

## SENATE

THURSDAY, March 12, 1925

(Legislative day of Tuesday, March 10, 1925)

The Senate met in open executive session at 12 o'clock meridian, on the expiration of the recess.

The VICE PRESIDENT. The Chair lays before the Senate the treaty with Cuba relative to the Isle of Pines, on which the Senator from New York [Mr. COPELAND] is entitled to the floor.

Mr. NORRIS. Mr. President—

Mr. COPELAND. I yield to the Senator from Nebraska.

Mr. NORRIS. I will say to the Senator from New York that I would like to have the floor in my own right for about three minutes.

Mr. COPELAND. I am glad to yield to the Senator if it may be understood that I am to have the floor when he finishes.

The VICE PRESIDENT. The Senator from Nebraska.

## COMMENTS ON THE VICE PRESIDENT'S ABSENCE TUESDAY

Mr. NORRIS. Mr. President, it is not my desire to keep fresh in the minds of Senators any unpleasantness that may have occurred a few days ago, things that perhaps were better forgotten than remembered, but it seems to me that I ought to read to the Senate a short poem given me by a friend. I understand that the author of the poem gained the idea contained in the verses from a remark which was made to him by a prominent Senator with whom he had lunch yesterday:

Up from the east out into the day,  
Bringing to the Willard fresh dismay,  
The affrighted air with a shudder bore,  
Like a herald in haste, to the chieftain's door,  
The terrible grumble, and rumble, and roar,  
Telling the battle was on once more,  
And Dawes fully fifteen blocks away.

And wider still those billows of war  
Thundered along the horizon's bar;  
And louder yet into the Willard rolled  
The roar of that Senate uncontrolled,  
Making the blood of the listener cold,  
As he thought of the stake in senatorial fray,  
And Dawes fully fifteen blocks away.

But there is a street from the Willard's feast,  
A good, broad highway leading east,  
And there, through the flush of the fading light,  
An auto as black as the steeds of night  
Was seen to pass, as with eagle flight,  
As if it knew the terrible need;  
It stretched away with its utmost speed;  
Hills rose and fell; but its heart was gay,  
With Dawes now only ten blocks away.

Still sprung from those swift wheels, thundering on,  
The dust, like smoke from the cannon's mouth;  
Or the trail of a comet, sweeping faster and faster,  
Foreboding to traitors the doom of disaster,  
The heart of the auto and the heart of the master  
Were heating like prisoners assaulting their walls,  
Impatient to answer the Senate's fierce calls;  
Every nerve of the auto was strained to full play,  
With Dawes now only five blocks away.

Under its spurning wheels the road  
Like an arrowy Alpine river flowed,  
And the Willard sped away behind  
Like an ocean flying before the wind,  
And the auto, like a bark fed with furnace fire,  
Swept on, with its wild shriek full of ire.  
But lo! it is nearing its heart's desire;  
It is sniffing the smoke of the roaring fray,  
With Dawes now only two blocks away.

The first that the general saw were the groups  
Of Senators, and then the retreating ones.  
What was done? What to do? A glance told him both;  
And striking his fist, with a terrible oath,  
He dashed down the aisle, 'mid a storm of huzzas,  
And the wave of retreat checked its course there, because  
The sight of the master compelled it to pause.  
With steam and with dust, the black auto was gray  
By the flash of its light and its red fire's play,  
It seemed to the whole great Senate to say,  
"I have brought you Dawes all the way  
From the Willard, down to save the day!"

Hurrah! hurrah for Dawes!

Hurrah! hurrah for this high-minded man!

And when his statue is placed on high,

Under the dome of the Capitol sky,

The great senatorial temple of fame,

There with the glorious general's name

Be it said, in letters both bold and bright,

"Oh, Hell an' Maria, he has lost us the fight."

[Laughter.]

The VICE PRESIDENT. The Chair can not refrain from expressing his appreciation of the delicate tribute.

