

FIFTY-FIRST YEAR

## PORTO RICO IS A TERRITORY.

Supreme Court Passes on the Insular Cases  
—Circuit Court for Southern District  
of New York Overruled—History of  
Case of De Lima & Co. vs. Bidwell—  
Justice Brown Delivers the Opinion—  
"We Are Therefore of Opinion That at  
the Time These Duties Were Levied  
Porto Rico Was Not a Foreign Coun-  
try Within the Meaning of the Tariff  
Laws, but a Territory of the United  
States; That the Duties Were Illegally  
Collected, and That the Plaintiffs Are  
Entitled to Recover Them Back."

Washington, May 27.—Justice Brown, of the United States Supreme Court today announced the decision in the insular cases. The announcement of the court's decision was made at 12:37. The main question was whether the duties levied on goods imported from Porto Rico were lawful. Justice Brown delivered the opinion of the court, holding that Porto Rico was not a foreign country at the time the duties were levied, and that the duties were therefore illegal.

De Lima & Co., doing business in New York, imported from San Juan, Porto Rico, during the months of June and July, 1898, certain sugars, the product of Porto Rico. Upon these sugars the collector at New York demanded and collected about \$12,000 as customs duties.

HISTORY OF THE CASE.  
De Lima & Co. sued Bidwell, the collector, as an individual in the supreme court of the state of New York to recover the duties thus paid amounting to \$12,000, alleging that they were unlawfully demanded, in violation of the constitution and collected by duress, the collector exacting the payment of the duties as a condition to the delivery of the sugars. On the petition of the collector the suit was removed to the district court of the United States for the Southern District of New York, which assumed a demurrer to the complaint and held on the ground that no cause of action was stated and that the court had no jurisdiction. From the judgment dismissing the complaint De Lima & Co. prosecute error from this court.

PORTO RICO'S STATUS.  
Justice Brown said that whether the duties were levied on goods imported from Porto Rico or on goods imported from a foreign country into Porto Rico was a question of fact. He held that the right to acquire territory involves the right to govern it, and that Congress, by its action in 1898, had acquired Porto Rico as a territory of the United States.

Justice Brown concluded as follows: "If an act of Congress be necessary to acquire a foreign country into domestic territory, the question at once arises, what is the purpose of the legislation? Will an act appropriating money for its purchase be sufficient? Apparently not. Will an act appropriating the duties collected on goods imported to and from such country for the benefit of its government be sufficient? Apparently not. Will an act appropriating the duties for the establishment of light houses, for the maintenance of quarantine stations, for erecting public buildings, have that effect? Will an act establishing a complete local government, but with the reservation of the right to collect duties upon commerce be adequate for that purpose? None of these, nor all together will be sufficient. If the contention of the government be sound, such acts embrace all these provisions have been enacted in connection with Porto Rico. It is insisted that it is still a foreign country within the meaning of the tariff laws. We are unable to agree with this assumption that the duties may be at the same time both foreign and domestic."

We are therefore of opinion that at the time these duties were levied Porto Rico was not a foreign country within the meaning of the tariff laws but a territory of the United States, and that the duties were illegally exacted, and that the plaintiffs are entitled to recover them back. The judgment of the circuit court for the Southern District of New York is reversed and the case remanded to that court for further proceedings in accordance with this opinion.

POWER OF CONGRESS.

In the course of his reasoning on the case of the acquisition of Porto

embraced it within the customs union. It may be seriously questioned whether this is anything more than a recognition of the fact that there were money in the treasury not subject to existing appropriation laws. Perhaps we may go further and say that, so far as these duties were paid voluntarily and without protest, the legality of the payment was intended to be recognized, but it can clearly have no retroactive effect as to money thereafter paid under protest, for which an action to recover back had already been brought."

After Justice White concluded his opinion Justice Brown announced the decision of the court in the case of Armstrong vs. the United States, covering the shipment of goods to Porto Rico. This case, the court said, was similar to the Dooley case. While duties prior to the treaty were proper, those subsequent to the treaty were not. The judgment of the circuit court was reversed.

