

**Faber Vs. United States**

**Faber Vs. United States**

**SooperKanoon Citation :** [sooperkanoon.com/91057](http://sooperkanoon.com/91057)

**Court :** US Supreme Court

**Decided On :** May-29-1911

**Appeal No. :** 221 U.S. 649

**Appellant :** Faber

**Respondent :** United States

**Judgement :**

Faber v. United States - 221 U.S. 649 (1911)

U.S. Supreme Court Faber v. United States, 221 U.S. 649 (1911)

**Faber v. United States**

**No. 134**

**Submitted April 20, 1911**

**Decided May 29, 1911**

**221 U.S. 649**

*APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES*

*FOR THE SOUTHERN DISTRICT OF NEW YORK*

## SYLLABUS

*Quaere*, and purposely not decided, whether the reduction in tariff rate provided by 2 of the Treaty with Cuba of 1903 is limited to rate of duty in general tariff act and does not apply to special rates under special agreement with other countries.

*Whitney v. Robertson*, [124 U. S. 190](#) .

The Treaty with Cuba of 1903 was signed and proclaimed after the

Page 221 U. S. 650

decisions of this Court in the *Insular Cases* to the effect that Porto Rico and the Philippine Islands were not foreign countries, and within the meaning of that treaty, the Philippines are not a foreign country or another country, and the reduction of tariff on articles imported from Cuba are not to be based on tariff rates on the same articles brought from the Philippine Islands.

In the absence of some qualifying phrase, the word "country" in the revenue laws of the United States embrace all provinces of a state, no matter how widely separated, and the Philippines are a part of the United States within the meaning of the Treaty with Cuba of 1903.

The duties imposed and collected on articles coming into the United States from the Philippine Islands are not covered into the Treasury of the United States, but are used and expended solely for the use and government of those Islands, and are not to be regarded as duties on imports from foreign countries within the meaning of the Treaty with Cuba of 1903.

The word "imports" is the correlative of the word "exports," and preferential rates granted to Cuba under the treaty of 1903 relate only to duties on imports from countries foreign to the United States.

The provisions of Art. VIII of the Treaty with Cuba of 1903 will not be construed so as to give that country advantages over shipments coming into the United States from a part of its own territory.

157 F. 140 affirmed on the above points.

This case raises the question as to whether Cuban imports are entitled to a reduction of twenty percent upon the rates charged on goods coming from the Philippine Islands, or only twenty percent upon the regular tariff rates on goods imported from foreign countries.

The Tariff Act of July 24, 1897, lays a duty on cigars of \$4.50 per pound and twenty-five percent *ad valorem*.

The Act of March 8, 1902, to raise revenue for the Philippine Islands, provides that there shall be

"levied, collected, and paid upon all articles coming into the United States from the Philippine Archipelago the rates of duty which are required to be collected and paid upon like articles imported from foreign countries; provided that, upon all articles the growth and

Page 221 U. S. 651

product of the Philippine Archipelago, *coming into the United States from the Philippine Archipelago, there shall be levied, collected, and paid only seventy-five percentum of the rates of duty aforesaid. . . . All duties and taxes collected in the United States upon articles coming from the Philippine Archipelago . . . shall not be covered into the general fund of the Treasury of the United States, but shall be held as a separate fund, and paid into the Treasury of the Philippine Islands, to be used and expended for the government and benefit of said islands."*

32 Stat. 54, 5 Fed.Stat.Ann. 716.

The Commercial Convention with Cuba, proclaimed December 17, 1903 (33 Stat. 2136), declares, in Article 2, that,

"during the term of this convention, all articles of merchandise . . . being the product of the soil or industry of the Republic of Cuba, imported into the United States shall be admitted at a reduction of twenty percentum of the rates of duty

thereon, as provided by the tariff Act of the United States approved July 24, 1897, or as may be provided by any tariff law of the United States subsequently enacted."

Article 8 provides that

*" the rates of duty herein granted by the United States to the Republic of Cuba are and shall continue during the term of this convention preferential in respect to all like imports from other countries, and, in return for said preferential rates of duty granted to the Republic of Cuba by the United States, it is agreed that the concession herein granted on the part of the said Republic of Cuba to the products of the United States shall likewise be, and shall continue, during the term of this convention, preferential in respect to all like imports from other countries."*

In April, 1906, the convention and statutes above referred to being of force, the plaintiff imported cigars and alcohol into the United States from Cuba. He contended that, under the convention, he could only be required to

Page 221 U. S. 652

pay a duty twenty percent less than that collected on tobacco coming into the United States from Philippine Islands, which paid seventy-five percent of the regular rate under the Tariff Act of July, 1897. He also claimed that he should not be required to pay twenty percent less than the regular tariff on alcohol, but twenty percent less than special rates allowed on importations of alcohol from France, Germany, Italy, and Portugal.