Mr. NEELY. Mr. President, there seems to be a conflict of opinion as to how far the Vice President was from the Senate Chamber last Tuesday at the critical moment when his vote would have confirmed the President's nomination of Mr. Charles Beecher Warren for Attorney General. An editorial that appears in to-day's edition of that voluminous chronicler of alleged information, the New York Times, speaks to the point, as follows:

It was not the fault of General Dawes that he was not in the chair when there was a tie vote in the Senate on the Warren nomination. He had been assured that the matter would not be brought to a test on Tuesday. When one Senator led off in rebuttal with a speech four hours long it certainly seemed as if there would be an endless debate, to the hard labor of listening to which no Vice President ought to be condemned except on clear proof of crime. Yet it was a piece of bad luck for the general that he chanced to be absent. On March 4 he began his hortatory remarks to the Senate by saying that the Vice President had nothing to do with party divisions in the Senate, and was not concerned in its legislative action "save in that unusual contingency where, under the Constitution, it becomes necessary for him to cast a deciding vote in case of a tie." Within less than a week that unusual contingency became an actual fact, and the general was 20 miles away from the battle!

In the light of the foregoing it is very respectfully submitted that our Presiding Officer was not 15 blocks but 20 miles away.

Mr. COPELAND. Mr. President, I assume that the Vice President, now presiding over the Senate, has been here long enough to realize that Senators are, in the language of the street, "hard-boiled eggs." I have no doubt that what the Vice President said about revising the rules is a thing which the country approves, and which many Senators approve, but I would remind him, if I may, that one of the unwritten rules of the Senate is that the President of the Senate is supposed to be in the chair, so perhaps it is not Senators alone who are disagreeable or fail to live up to the traditions of the Senate. However, unfortunate things happen both on the floor and in the chair.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Latta, one of his secretaries.

## ISLE OF PINES TREATY

The Senate, in open executive session and as in Committee of the Whole, resumed the consideration of the treaty between the United States and Cuba, signed March 2, 1904, for the adjustment of title to the ownership of the Isle of Pines.

Mr. COPELAND addressed the Senate. After having spoken for some time,

## NOMINATION OF CHARLES B. WARREN

Mr. CUMMINS. Mr. President, will the Senator from New York yield to me for a moment?

Mr. COPELAND. I yield with pleasure to the Senator from Iowa.

Mr. CUMMINS. Mr. President, I ask, as in closed executive session, that the nomination of Charles B. Warren for Attorney General of the United States be referred to the Committee on the Judiciary.

The VICE PRESIDENT. If there be no objection, it will be so ordered.

## NAVAL OIL LEASES

As in legislative session,

Mr. WALSH. Mr. President—

Mr. COPELAND. I yield to the Senator from Montana.

Mr. WALSH. I thank the Senator from New York for his kindness.

Mr. President, it will be remembered that the counsel representing the Government in the litigation to cancel the leases on the naval oil reserves uncovered some important testimony concerning the history of the Continental Trading Co., a corporation organized under the laws of the Dominion of Can-

ada. It appears from the contention of the Government's counsel that this was a mere cover for the transfer of Liberty bonds to the amount of something over \$100,000 from Harry F. Sinclair to Albert B. Fall in connection with the lease of the Teapot Dome.

An effort was made to secure the testimony of one Osler, a lawyer of the city of Toronto, who carried out the transaction and made the distribution of the Liberty bonds. An effort was made to take his testimony, but he declined to answer, alleging that he was privileged to refrain from testifying because he acted as counsel in the matter. An effort then was made to compel him to answer through the Canadian courts. The lower court overruled his objection, and held that he was obliged to answer. Thereupon he betook himself to some other continent, meanwhile prosecuting an appeal to the appellate court. The court has just rendered an opinion affirming a decision of the lower court and holding that Osler can claim no privilege of exemption from testifying. As the matter is of considerable public interest, I ask that there be printed in the RECORD the opinion of the appellate court of the Province of Ontario appearing in the New York Times of to-day.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The matter referred to is as follows:

