

has jurisdiction. We have not in the past one hundred and twenty-four years governed any territory except under the provisions of the Constitution of the United States, and I believe that the Hawaiians and Porto Ricans can be governed better under its provisions than by any other form of government. We can govern them in no other way.

The United States can not long exist with a part of the Territory within its jurisdiction under a constitutional government and the balance under a nonconstitutional government. In the case of the Territory of Hawaii we give full force and effect to the provisions of subsections 5 and 6 and section 1 of the Constitution, which provides as follows:

No tax or duty shall be laid on articles exported from any State. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another, nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.

In the case of Porto Rico the majority deny this, and attempt to justify their course upon the ground that Congress has supreme authority over the property and territory of the United States. No one denies that Congress has jurisdiction over property and territory of the United States; but that jurisdiction is limited. It only is jurisdiction to do what is authorized by the Constitution. It has no jurisdiction in a State, Territory, or elsewhere to do those things prohibited by that instrument.

That the Constitution and jurisdiction of the United States are coextensive is evident from a consideration of section 4 of Article IV of the Constitution, which provides:

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the legislature, or of the executive (when the legislature can not be convened), against domestic violence.

The word "State" is used in this clause of the Constitution, yet this is the only provision in the Constitution making it a duty of Congress to protect from invasion. The word "State" as used here is synonymous with the word "Territory." Therefore it is the duty of Congress to protect each and every part of the domain subject to its jurisdiction from invasion; that is, each of the various 45 States and all of its Territories, including Hawaii and Porto Rico. It is also our duty to guarantee to each of them a republican form of government.

To my mind it can not be contended successfully that it is the duty of Congress, under the provisions of the Constitution, to protect Porto Rico from invasion without admitting under the same authority that it is equally our duty to give to her a republican form of government. In the case of Porto Rico, in considering the legislation proposed by the Republican party, in determining whether or not the Constitution is being violated, the question naturally arises, What is a republican form of government? The answer can only be, as it has been, "A government of the people, by the people, and for the people."

The right of local self-government and that all government shall be under the restrictions and limitations of a written constitution is absolutely essential to a republican form of government. We recognize this principle, and give a republican form of government to Hawaii. The majority deny the application of this principle in the case of Porto Rico, and refuse to her a republican form of government. The framers of the Constitution were jealous of giving to Congress unlimited power, and did not do so.

The Constitution of the United States is the sole grant of power to Congress, and this power is limited in the grant. This is necessarily the case, as I have stated, in a republican form of government; under an imperial form of government, a written constitution defining the rights of the citizen and protecting him from oppression by the government, is not usual, as in the case of England, having no written constitution other than Magna Charta. Her Parliament, in all matters outside of the provisions of that instrument, has unlimited power, and there is no such thing as an unconstitutional act of Parliament. And, because of oppression by the British Parliament in the exercise of this unlimited power, our revolutionary fathers rebelled, achieved their independence, and gave to us a system of government with a written Constitution, and forever guaranteed to the American citizen exemption from the oppressions they had suffered.

In the bill before the House, Hawaii is placed under our customs and revenue laws, as required by the Constitution of the United States. The majority here refuse this to Porto Rico. In the Hawaiian bill the principle that all taxation by Congress must be uniform and for a national purpose is recognized and carried out. In the Porto Rican bill taxes are imposed upon the products of that island coming into the United States, thus violating the rule of uniformity in taxation required by the Constitution, and the proceeds of this tax are appropriated for local purposes in the island.

Congress derives its sole power to levy taxes under the Consti-

tution. It can only levy taxes upon the subjects and in the manner prescribed by that grant of power. If the Constitution does not extend to Porto Rico, and its people are not citizens of the United States, I am at a loss to know where Congress obtains its grant of power to levy taxes at all, as the grant of power can not extend beyond the jurisdiction and operation of the instrument giving the power. Porto Rico is unquestionably a part of the territory of the United States, subject to its jurisdiction, and therefore within the operation of the Constitution and all of its provisions and limitations; taxes can only be levied in strict accord with the rules therein provided.

The language of the Constitution is unmistakable that no preference shall be given, that the taxes shall be uniform and levied only for national purposes, and the following authorities settle beyond question the soundness of this contention:

Story on the Constitution, edition 1859, sections 154 to 159.

It was decided in *Cross vs. Harrison* (16 Howard, 197), that—

By the ratification of the treaty (with Mexico) California became a part of the United States. And as there is nothing differently stipulated in the treaty with respect to commerce, it became *instantly bound and privileged by the laws which Congress had passed to raise a revenue from imports and tonnage.*

On page 198 the court said:

Having been shown that the ratifications of the treaty made California a part of the United States, and that as soon as it became so the territory became subject to the acts which were in force to regulate foreign commerce with the United States, after those had ceased which had been instituted for its regulation as a belligerent right (i. e., strictly a war tariff under military occupation).

In *Longborough vs. Blake* (5 Wheaton, 317), the Supreme Court held:

The power then to lay and collect duties, imports, and excises may be exercised and must be exercised throughout the United States. Does this term designate the whole or any particular portion of the American empire? Certainly this 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 the 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 our Constitution, that uniformity in the imposition of imports, duties, and excises should be observed in the one than in the other.

Cooley on Constitutional Limitations, 129 and 499, states the rule to be:

Taxes should only be levied for those purposes which properly constitute a public burden.