action of Congress.

The decision, taken collectively, sustains the colonial policy of the administration in its essential features. The validity of the collection of duties by the military authorities both before and after the ratification of the treaty is sustained. The constitutionality of the Porto Rican act imposing duties on goods imported from Porto Rico into the United States and on goods imported from the United States into Porto Rico is sustained, and it follows that Congress has power to enact a similar law imposing duties on the commerce between the Philippines and the United States.

Under these decisions, however, the duties collected on imports from Porto Rico in the interval between the ratification of the treaty of peace and the going into effect of the Porto Rican law were illegally collected, and will have to be refunded; the duties which were collected on imports from Hawaii between the passage of the Dingley tariff act and the ratification of the treaty are also held to have been illegally collected, and will have to be refunded, and all the duties collected on imports from Porto Rico in the interval between the ratification of the treaty of peace and the going into effect of the Porto Rican law were illegally collected, and will have to be refunded, and all the duties collected on imports from the Philippines since the ratification of the treaty of peace, have been illegally collected and must be refunded. Unlucky collectors of duties have been made of the Philippines, and in the meantime all the products of those islands can come into the United States free of duty.

IS SUSTAINED BY SUPREME COURT.

Highest Tribunal of the Land Decides That Congress Has Plenary Power in Governing the Islands, Unrestricted by Constitutional Limitations—Vote Is Five to Four, and Powerful Dissenting Opinions Are Voiced by Chief Justice Fuller and Others—Porto Rico Is a Part of the United States.



- ### QUESTIONS SETTLED BY THE COURT'S DECISIONS.
1. Congress has plenary power to legislate for the territorial possessions of the United States.
 2. Validity of the collection of customs taxes by the military authorities in Porto Rico, both before and after the ratification of the treaty of peace and before the taking effect of the Porto Rican act, is sustained.
 3. Customs taxes were wrongfully collected on imports into the United States from Porto Rico after the ratification of the treaty of peace and before the taking effect of the Porto Rican act; on imports into the United States from the Philippines since the ratification of the treaty of peace, and on imports from Hawaii into the United States after the annexation and before the taking effect of the Hawaiian territorial government law.
 4. The validity of the duties collected both in the United States and in Porto Rico under the Porto Rican act is sustained, and the constitutionality of that law is sustained.
 5. All duties collected on imports from Porto Rico between the ratification of the treaty of peace and the taking effect of the Porto Rican law, if paid under protest, must be refunded by the Government.
- Under these decisions territory can be held indefinitely as colonies under such form of government as Congress shall see fit to prescribe. They may receive complete territorial governments, such as that of New Mexico and that which was given to Hawaii during the last session of Congress. They may receive limited territorial governments, such as that which was conferred upon Porto Rico, or their government may be put entirely in the hands of the President, as was done in the case of the Philippines by the Spooner amendment to the army appropriation bill.



COURT DECIDES THAT CONGRESS HAS PLENARY POWER, UNRESTRICTED BY CONSTITUTIONAL LIMITATIONS.

HOW THE COURT STOOD.

- For the Government: Justice Brown (Rep.), Justice Gray (Rep.), Justice Shiras (Rep.), Justice McKenna (Rep.), Justice White (Dem.).
- Against the Government: Chief Justice Fuller (Dem.), Justice Harlan (Rep.), Justice Peckham (Dem.), Justice Brewer (Rep.).

REPUBLIC SPECIAL.

Washington, May 27.—Congress has plenary power in legislating for the territories of the United States, unrestricted by the Constitutional limitations which govern it in legislating for the States. This, in a nutshell, is the meaning of the decisions announced by the Supreme Court of the United States today in the insular cases.

EVERY LAWYER CEASES.

In other words, the Constitution of the United States does not follow the flag. It does not go, of its own power, into newly acquired territory, but can only be carried into such territory by the action of Congress. The decision, taken collectively, sustains the colonial policy of the administration in its essential features. The validity of the collection of duties by the military authorities both before and after the ratification of the treaty is sustained. The constitutionality of the Porto Rican act imposing duties on goods imported from Porto Rico into the United States and on goods imported from the United States into Porto Rico is sustained, and it follows that Congress has power to enact a similar law imposing duties on the commerce between the Philippines and the United States.

RESIDENT NOTIFIED.

Sidney, Neb., May 27.—The President and the Cabinet received the official information here that the Supreme Court had decided the insular cases in accordance with the contentions of the Government.

FORAKER SAYS HIS PARTY IS VINDICATED.

BY SENATOR J. B. FORAKER.
REPUBLIC SPECIAL.
New York, May 27.—The decision is a complete vindication of the position held by the Republican party with respect to the power of Congress to legislate for Porto Rico and the Philippines and settle it, "once for all," that the United States is the equal in sovereign power of any other independent Government.

SENATOR LINDSAY INTERPRETS DECISION.