OSLER APPEAL LOST IN CANADIAN COURT—APPELLATE DIVISION HOLDS HE WAS NOT ACTING AS COUNSEL IN OIL DEAL HERE—CLAIM OF PRIVILEGE DENIED—AND RULINGS OF OUR COURT ARE UPHOLD THAT HE MUST GIVE TESTIMONY IN TEAPOT SUIT

(Special to the New York Times)

TORONTO, March 11.—The appellate division of Ontario to-day rejected the appeal of H. S. Osler and his six associates in the Continental Trading Co. (Ltd.), of which he is president, from the order of Justice Riddell requiring them to give testimony in the Teapot Dome oil suit.

The court held that Mr. Osler was not in the relation of counsel and client with the American party to the transaction whereby the Continental Co. purchased and resold oil, the profits therefrom being disposed of in the form of Liberty bonds. The counsel of the American Government sought to have Mr. Osler tell whether any of these bonds came into the possession of the former Secretary of the Interior, Albert B. Fall.

#### COURT'S RULING ON THE APPEAL

The text of the court's ruling was as follows:

#### APPELLATE DIVISION

United States of America v. Rodell, K. C., and E. G. McMahon, Mammoth Oil Co. and others. Millan for the United States of America; Anglin, K. C., and G. R. of first divisional court, delivered Munnich for H. S. Osler and other witnesses.

Ferguson, J. A.; appeal by Mr. H. S. Osler and other officers and directors of the Continental Trading Co. (Ltd.), called as witnesses at the trial of this action pending in the United States Federal Court, Wyoming District, from an order of the Hon. Mr. Justice Riddell, directing them to answer certain questions which they refused to answer before a commissioner appointed by the United States court to take evidence here; cross appeal by the United States from a refusal by the Hon. Mr. Justice Riddell to direct the witnesses to answer questions which the commissioner has ruled they need not answer.

The questions the witnesses seek to be excused from answering divide themselves into classes, or under two heads:

(1) Those seeking information as to the acts of the Continental Trading Co. (Ltd.), and in reference to the information on which the corporation and its agents acted in the transactions referred to in the affidavits and evidence, and in reference to the distribution of the assets of the corporation.

(2) The name of the person who, Mr. Osler says, retained him in New York to prepare, revise, and settle contracts for the purchase and resale of oil, and to act as agent of his client in reference to the performance of such contracts.

#### RIVAL CONTENTIONS REVIEWED

The appellants contend:

(a) That the information sought was communicated to Mr. Osler as the professional legal adviser of his employer or was obtained by Osler in the course of his employment as such professional legal adviser.

(b) The Continental Co. and its officers were merely confidential agents and employees of Mr. Osler, used and directed by him as professional legal adviser of his client for the better performance of his duties to his client, and that therefore all communications be made to the corporation or its officers and all transactions of the corporation and all the acts of its directors and officers are privileged.

#### THE RESPONDENTS CONTEND

(1) That the Continental Co. was not an agent or employee of Mr. Osler or of his client, and did not act as such.

(2) That Mr. Osler was not employed or retained as professional legal adviser of his employer, but as his commercial agent.

(3) That even if Mr. Osler was retained and employed as professional legal adviser of his employer, yet in acting as president of the trading company he must be regarded as agent of the corporation rather than as either agent or counsel of his client, and that if the corporation was neither the agent nor employee of Mr. Osler or his client, Mr. Osler and his co-officers must disclose the business of the trading company and the information on which he and they acted in carrying on the business of the corporation and in the distribution of its assets.

(4) That the name of Mr. Osler's client was known to Mr. Osler before the alleged retainer and was therefore not made known to Mr. Osler in confidence.

(5) That if the name of Mr. Osler's client was knowledge on which the corporation as such acted in the distribution of his shares, share warrants or moneys, Mr. Osler must disclose that name.

