feel confident that at least as to applicable provisions eight justices will concur. Mr. Justice Brown is not as sensitive as his brethren, who agree with him as to what in the Downes case, but disagree as to how. * * *

"The inconsistency on the part of Mr. Justice Brown in the De Lima and Downes cases is obvious, and tends to impair our confidence in his conclusions. On the other hand the consistency of the dissenting justices in the Downes case and the manner in which their reasoning without distortion answers the various conditions, tend to establish its correctness.

" * * * Is the conclusion in the Downes case sustained by such reason and authority as to justify us in assuming that it is the deliberate and final judgment of the court upon this great question; that it has laid down the rule which will govern the republic for all time, so that although new territory may be acquired, the republic will not expand, but will simply accumulate property? It seems to me more than doubtful.

"Mr. Justice Brown holds that under that provision of the constitution which declares that 'all duties, imposts and excises shall be uniform throughout the United States,' the term 'United States' is confined to the several states, and that the territories and the District of Columbia are not 'states' and not included therein, and therefore Porto Rico, being a territory, is not protected thereby.

"The earliest case upon which he relies is Hepburn vs. Elizey, 2 Cranch, 445, where it was held that under the clause of the constitution limiting the jurisdiction of the courts of the United States to controversies between citizens of the different states, a citizen of the District of Columbia could not maintain an action in the circuit court of the United States. It is true that Mr. Chief Justice Marshall there said:

Hepburn vs. Elizey.

" 'It becomes necessary to inquire whether Columbia is a state in the sense of that instrument. The result of that examination is the conviction that the members of the American confederacy only are the states contemplated in the constitution.'

"It is also true tha Mr. Chief Justice Marshall, recognizing the distinction between the term 'state' as used in that provision and the 'United States' said, in speaking of the same man that he had just held was not a citizen of a 'state:'

" 'It is true that as citizens of the United States, and of that particular district which is subject to the jurisdiction of congress, it is extraordinary that the courts of the United States, which are open to aliens, and to citizens of every state in the union, should be closed upon them. But this is a subject for legislative and not for judicial consideration.'

"It seems that Marshall could see how a man could be within the 'United Staes' and not be in a 'state.' It will be observed that the learned justice does not quote this remark.

"An examination of the Downes case requires the consideration of at least four great leading cases: Loughborough vs. Blake, 5 Wheat., 1820; Insurance Co. vs. Canter, 1 Pet., 511, 828; Cross vs. Harrison, 16 How., 164, 1853, and Dred Scott vs. Sandford, 19 How., 393, 1856.

"In the first three cases the court were unanimous, and in the last case as to the proposition here involved there was no dissent, and as to that proposition the authority of these cases prior to the case had never been denied or questioned. One is directly and two are practically overruled by a disagreeing majority of one."

Mr. Littlefield then went at great length into a consideration of those famous cases and their bearing upon the cases lately before the supreme court, pointing out that the Downes case reversed the holdings of the court since the earliest days, and that the construction placed upon, and the interferences drawn from, the utterances of former justices were unwarranted, forced and, in some cases, absolutely erroneous. He showed that in the Dred Scott case the entire court and both sides to the case were in agreement that the constitution extended to the territories and differed only as to whether it did or did not carry slavery with it. Abraham Lincoln conceded that the constitution extended to the territories. The liberty abolitionist party itself, in its first platform, in 1856, expressly declared that the constitution prohibited slavery in the territories and that an attempt by congress to extend slavery to them would violate the constitution.

Influences Unwarranted.

"A base and studious effort has been made," said Mr. Littlefield, "to show that the theory of the control of congress by the constitution in legislating for the territories is the special property of Calhoun, and if overthrown another nail is driven in the coffin of Calhounism, another clod placed upon the grave of disunion and slavery. It proceeds from insufficient knowledge or pure demagogism."

Mr. Littlefield makes a strong point against Justice Brown, the member of the court who practically decided the cases by siding in turn with the two different sets of four judges each that held opposite views. He points out that Justice Brown quoted from Henry Clay in a manner to show that Mr. Clay did not look upon the constitution as extending to the territories, whereas in the very same speech, later on, Mr. Clay clearly said that he held the constitution to so extend. "There are prohibitions with the constitution," said Mr. Clay, "which I admit must apply to congress whenever it legislates, whether for the old states or the new territories."

In concluding, Mr. Littlefield said:

"With the greatest respect for the court and without intimating, either directly or indirectly, that any justice was actuated by any censurable motive, I feel bound to say it seems to me that they were too profoundly impressed with the supposed consequences of an adverse decision.

