for doing in South Africa. We quote some of the underlined sentences:

Manila, Oct. 25.—Among the American troops in Samar an intensely bitter feeling prevails against the Filipinos, and if they can meet the enemy in the open they are prepared to inflict severe punishment. . . . Gen. Smith, commanding in Samar, has issued a notice ordering the people to concentrate in the towns, and declaring that otherwise they will be considered public enemies and outlaws and will be treated accordingly. . . . .

Manila, Oct. 28.—Most of the towns in the south of Samar have been destroyed.

The fact is that both Great Britain and the United States are descending to the barbarous methods of Weyler in Cuba for the very object that Weyler had in view—the subjugation of a weaker people for the sake of their lands. The event goes far to prove that when the Spanish caricaturists four years ago pictured Uncle Sam as a greedy hog, they were disgustingly sagacious.

Mr. Justice Brown, of the supreme court of the United States, has made two more decisions for that court in the litigation growing out of the new American policy of imperialism. We say that Justice Brown has done this, because he has held the balance of power in the court, deciding with four of his associates upon one point, the other four dissenting, and with the other four upon other points, the first four dissenting. It is evident that Mr. Justice Brown is destined to figure in the constitutional history of the United States either as a very great jurist or as a very absurd one. If the country adopts the imperial policy, for which he has found warrant in the constitution, he will be accounted great. But if the country returns to its old ideals he will be better remembered as a comical than as an imposing character in constitutional history. For in the one case the credit of making a successful judicial bridge for the passage of the country from republic to empire will be his, while in the other he will reap the unenviable reward of having tried to substitute empire for republic and failed. It was his casting vote, both last spring and this week, that made the decision of the court. The voice was the voice of the court, but the decision was the decision of Mr. Justice Brown.

Two cases were decided, one against the government and the other for it, each by a vote of five to four, precisely on this occasion as last spring. An analysis of the two decisions of last spring will be found at page 149. In one, the De Lima case, it was then decided that with reference to existing tariff laws the ratification of treaties of cession instantly and of their own force divest ceded territory of its foreign character and make it territory of the United States. This decision is now followed in the "diamond ring case." An American soldier named Pepke had brought 14 diamond rings home with him from the Philippines. They were seized for nonpayment of tariff duties, under the Dingley law. This was upon the theory that the Philippines were not American territory. But as the treaty of cession had at that time been ratified, the court holds that the Philippines were American territory. The court does not hold, however, that congress is constitutionally prohibited from making tariff laws applicable to the Philippines. This contention is, on the contrary, distinctly overruled in the other case, which relates to Porto Rico and is known as the second Dooley case. The second Dooley case differs in its facts from the Downes case of last spring (p. 150), in only one important particular. In the Downes case it was decided that congress can make a law for national territory which imposes tariff duties upon goods coming from that territory into a state, the constitutional requirement of uniformity being held not to apply in such cases. In the second Dooley case another step is taken. It is there decided that an act of congress imposing tariffs upon goods going out of a state into national territory is also valid, it being held that the constitutional clause forbidding a tariff upon exports from a state does not apply to exports to national territory. Both as to the exports to and the imports from national territory, therefore, congress is now declared to have full discretionary power.

These four decisions, taken together, make precedents for the following constitutional interpretations: (1) The treaty-making power (consisting of the president of the United States and the senate) may acquire inhabited as well as uninhabited territory as the property of the United States by treaty. (2) Territory so acquired ceases, instantly and by force of the treaty, to be foreign territory with reference to existing tariff laws imposing duties upon imports from foreign countries, and in that respect becomes territory of the United States. (3) Congress has power to organize such territory, and in doing so may impose duties upon goods imported from it into a state, without regard to the uniformity clause of the constitution, and may also impose duties upon goods exported to it from a state, without regard to the constitutional clause forbidding tariffs on exports.

So far, then, as the supreme court can by a vote of five to four permanently settle anything of vital concern, it has now either directly or impliedly determined the status of American territories. However densely populated they may be, they are nevertheless only national property. Arizona, New Mexico, and Alaska, as well as Porto Rico and the Philippines are alike in this respect. The treaty-making power may acquire them at will; and at any time before they are invested with statehood this same power may, without the consent of congress, sell, assign, transfer, make over and deliver them to any other nation. They are part of the United States as soon as acquired, cease to be part of it as soon as sold, and meantime are not under the protection of the American constitution with reference to taxation or citizenship, if

congress so decides. Their exports and imports may be taxed as congress pleases, their inhabitants may be excluded from the nation to which they are part if congress wills it, their local affairs may be regulated wholly from Washington by a government in the selection of which they have no voice. The native inhabitants of this territory are the dependent subjects of a "republic" whose boast it has been that none of its people are subjects but all are citizens. These results are now either definitely determined by the supreme court or follow logically from its decisions. Whether congress and the people who make congressmen will permit this course of empire to go on remains to be seen. But the supreme court has decreed that imperial power is not wanting. As England is to her crown colonies, autocratic and irresponsible, so congress may be to ours.