(6) That the names of those associated with Mr. Osler's client were not made known or communicated to Mr. Osler as professional legal adviser of client, but as president of the trading company, in order that the persons named might receive shares, share warrants, and such a portion of the company's assets.

(7) That the communications made to Mr. Osler or the other officers of the trading company to enable the corporation to act or to enable them to act as agents of the corporation are not privileged.

(8) That the identity of the client claiming privilege must in all cases be made known to the court.

(9) That in a foreign country, advising there a person neither a resident or citizen of Canada in reference to business in no way connected with this country or its laws, Mr. Osler had neither in this country nor in the foreign country the status of a professional legal adviser.

#### HOLDS INFORMATION NOT PRIVILEGED

I am of opinion that the trading company was not either the clerk or employee of Mr. Osler, or the agent of his employer. Its acts and the information communicated to it and its officers for the purpose of carrying on its business and distributing its assets can not be privileged as being the acts of either Mr. Osler or of his employer or as being information communicated by Mr. Osler to his clerk or agent for the purpose of carrying out the confidential business which he claims he was employed to perform by unnamed client.

I have carefully perused and considered the affidavits, the oral testimony, and the documentary exhibits therein referred to in the light of the arguments of counsel and am of the opinion that agency on the part of the corporate entity known as the Continental Trading Co. (Ltd.) in making the contracts referred to in the evidence and in distributing the profits arising therefrom is not made out.

The written contracts of purchase and resale drawn by Mr. Osler and executed by the corporation under its corporate seal and by the hand of its president, Mr. H. S. Osler, take the form of contracts between principals, and that it was intended and understood that the corporation contracted as principal and not as agent is, I think, indicated by the following circumstances:

1. It is not alleged that the Continental Trading Co. (Ltd.), made any express contract with Mr. Osler or with his employer to act as agent in the purchase and resale of the oil or to account to them or either of them for the profits on such sale and resale in the absence of such express contract. The contract of agency or employment relied on by Mr. Osler and his employer must be one implied from the facts and circumstances surrounding the transaction and the acts and conduct of the parties.

2. The corporation known as the Continental Trading Co. (Ltd.), of which Mr. Osler was a director and president, and of which the other witnesses were directors, admittedly dealt with the profits as if they were the property of the corporation and distributed them among its shareholders as such, and by reference to the shares and share warrants of the corporation outstanding.

3. The corporation did not purport to receive, or, in fact, receive and distribute the profits arising from such purchase and resale as money or property belonging to another.

4. Humphreys would not accept the corporation as a purchaser in the place and stead of the original purchaser (presumably Mr. Osler's employer) unless performance of the contract by the corporation was guaranteed.

5. In the contract of purchase and resale the corporation is described as vendee and vendor, and not as agent.

#### DECLARES AGENCY NOT PROVED

This is a case where action should, I think, speak louder than arguments as to what was the relationship of this corporation to Mr. Osler and his client. The form of the contracts of purchase and sale and the circumstances surrounding the giving and making of the



guaranty, and the fact that Mr. Osler and his employer had, through the shareholders nominated by them or either of them, absolute control of the acts of the corporation, and that Mr. Osler and these shareholders permitted and directed the corporation to distribute the profits arising from the contracts among the shareholders of the company, as if the profits were the property and moneys of the corporation rather than the property and moneys of Mr. Osler, are not facts or circumstances from which it should be implied that the corporation was a mere clerk, employee, or agent, but are facts and circumstances that at least indicate that the corporation was not and was never intended to be and act as a mere agent.

However, whatever the fact may be, I am unable to imply a contract of employment or agency on the part of the corporation from the facts, acts, and circumstances disclosed in the evidence, and as such a contract is, in my opinion, the basis of the claim of privilege in reference to the first class or series of questions, it seems to follow that the appeal in reference to these questions must fail.