Justice White announced the dissent of Justices Gray, Shiras, McKenna and himself.

FORAKER ACT CONSTITUTIONAL.

Washington, May 27.—In the Downes case the United States Supreme Court decided in an opinion by Justice Brown that while Porto Rico is a territory of the United States, it is not such for tariff purposes and that the Foraker act is constitutional. The judgment of the circuit court was affirmed. A dissenting opinion was handed down by Justice White, in which Justices Shiras and McKenna concurred.

DOWNES VS. BIDWELL.

Justice Brown next announced the opinion in the case of Downes vs. Bidwell, relating to a shipment of oranges from Porto Rico to New York after the enactment of the Foraker act. The objections to the lower court's jurisdiction were overruled. Justice Brown then proceeded to show the difference of the question in this case from that involved in the first case decided, this difference being based on time and the course taken by the executive and legislative branches of the government.

He said there was considerable divergence in the opinion of the court in the past and too much weight should not be given to particular phases of past decisions, such as that referring to the supreme authority of Congress, as that might refer to the supreme authority of Congress under the Constitution. After analyzing the case of Loughborough vs. Blake, the justice summed up the conditions under which territories were not in the same position as states.

JUSTICE MCKENNA DISSENTS.

Washington, May 27.—Justice McKenna delivered the dissenting opinion of the Supreme Court in the insular cases. He was joined in that opinion by Justices Shiras, White and Gray. Justice McKenna went into a detailed examination of the cases cited in the majority opinion. He maintained that they did not show a clear current of decision, but disclosed much divergence of view. He referred also to the fact that precedents not in consonance with the majority view were now dismissed as dictum and not binding opinion.

He spoke of the dangers attending the dismissal of judicial opinions as "dictum" and of the greater danger when such a course may interfere with the maintenance of the action of a nation. Constancy and certainty of judicial opinions were of the highest importance, the justice declared, and they should not be like the "exhalations of a marsh shining mistily." Justice McKenna's examination of the many precedents was exhaustive and almost an hour was given to showing to what extent the circumstances of each case bore on the present condition in Porto Rico.

After examining cases cited by the majority opinion, Justice McKenna said that opinion proceeded on the theory that the cession of Porto Rico was absolute, whereas that depended upon the treaty itself. He referred to the effects wrought upon the country at large by decisions limiting the governmental authority in respect to customs. The industrial policy of the country might be destroyed and those signing the dissenting opinion could not acquiesce in a view that might lead to such an end. In the opinion of those dissenting—Justice McKenna said the judgment of the circuit should be affirmed.

Justice Gray followed with the brief announcement of his dissent from the majority opinion stating that he regarded it as irreconcilable with the opinion of the court in former cases.

JUSTICE WHITE'S OPINION.

Washington, May 27.—Justice White, dissenting in the Dooley case made the announcement that in the Downes case, which questions the validity of duties levied on oranges imported from Porto Rico after the Foraker act, the majority of the court would, as Mr. White stated it, reverse itself and hold the duty valid. He said the opinion in the Downes case, which the court would announce later would thus lead to the inconsistency of the court deciding that after the Foraker act Porto Rico ceased to be a part of the United States and before the Foraker act it was a part of the United States.

Justice White said the court would, later in the Downes case, hold that Porto Rico had the power under the Foraker act to impose a tariff duty on goods coming from Porto Rico. He expressed himself as unable to conceive of what theory they thus proceeded and expressed the opinion that it was due to confusion of thought in the De Lima case.

It was settled law, by the decisions in

the Woodruff case and the Houston case, he said, that the power of Congress to levy an import duty did not extend to any territory that was a part of the United States and the result of the majority opinion in the Downes case thus would be to bring about a state of things where territory which was a part of the United States before the Foraker act became a foreign territory after the Foraker act.

The dissenting justices throughout their dissent took occasion to criticize sharply the apparent conflict between the majority ruling in the De Lima case, and that which would follow later in the Downes case.

GEORITZ AND CROSSMAN CASES.