The Republic Bureau, 14th St. and Pennsylvania Ave., Washington, May 27.—Former Senator William Lindsay of Kentucky, one of the St. Louis World's Fair Commissioners, who is regarded as one of the foremost constitutional lawyers of the country, and who was of counsel for the appellant in the Goetz case, was present at the Supreme Court Monday and heard the decisions. Senator Lindsay said to The Republic correspondent:

The Government contended and collected revenues from Porto Rico under the Porto Rican act from the time of the ratification of the peace treaty up to the passage of the Foraker act. As to those taxes the Government loses its case, a majority of the court holding that upon the ratification of the treaty of peace, Porto Rico ceased to be a foreign country and that the Dingley

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THE THEATER OF WAR HAS BEEN MOVED.

GOVERNOR APPOINTS FAIR COMMISSION

Nine Missourians Will Prepare Exhibit for the State at Louisiana Purchase Exposition.

- MISSOURI COMMISSIONERS:
N. H. Gentry, Sedalia, Pettis County;
M. T. Davis, Lawrence County;
W. H. Marshall, New Madrid County;
D. P. Stroup, Ray County;
J. O. Allison, Ralls County;
D. P. Stroup, Ray County;
Frank J. Moss, St. Joseph;
H. C. McDougall, Jackson County;
B. H. Bonfoey, Putnam County;
L. F. Parker, St. Louis.

GOV. McSWEENEY IS A CANDIDATE.

Senators Tillman and McLaurin May Not Be Alone in the Senatorial Race.

REPUBLIC SPECIAL.
Chattanooga, Tenn., May 27.—Governor McSweeney of South Carolina, in a statement here today, said that he had received the resignations of Senators Tillman and McLaurin, and that so far as he now knows he would make no appointments to fill the vacancies to be caused when the resignations take effect. He said that he could not fully determine upon what course he would pursue until he returned home and consulted with his political friends.

LEADING TOPICS TO-DAY'S REPUBLIC.

- 1. Supreme Court's Ruling in De Lima and Downes Cases.
- 2. The Railroads. Credit-Revision Question Settled. Chicago Sustained by Supreme Court.
- 3. Supreme Court Decisions in Colonial Cases.
- 4. Steamer Dubuque Goes to the Bottom. Herron Abandons Marriage Ritual.
- 5. Early Morning Call Results in Arrest. To Place Flowers on Lincoln's Tomb.
- 6. Results at the Race Tracks.
- 7. Baseball Games.
- 8. Editorial. Fair Executive Committee May Be Named To-day.
- 9. Bartlett Tells How He Killed Edwards.
- 10. Republic Want Advertisements. Record of Births, Marriages, Deaths.
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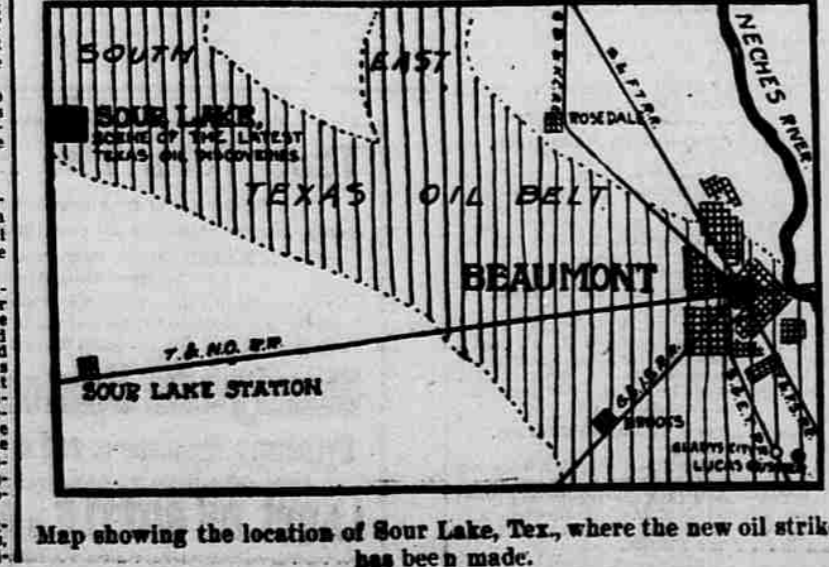
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WANT JUDGMENT SET ASIDE.

Creditors of Late Mayor Strong After Certain Securities.
New York, May 27.—Elizabeth, Jane and Frank T. Griswold, creditors of the estate of the late W. L. Strong, have asked the Supreme Court to set aside judgments in four suits brought against the executors, Putnam Bradley Strong and Albert Shattuck, by which \$350,000 worth of securities found among the ex-Mayor's papers were divided between Mary W. Strong, the widow; her brother, Robert W. Aborn, and her two sisters, Mrs. Rebecca S. Beasley and Mrs. Josephine W. Hogan.

It is charged that the suit was a "family affair"; that the executors did not defend the suit in good faith, but connived with the plaintiffs in procuring the judgments. It is further set forth in the papers on file that after the relatives of the ex-Mayor had appropriated the \$350,000 in securities the sum total of the assets remaining to meet the Griswolds' claim of \$350,000 was \$28,000.



Map showing the location of Sour Lake, Tex., where the new oil strike has been made.