No evidence was given as to the circumstances surrounding the issue and allotment of shares or the consideration given to the company therefor, and the presumption is that such shareholders personally purchased the same on their own account. It is just possible, though I can not think it probable, that further evidence may make out agency on the part of the corporation, which, in my opinion, is neither indicated nor established by the evidence now before the court.

That brings me to the series of questions by which it is sought to obtain the name of the person who employed Mr. Osler in New York to act as his agent in performing two contracts for the purchase and resale of oil, and to prepare, revise, and settle the proposed contracts.

Mr. Justice Riddell was of the opinion that, because Mr. Osler knew his employer before they met in New York in reference to the business which it is now sought to investigate, the name could not be taken to have been communicated to Mr. Osler in confidence for the purpose of the business.

#### AS TO DISCLOSURE OF CLIENT'S NAME

Mr. Osler testified that at the opening of the interview which took place in New York, and at which he says he was retained, his employer stipulated that his name should not be made known in connection with the business.

With deference, I am unable to agree in this opinion of the learned judge appealed from. It seems to me the essence of the question is not did Mr. Osler know the name of the client before or when Mr. Osler accepted the retainer but the identification of Mr. Osler's client with the confidential legal business in reference to which Mr. Osler was retained.

Nor am I prepared to say that the result of the authorities is that privilege can not be claimed without disclosing to the court the name of the client or person on whose behalf it is claimed. I have read and considered the cases cited by counsel, and in my opinion they do not carry the law that far, and it seems to me it should not be so held on principle.

The principle is that mankind should be able and free to consult professional legal advisers without fear that their confidential communications to such professional legal advisers shall be disclosed.

Let us stop to consider the now too common automobile accident in which some one is killed by a car driven by an unknown person, after which the unknown driver goes to counsel, and after communicating the facts for advice directs the counsel to attend the inquest, watch the proceedings, and keep him advised. What would become of the principle enunciated if the counsel attending such inquest may be put in the witness box and questioned as to why and for whom he is attending and watching the proceedings?

I am clearly of opinion that counsel so employed could and should refuse to answer such questions. Therefore if it were clear that Mr. Osler was retained to advise and give counsel in reference to legal business at a place and in circumstances which cloaked him with the status of professional legal adviser to his employer I would allow the appeal on this branch.

But I am not satisfied that Mr. Osler was retained at a place or under circumstances or for a purpose that gave or entitled him or his client to claim that in reference to the business in hand Mr. Osler had the status of professional legal adviser to his employer until some time after Mr. Osler's client had disclosed to him the business on which he wished to consult and his name in connection with such business.

It is, I think, clear that at the opening of the interview in New York at which Mr. Osler was retained, and the nature of his client's business was disclosed, Mr. Osler was not asked to advise a Canadian, nor to advise his employer in reference to Canadian business or Canadian laws; also that Mr. Osler was not then or now a member of the New York bar or practicing or entitled to practice his profession in the United States or even residing in New York.

#### FINDS NO RELATION AS CLIENT

The formation of the Canadian corporation, known as the Continental Trading Co. (Ltd.), was an afterthought of Mr. Osler's, suggested for his own rather than his client's protection, and was not thought of

until some time after the client had made known to Mr. Osler his name in connection with the confidential business in respect of which he sought Mr. Osler's advice, assistance, and cooperation.

The proposition, then, is that if a resident and citizen of the United States brings a Canadian counsel to the United States or meets him there, and there consults the Canadian counsel in reference to purely United States business, this court should regard communications made to that counsel in the course of the interview in New York in reference to such foreign business as being made to such Canadian counsel in his capacity of barrister, solicitor in this court, or as made by his client to a professional legal adviser, and as such protected from disclosure not only in proceedings in this court but in litigation prosecuted by the United States in its own courts against its own citizens, and for that reason refuse its assistance to the United States court in efforts directed to making such foreign counsel disclose what was communicated to him in the United States in connection with purely United States business.