Washington, May 27.—In the cases of Georitz vs. the United States and Crossman vs. the United States brought here from the circuit court for the Southern District of New York to test in the Georitz case the validity of the levy of duty on importations of tobacco from Porto Rico into the United States after the ratification of the treaty and before the passage of the Porto Rican act, and in the Crossman case on liquors imported into Hawaii after annexation but before the taking effect of the act providing a government for Hawaii, the court reversed the judgments below for the reasons cited in the De Lima case, holding the levy of duties was unconstitutional.

DOOLEY VS. UNITED STATES.

Washington, May 27.—Justice Brown also announced the opinion of the court in the case of Dooley vs. the United States involving the validity of a duty levied on goods imported into Porto Rico from the United States between the date of military occupation and the taking effect of the Porto Rican tariff act. The court held that there could be no doubt of the validity of the duties levied by virtue of Gen. Miller's order prior to the ratification of the treaty of peace. It placed this right on the ground of military necessity.

With reference to duties levied after

ratification, n of the peace treaty the court said a different rule applied and it held these duties invalid. Justice Gray, Shiras, McKenna and White dissented, the latter delivering the opinion.

PITTSBURG "RIPPER" BILL.

Pennsylvania Supreme Court Sustains its Constitutionality.  
Philadelphia, May 27.—The supreme court today rendered a decision confirming the constitutionality of what is known as the "Pittsburgh Ripper Bill," recently passed by the legislature.

The bill establishes a new government for the "Second class" cities of the state, Pittsburgh, Allegheny and Scranton.

Brooks Locomotive Works Resume

Dunkirk, N. Y., May 27.—Work was today, about two-thirds of the employees reporting. None of the striking machinists or allied metal workers returned to work. All departments of the works are running, but with a reduced force.

The officers of the company have submitted to the strikers' terms of settlement which have been forwarded to President O'Connell at Toronto for his consideration.

Gathering for Confederate Reunion

Memphis, Tenn., May 27.—Thousands are pouring into the city from all over the South to attend the eleventh annual reunion of the United Confederate Veterans and the sixth annual reunion of the United Sons of Confederate Veterans, which opens tomorrow.

It is estimated that by noon today

18,000 strangers had arrived and by tomorrow morning 50,000 will have arrived.

Whitenside Handicap.

London, May 27.—George Edward's Santol, won the Great Whitenside handicap at the Hurl Park club Whitenside meeting today. J. Dawson and J. Ramsbottom were second and third. Captain Forester's St. Moritz finished third.

"Major" Taylor Defeats Jacquelin

Paris, May 27.—"Major" Taylor, the colored American cyclist, in the return match, today defeated Jacquelin, the French champion, in two out of three races.

RIOTING IN RUSSIA SPREADS.

Caused by Production of Anti Semite

Play "The Snugglers."

London, May 27.—Rioting has spread to south Russia, says a despatch from St. Petersburg, as a result of the production of the anti-Semitic play, "The Snugglers." At Kutais, thousands of people congregated around the theatre and stoned the police. A detachment of Cossacks charged and dispersed the crowd. Thirteen policemen, 15 Cossacks and two officers were severely injured.

BANK WRECKERS ARRESTED.

Lent. Gov. M. F. Allen of Vermont

Has Been Indicted.

Vergennes, Vt., May 27.—Lieut. Gov. M. F. Allen, vice president and director of the Farmers' National bank which recently suspended here, and J. W. Ketchum, a representative to the legislature from this place were arrested today by United States officers under instructions charging them with conspiracy with Cashier D. O. Lewis in wrecking the bank.

NOVOE VREMIA SUSPENDED.

An Editorial on Russian Labor

Troubles Caused High Sensation.

St. Petersburg, May 27.—The prohibition of the publication of the Novoe Vremia for a week because of its editorial article on the labor troubles is creating an immense sensation as indicating extraordinary nervousness on the part of the government.

The Novoe Vremia is second only to the Moscow Vjedomosti in conservatism and is usually allowed greater latitude than are the other papers. The editorial in question is mild as compared with many governmental publications on the labor situation in more quiet times. It merely said the operatives were poorly paid for excessive hard work and were beginning to be influenced by western literature and suggested that the government carry on the work begun for emancipation and enforce social reforms.