His claim being disallowed, he paid, under protest, a duty of twenty percent less than the tariff rate on cigars and alcohol. On a hearing by the Board of Appraisers, his protest was overruled. That judgment was affirmed by the circuit court (157 F. 140), and the case was brought here.

Page 221 U. S. 657

MR. JUSTICE LAMAR, after making the foregoing statement, delivered the opinion of the Court.

Article 2 of the convention with Cuba provides that the products of that island shall be admitted into the

Page 221 U. S. 658

United States at a reduction of twenty percent of the rates of duty in the tariff of 1897, or tariff laws subsequently enacted. There is much force in the suggestion that the reduction is limited to the rates of duty in general tariff acts, and does not apply to special rates under special agreements with other countries. *Whitney v. Robertson*, [124 U. S. 190](#) . This point, however, we purposely leave open, and limit our consideration to the principal question discussed in the brief, whether the Philippine Islands are "another country," within the meaning of the eighth article of the Cuban treaty, providing that the rates therein granted shall continue "preferential in respect to all like imports from other countries."

This treaty was signed and proclaimed several years after it had been decided, in the *Insular Cases*, that Porto Rico and the Philippine Islands were not foreign countries, but territory of the United States, subject to such laws as Congress might enact for their political and fiscal management. In 1901, this Court, in *Fourteen Diamond Rings v. United States*, [183 U. S. 177](#) , said that

"the theory that a country remains foreign with respect to the tariff laws, until Congress has acted by embracing it within the customs union, presupposes that a country may be domestic for one purpose and foreign for another."

That case and *De Lima v. Bidwell*, [182 U. S. 1](#) ; *United States v. Heinszen*, [206 U. S. 370](#) ; *Dooley v. United States*, [183 U. S. 151](#) , show that, notwithstanding their geographical remoteness, the Philippines are not a foreign country, and, if so, not "another country" within the meaning of the Cuban treaty.

There have been statutes in which the language indicated an intent to make a distinction between a country and its colonies. But, in the absence of some

qualifying phrase,

"the word 'country' in the revenue laws of the United States has always been construed to embrace all

Page 221 U. S. 659

the possessions of a foreign state, however widely separated, which are subject to the same supreme executive and legislative control."

*Stairs v. Peaslee*, 18 How. 521, 59 U. S. 526 . If, therefore, in our revenue laws, a colony is treated as a part of the country to which it belongs, the Philippine Islands must be treated as a part of this nation, and not as another country. It must be presumed that the words "other country" in the Cuban treaty were used according to their known and established interpretation, *ibid.*, and did not refer to charges on shipments from territory belonging to the United States. That they were not so regarded appears from the language of the Act of March 8, 1902, 32 Stat. 54, c. 140, which studiously avoids using the words "imports" and enacts that, upon articles "coming into the United States from the Philippine Archipelago," there shall be levied only seventy-five percent of the rates of duty imposed on like articles imported from foreign countries. These duties, when collected, are not covered into the Treasury of the United States, but are to be used and expended solely for the use and government of the Philippine Islands.

But it is argued that, even if the United States understood the Philippine Islands to be a part of this country, Cuba could not be expected to understand that the words "other countries" did not include the Philippines, if a duty was in fact charged on goods coming from those islands.

But the eighth article refers to "imports" -- the correlative of "exports." This necessarily related to shipments from a country which was foreign to the United States. *Pittsburgh Coal Co. v. Louisiana*, 156 U. S. 600 ; *Patapsco Guano Co. v. North Carolina*, 171 U. S. 353 . The provision that the rates granted to Cuba shall continue "preferential in respect to all like imports from other countries" does not relate to charges on shipments between places under the same flag, but to

duties laid on shipments

Page 221 U. S. 660

-- on imports -- from countries which are foreign to the United States. Both in the light of our own legislation and in view of the generally accepted interpretation of the word "imports," the eighth article of the treaty cannot be construed to have been intended to give to Cuba an advantage over shipments of merchandise coming into the United States from a part of its own territory, where the collections were in part made as a means for raising revenue for the support of the government of the Philippine Islands. Cuba was given a preferential of twenty percent over tariff rates on imports from countries which are foreign to the United States.

We make no ruling as to the duty to be charged on alcohol, because in the brief of the government it is said that, without conceding plaintiffs' contention to be sound, and for reasons unnecessary to state, it consents to a reversal of so much of the judgment as relates to alcohol. It will be so ordered. The judgment of the Circuit Court as to the rate of duty on the cigars is

*Affirmed.*

**SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com**