In *Lawrence v. Campbell* (1859), 4 Drury's Report, 489, Vice Chancellor Kindersley said:

"The question is now in specie, but the cases have settled the principle. The general principle is founded upon this: That the exigencies of mankind require that in matters of business which may lead to litigation men should be enabled to communicate freely with their professional adviser and their communication should be held confidential and sacred."

#### BRITISH CASE NOT A PARALLEL

In the *Lawrence* case the protection of privilege was by an English court extended to Scotch solicitors and law agents practicing their profession in London. But it was there pointed out that the Scotch solicitors had in London the status of legal advisers because they were entitled to appear before the House of Lords and to practice as parliamentary agents, and that they were consulted by a Scotchman. It seems to me that the *Lawrence* case falls far short of establishing a protection to Mr. Osler in the circumstances surrounding his retainer outlined in the evidence.

Here Mr. Osler was not consulted by a Canadian; in the *Lawrence* case the Scotch solicitors were consulted by a Scotchman. In this case Mr. Osler had, in the State of New York, no status as a professional legal adviser, while in the *Lawrence* case the Scotch solicitors had a well-recognized status in England.

The facts and circumstances of the *Lawrence* case are so different from the facts and circumstances surrounding the retainer here in question we are, I think, left to determine this case on principle, and the question seems to be, Are the exigencies of mankind such as to require that the man may import from a foreign country a counsel and intrust him with business to be conducted in the country of the client, such business having no connection with the laws of the country which has alone given the counsel legal status?

If not, it should, I think, be held that in this case Mr. Osler did not have the status of a professional legal adviser at the time his client disclosed his name to him in connection with the business in reference to which Osler was consulted and retained. In the absence of binding authority I am not prepared to hold that the exigencies of mankind require us to hold that Mr. Osler had, in the circumstances disclosed and at the time the name was made known in connection with the business, any such status as is claimed for him.

#### UPHOLDS RULINGS OF OUR COURTS

It should not be overlooked that the client is claiming this status for Mr. Osler in a United States court in reference to acts of Mr. Osler in the United States and in reference to communications made to him in connection with United States business, and that the United States courts have ruled that the questions should be answered and that the question before us is, Must we refuse to enforce that ruling simply because Mr. Osler is a solicitor of this court?

My opinion is that we should not refuse to enforce the rulings of the United States courts unless they require us to order something to be done which is clearly contrary to natural justice, public policy, or our laws, none of which are, in my opinion, made out.

I would, for these reasons, dismiss the appeal.

I am also of opinion that the cross appeal must be dismissed. It seems to me that all we can be asked to do in these proceedings is to aid the United States court by requiring the witnesses to attend and answer questions which the United States court has determined should be answered.

True we can, on an application for our aid, refuse that aid for reasons which seem good to us; but I am unable to find any ground or reason for saying that we may sit in review and reverse the rulings of the United States court and direct the witnesses to answer questions which the United States court has ruled need not be answered.

I do not think I should leave this case without saying that in disclosing the facts and submitting them to this court for consideration and direction, before answering the questions in dispute, Mr. Osler only performed what his duty and obligations to his client required him to do, and that the conclusion at which I have arrived should

not be interpreted as indicating that I doubt the propriety of Mr. Osler's conduct in the transactions sought to be investigated, or the propriety of his claim of privilege or the propriety of his conduct in prosecuting this appeal.

It was not in argument suggested that Mr. Osler had been a party to any wrongdoing, and in my opinion his duty to his client required that he should raise the question of privilege and not abandon it until thoroughly satisfied that it had been rightly determined.

MULOCK, C. J. O.

I agree.

SMITH, J. A.

#### TEXT OF DISSENTING OPINION

While it will have no effect upon the judgment of the court, the finding of Justice Hodgins dissents from the majority. Justice Hodgins says in part:

"When this court is asked to commit one of its officers, it is surely its duty to decide whether or not the questions are such as he should answer, having regard to the matters actually alleged, and not to those which indicate merely an inquiring mind.