## COUNTY SCHOOL COMMENCEMENT

Youthful Graduates Have Proud Day at the Theater.

MANY CREDITABLE EFFORTS

Instructive and Eloquent Addresses Made by Commissioner Anderson and Dr. Talmage.

The Salt Lake theater was decorated as beautifully this morning as is possible. Not with flowers and bunting and flags, but with the radiant faces of happy children. Happier perhaps than they ever were before. It did not require the artistic hand of man to make the scene attractive. It was a spectacle provided and arranged by nature and adorned in her most generous style. The graduating exercises of the Salt Lake county schools of 1901 will be chronicled in the annals of the county schools as among the most pleasant events of the kind in their history. The fine old auditorium was filled from the orchestra pit to the second balcony, and the audience was made up of bright, active, eager children and proud and happy mothers.

The one hundred and four graduates occupied chairs on the stage, and their beaming countenances reflected the happy currents that were surging within them. If it is true that all the world loves a lover, it is no less true that all the world loves the graduate, young or old. Every triumph in the lives of the boy or girl is applauded, and the love that was felt for the young folks at the theater this morning was attested in the great profusion of beautiful flowers, and the enthusiastic applause that accompanied every youthful effort.

While the audience was assembling the children's mandolin and guitar club under the leadership of Theodore Best, discoursed the sweet music for which that body of little musicians has become famous. County Superintendent B. W. Ashton presided over the exercises, which were opened with a selection from the children's mandolin and guitar club. The invocation was offered by John Cook, trustee of the schools. This was followed with a song by the pupils of the Sandy school, they did it so well that another song was required of them.

The salutatory was then given by Miss Lizzie Winder, the young lady who carried off the honors of her class. Her home is in Farmers ward, and her effort was a strong and matured comment on the present school system. The paper was written in an excellent style and indicated a scope of reading and grasp of thought that would have reflected credit on a person of three or four years. She said that the glory of the United States was its great number of self-made men. The old adage that whatever is worth doing is worth doing well, embraced the whole of education. Mamie Pugh of Mill Creek recited the thrilling piece, "Alameda," in a clear sympathetic voice and with good elocutionary effect. The effort evoked hearty applause.

Bertie Palmer of Taylorsville, the boy who carried the honors for the young men, read a paper on "Our Public Schools." It gave a well-considered and intelligent account of the advent of the public schools, which was made in England years ago. The progress and growth of public education was traced and the workings of the present school system were treated in a most creditable manner. The young man laid stress on the necessity of paying more attention to grammar, saying that the use of bad English was one of the deplorable faults of the country.

The next feature was an address to the graduates by Dr. James H. Talmage, delivered in his usual style and reflecting his happy and practical thoughts. He urged upon the pupils not to allow the memory of the school days to pass from their minds, for it would be an inspiration to them in after life. He was pleased with the fact that the graduates were in a better condition today than they ever have been in all their history.

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That is the end of life anyway? They are but the beginnings. We pass from kindergarten to common school, from school to college, and we graduate into the school of life, the ending of each study is but the beginning of a higher one. And what is death, that many dread? Death is but the beginning of a course of study in the next grade.

Dr. Talmage pointed out the necessity of work. "The lazy man is a diseased man," exclaimed he, "and if I were an automatic health officer I would pin a yellow flag on the back of every lazy man."

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## CORDON OFFERS \$500 REWARD.

Assailants of Deputy Sheriff Thompson Make Good Their Escape—Were They Majors' Friends?

\$500 REWARD.

Five hundred dollars reward will be paid for the capture and conviction of the two men who shot Deputy Sheriff Frank Thompson on Friday night, May 24th.

Description.—The description of one man is as follows: Between twenty and thirty years of age, about five feet, nine inches high; dark complexion; black clothes and black hat; description of other man not known. One of them carried a .38 caliber revolver. Address all communications to H. H. Gordon, sheriff of Boxelder county, Utah.