Congressman Grosvenor, of Ohio, sends out to the press a deserved criticism of Congressman Burton, of the same state. Mr. Burton having declared opposition to the ship-subsidy measure, to which Senator Hanna is devoting his peculiar talents, Mr. Grosvenor says that "the greatest scheme of subsidy ever entered upon in the United States" is the river and harbor appropriations, to which Mr. Burton is devoted. Since Mr. Burton professes to oppose the ship-subsidy upon principle, Mr. Grosvenor is clearly right in charging him with inconsistency. The river and harbor appropriations are subsidies, just as truly so as the ship subsidy would be. In the one case as in the other the fund is a public fund, collected from all the people and expended for the benefit of a few. The river and harbor subsidies are for the benefit of land owners near the places improved, their land being thereby increased in value, while the ship subsidies are to be for the benefit of Senator Hanna's ring. Otherwise there is no difference. Mr. Grosvenor, therefore, is entirely consistent in favoring both measures. His is the consistency of grab. Mr. Burton, on the other hand, is inconsistent. Millions upon millions of dollars, the expenditure of which he advocates in his river and harbor measures, have no better justification than the proposed ship subsidy millions, and that is no justification at all. The congressman who goes in for appropriations, should pattern after Grosvenor and Hanna. He should leave his squeamishness between the leaves of his family Bible.

As we noted last week (p. 536), Mayor Johnson, of Cleveland, has won the first point in the Ohio supreme court in his fight against the state board of equalization, which (pp. 386, 406, 467) refused to exercise its power to increase the appraisement of railroad property for purposes of taxation. This decision does not touch the merits of the question. The only point involved was whether the proceedings against the board to compel it to exercise the power of increasing railroad assessments should be begun in the lower courts and carried up for review or might be brought at once in the highest court. It was discretionary with the highest court to decide either way, and it has granted Mayor Johnson's application. Unfortunately, some partisan bias was noticeable in the court, especially on the part of Judge Shook. He was indiscreet enough to ask Mayor Johnson's lawyer, Judge Babcock, and with a tinge of sarcasm, if the object of the proceeding was to compel the board to exercise its judgment. As courts concededly have no right to regulate the judgment of quasi-judicial tribunals, the animus of the question was obvious. But Judge Babcock readily gave a reply to which no retort was possible. "Not its judgment," he replied, "but its powers." This object of the proceeding was so evident that the good faith of the question could hardly be defended without reflecting upon the intelligence of the questioner. When, however, all the judges came to pass upon the application, they granted it, and the question of the power of the state board to increase the tax assessments of railroads in Ohio will soon be argued and decided by the supreme court of that state.

In the course of his argument in behalf of the Cleveland mayor, upon this application for leave to sue originally in the supreme court, Judge Babcock made a forcible nontechnical point. After discussing the importance of speedily disposing of a fiscal question so momentous, he said:

> **Weightier than questions of revenue are questions of social justice. No property can long be safe from the ruthless assaults of turbulent classes which turns outlaw in the presence of the taxing officers of the state. For the middle class to bear its own burdens and those of corporate wealth also, is surely to undergo absorption in time. But 12 per cent. of the wealth of the land is in the hands of 88 per cent. of the people. If this narrow dyke of property is washed away by unequal taxation the ruin which will result finds a parallel when the sea breaks through the dykes and submerges the fair fields of the Netherlands. I have said this to give emphasis to the importance of this application. If it sounds like the language of alarm, I will steady it by the words of ex-President Harrison.**

He then quoted from the address delivered three years ago at Chicago, in which Mr. Harrison used this language, expressive of a sentiment and a warning which must not be lightly ignored:

> **The men who have wealth must not hide it from the tax gatherer, and plant it on the street. Such things breed a great discontent. All other men are hurt. They bear a disproportionate burden. Mr. Lincoln's startling declaration that this country should not continue to exist half slave and half free may be paraphrased to-day by saying that this country cannot continue to exist half taxed and half free. * * * If there is not enough public virtue left in our communities to make tax frauds discreditable, if there is not virility enough left in our laws and the administration of justice in our courts to bring to punishment those who defraud the state and their neighbors, is there not danger that crimes of violence will make insecure the fortunes that have refused to contribute**