"Our laws of evidence must govern this court in a proceeding to compel a resident here to give evidence. It may be that the Government of the United States is reluctant to charge a former Cabinet minister with receiving a bribe, but on the present state of the record and under conditions disclosed by the appellant evidence regarding the distribution of the profits of the Continental Trading Co. and cognate facts would not be admitted in any court unless counsel undertook to connect it relevantly to the charges in that record."

#### HEARINGS BEFORE THE PATENTS COMMITTEE

Mr. KEYES, as in legislative session, from the Committee to Audit and Control the Contingent Expenses of the Senate, reported back favorably without amendment the resolution (S. Res. 29) submitted by Mr. CURTIS (for Mr. ERNST) on the 11th instant, and it was considered by unanimous consent and agreed to, as follows:

*Resolved*, That the Committee on Patents, or any subcommittee thereof, be, and hereby is, authorized during the Sixty-ninth Congress to send for persons, books, and papers, to administer oaths, and to employ a stenographer, at a cost not exceeding 25 cents per hundred words, to report such hearings as may be had in connection with any subject which may be before said committee, the expenses thereof to be paid out of the contingent fund of the Senate, and that the committee, or any subcommittee thereof, may sit during the sessions or recesses of the Senate.

#### HEARINGS BEFORE THE COMMERCE COMMITTEE

Mr. KEYES, as in legislative session, from the Committee to Audit and Control the Contingent Expenses of the Senate, reported back favorably without amendment the resolution (S. Res. 27) submitted by Mr. JONES of Washington on the 10th instant, and it was considered by unanimous consent and agreed to, as follows:

*Resolved*, That the Committee on Commerce, or any subcommittee thereof, be, and hereby is, authorized during the Sixty-ninth Congress to send for persons, books, and papers, to administer oaths, and to employ a stenographer, at a cost not exceeding 25 cents per hundred words, to report such hearings as may be had in connection with any subject which may be before said committee, the expenses thereof to be paid out of the contingent fund of the Senate, and that the committee, or any subcommittee thereof, may sit during the sessions or recesses of the Senate.

#### ASSISTANT CLERK TO THE DISTRICT COMMITTEE

Mr. KEYES, as in legislative session, from the Committee to Audit and Control the Contingent Expenses of the Senate, reported back favorably without amendment the resolution (S. Res. 26) submitted by Mr. DU PONT on the 10th instant, and it was considered by unanimous consent and agreed to, as follows:

*Resolved*, That the Committee on the District of Columbia is hereby authorized to employ a resident assistant clerk until the end of the first session of the Sixty-ninth Congress, to be paid out of the contingent fund of the Senate, at the rate of \$2,500 per annum.

#### BROAD RIVER POWER CO., COLUMBIA, S. C.

Mr. BLEASE, as in legislative session, submitted the following resolution (S. Res. 30), which was referred to the Committee on Military Affairs:

*Resolved*, That the Chief of Engineers of the War Department be, and is hereby, authorized and instructed immediately to inquire, investigate, and report to the Senate of the United States from time to time as the investigation proceeds—

First. To ascertain who are the incorporators and stockholders of the Broad River Power Co., of Columbia, S. C.

Second. To investigate its merger with the Columbia Railway, Gas & Electric Co.

Third. To investigate if it had the legal right and power to build a dam or dams across Broad River or the Congaree River at or near Columbia, S. C., or near Peak, S. C.; and if such dam has been constructed, to ascertain if the corporation has fully complied with the act of Congress authorizing the construction; and if additional projects are contemplated, to see that they fully comply with the act of Congress.

#### ISLE OF PINES TREATY

The Senate, in open executive session and as in Committee of the Whole, resumed the consideration of the treaty between the United States and Cuba, signed March 2, 1904, for the adjustment of title to the ownership of the Isle of Pines.

Mr. COPELAND resumed his speech. After having spoken for some time,

Mr. BINGHAM. I ask unanimous consent to present a resolution of the Pan American Society of the United States and that it may lie on the table and be printed in the RECORD.