(Special to the "News.")  
Brigham City, May 27.—At least fifty armed men have been seen lurking in the country in and about Brigham City with the hope that they will be able to run down and apprehend the men who on Friday night last made such a dastardly attempt upon the life of Deputy Sheriff Thompson of this place. Thus far they have not even obtained the faintest clue as to the identity of the guilty parties and the chances now are that they never will.

Sheriff H. H. Gordon, who is directing the movements of the searching posse is doing everything in his power to stimulate interest and to that end has personally offered a reward of five hundred dollars for the capture of the desperado who committed the deed. The elements added materially in the escape of the would-be assassins. The night was dark, the wind blew a gale and the streets were filled with dust. Four shots in all were fired. There were the two men at the rate who attacked Mr. Thompson and a third who blocked away, who immediately after the shooting started to run as rapidly as it was possible. He was out of sight, however, in an instant. The supposition is that he was a lookout for the men who held up Mr. Thompson.

On Saturday there were two theories as to the whereabouts of the men. It was at first thought by a few—not many—that tramps had done the work. The majority was of the opinion that friends of the Majors had a deliberate plan to rescue him. All are of that opinion, or practically so.

In addition to carrying the keys that could have given freedom to the Majors, Thompson is an important witness in the case against him. Thompson has, contrary to all expectations, passed a serene in his condition and there is now some hope of his recovery.

that of the Brigham Young academy, of Provo, tomorrow afternoon at 4 o'clock on Walker's field.

The academy team has been greatly improved since the college nine defeated it some weeks ago at Provo; and the Utah college, the Provoites feel ready to tackle the L. D. S. champions once more.

The L. D. S. players are, as usual, willing to meet all comers and from the record of each team to date one of the closest and finest games of the season is expected to come off tomorrow between the two schools.

IKERUSSELL HOME.  
Young Salt Lake Soldier and Student Back Again.

Isaac Russell, a Salt Lake boy, who left here three years ago, as a volunteer in the Utah battery, returned home yesterday and today is meeting his friends at the University who are giving him a warm welcome. He was in the army in the Philippines for two years and after receiving an honorable discharge, began publishing a weekly paper called the "American Soldier." He sold out his newspaper business, was chief clerk for Evans and company, government contractors, and then obtained a position with Gen. Bates as civilian aid in the establishing of local governments throughout the islands. He made considerable money and coming to California began a course at Stanford University. He is now in Salt Lake for the summer and expects to return to Stanford next September. This past year he specially distinguished himself in English by leading his class with "A" standing.

When seen today by a "News" representative Mr. Russell was averse to recount his army experience. He said that the Philippines is a good place to live in providing one is temperate, and that there are good opportunities for capital there. He said that there had been many changes here in the way of progress since he left, but that the greatest change for the better is the Deseret News. He thinks the paper has gone forward by leaps and bounds.

MISS LOLA BONINE.  
Files an Application for a Writ of Habeas Corpus.

Washington, May 27.—A petition for a writ of habeas corpus was filed today by counsel for Mrs. Lola Bonine, who is held in connection with the killing of young Ayers, the assassin clerk in the Hay Kennedy two weeks ago. The petition was refused.

Mr. Broderick is Unpopular.  
New York, May 27.—There is no doubt the London correspondent of the Herald thinks that Mr. Broderick, the secretary of state for war, is not popular with the British army. It is learned from talk in the military circles, that no less than one thousand officers have sent in their papers to the war office.

In military circles it is the only topic of conversation. Dissatisfaction is expressed on all sides against the general staff. Some of the military men believe Mr. Broderick will be able to realize a new army scheme. The recruiting outlook is very bleak, indeed.

Over Fifty People Hurt.  
Albany, N. Y., May 27.—Further information from the vicinity of the collision on the Albany and Hudson railroad near East Greenbush shows that the number of injured is over fifty. There have been no other deaths, however, up to this hour.

INTERCOLLEGE BASEBALL.  
L. D. S. vs. R. Y. A. on Walker's Field Tomorrow Afternoon.

An important game of baseball will be played between the team of the Latter-day Saints' college of this city, and