Too Profoundly Impressed.

"In Mr. Justice McKenna's view it took 'this great country out of the world and shuts it up within itself.' Mr. Justice Brown thought: 'If such be their status (citizens) the consequences would be extremely serious. Indeed, it is doubtful if congress would ever assent to the annexation of territory upon the condition that its inhabitants, however foreign they may be to our habits, traditions and modes of life, shall become at once citizens of the United States. * * * Such requirements would bring them at once within our internal revenue system * * * and applying it to territories which have no experience of this kind, and where it would prove an intolerable burden. * * * Our internal laws, if applied to that island, would prove oppressive and ruinous to many people and interests. * * * A false step at this time might be fatal to the development of what Chief Justice Marshall called the American empire,' and 'the question at once arises whether large concessions ought not to be made.' And Mr. Justice White thought that if incorporated, 'it resulted that the millions of people to whom that treaty related were without consent of the American people, as expressed by congress, and without any hope of relief, undissolubly made a part of our common country.'

"What are the direful consequences that inhere in the application of all of the provisions of the constitution to the territories? I can understand how sugar and tobacco planters, and raisers of tropical fruits, can see 'serious' consequences in conditions that might compel them by competition to reduce the price of their goods to the consumer, and hence the importance of being able to discriminate against such competitors. Such consequences, however, would not necessarily be very 'serious' to the great mass of our people.

"Inasmuch as voting and representation are not elements, what other consequences are there that should be guarded against with such zeal? Is it the competition of cheap labor? We have emancipated millions in our own land without disturbing labor conditions. There were those who thought that upon emancipation 'a torrent of black emigration would set forth from the south to the north;' 'one of the first results of its emigration would be a depreciation in the price of labor. The added number of laborers would, of itself, occasion this fall of prices, but the limited wants of the negro, which enable him to underwork the white laborer, would tend still further to produce this result. The honest white poor of the north would, therefore, be either thrown out of employment entirely by the black, or forced to descend to an equality with the negro, and work at his reduced prices.'

"None of these woes have vexed us. The negro cannot be driven out of the south. He has as yet made no injurious competitive industrial development here, surrounded by vast natural resources, and the Filipino physically, and until the Philippines produce a Fred Douglas or a Booker T. Washington, he has nothing to fear in an intellectual comparison. The temporary inconvenience of internal revenue laws seems to me vastly overestimated. Mere inconvenience can hardly determine a constitutional question.

Where is the Bugbear?

"Where is the bugbear? Is citizenship really 'extremely serious?' If so, in what particular, and how? The Foraker bill when first reported from the committee contained a provision making the inhabitants of Porto Rico 'citizens of the United States.' The committee did not seem to be impressed with the 'serious' character of that act. They said in their report:

" 'The committee have seen fit, by the provision of this bill, to make them citizens of the United States, not because of any supposed constitutional compulsion, but solely because, in the opinion of the committee, having due regard to the best interests of all concerned, it is deemed wise and safe to make such a provision.'

"Again:

" 'It was necessary to give these people some definite status. They must be either citizens, aliens or subjects. We have no subjects, and should not make aliens of our own. It follows that they should be made citizens, as the bill provides.'

"If, for any reason, the committee had thought it unwise or unsafe, they might have withheld that quality. Apparently we now have subjects. As to dangers, the court seems to have become possessed of light which was denied to the committee. The committee studied the practical conditions, and it seemed to them 'wise and safe.' What has happened to make it so 'serious?' Should we not have a specification of the dangers that inhere in giving to 'our own' the same civil rights under the constitution that we possess?

"Such are a few of the considerations tending to show that the profession and the country may not feel like unreservedly acquiescing in this decision. The foundation upon which it rests is too insecure to insure permanence. As the needle always turns to the pole, may we not hope that the greatest court in Christendom will in the end determine the law of the land in accordance with correct principles. With such an unerring guide the republic will achieve its splendid destiny, 'conquering and to conquer,' enlarging its borders, disseminating the blessing of its civilization, and fulfilling the mission of Him who 'hath made of one blood all nations of men, for to dwell on the face of the earth.' "

When Horace Greeley volunteered the advice, "Go west, young man," he evidently knew what he was talking about. Grandpa and Grandma McDaniel of Attica, Kas., celebrated the sixty-second anniversary of their marriage last spring. When friends and neighbors went over to congratulate them they found grandpa planting corn and grandma cleaning up the breakfast dishes.