There being no objection, the resolution was ordered to lie on the table and to be printed in the RECORD, as follows:

Whereas a treaty between the United States and Cuba definitely fixing the status of the Isle of Pines was negotiated in 1904, pursuant to an act of the Congress of the United States, and the said treaty has had the approval of every administration in authority at Washington in the intervening time, and has been three times favorably reported to the Senate by its Committee on Foreign Relations, but has not been acted upon by the Senate; and

Whereas an indefinite period of uncertainty as to the status of the Isle of Pines is a continuing source of controversy and irritation, and the object for which this society exists is the promotion of good will and good relations between the United States and the countries of Latin America: Therefore be it

*Resolved*, That in the interest of justice and as an act consistent with the high purpose of the United States to establish the sovereignty of the Cuban people over all the territory historically identified with Cuba, we respectfully urge the ratification of the pending treaty.

The president of the society is requested to advise the Members of the United States Senate for the State of New York of this action.

#### REPORT OF TREATIES WITH GREAT BRITAIN

Mr. BORAH. I desire, in executive session, to make a report of two treaties from the Committee on Foreign Relations.

The PRESIDING OFFICER (Mr. FESS in the chair). The Senator from Idaho makes a report from the Committee on Foreign Relations of two treaties, which the clerk will read by title.

The legislative clerk read as follows:

A treaty signed between the United States and His Britannic Majesty in respect of Canada, to define more accurately at certain points and to complete the international boundary between the United States and Canada, and to maintain the demarcation of that boundary.

The PRESIDING OFFICER. The Senator from Idaho does not ask for the immediate consideration of the treaty?

Mr. BORAH. No; I ask that it may be placed on the Executive Calendar.

The PRESIDING OFFICER. The second treaty reported will be read by title.

The legislative clerk read as follows:

A treaty concluded February 24, 1925, between the United States and His Britannic Majesty in respect of Canada to regulate the level of the Lake of the Woods.

Mr. COPELAND. While the chairman of the committee is present I should like to ask him if he expects to have action on all these treaties at the present session.

Mr. BORAH. On these two treaties?

Mr. COPELAND. And the Lausanne treaty and the World Court proposal and the matter pending?

Mr. BORAH. I hope to get action upon these two treaties. I do not know about the others. The way things are moving, I hardly think so.

Mr. COPELAND. I assume that the Senator from Idaho is not unsympathetic with the afternoon's activities.

Mr. BORAH. I want to see a thorough discussion.

The PRESIDING OFFICER. The two treaties just reported will be placed on the Executive Calendar.

#### ISLE OF PINES TREATY

The Senate, in open executive session and as in Committee of the Whole, resumed the consideration of the treaty between the United States and Cuba, signed March 2, 1904, for the adjustment of title to the ownership of the Isle of Pines.

Mr. COPELAND resumed his speech. After having spoken for some time,



Mr. McKELLAR (at 3 o'clock and 50 minutes p. m.). Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator from New York yield for that purpose?

Mr. COPELAND. I yield for that purpose.

The PRESIDING OFFICER. The Secretary will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Ferris	McKellar	Sheppard
Bayard	Fess	McKinley	Shipstead
Bingham	Fletcher	McLean	Shortridge
Blease	Frazier	McNary	Simmons
Bratton	George	Mayfield	Smoot
Brookhart	Gillett	Means	Spencer
Broussard	Glass	Metcalf	Stanfield
Bruce	Goff	Moses	Swanson
Butler	Hale	Neely	Trammell
Capper	Harrell	Oddle	Tyson
Caraway	Harris	Overman	Wadsworth
Copeland	Harrison	Pepper	Watson
Conzens	Johnson	Pine	Weller
Cummins	Jones, Wash.	Pittman	Wheeler
Curtis	Keyes	Reed, Pa.	Willis
Deneen	King	Robinson	
Dill	Ladd	Sackett	

The PRESIDING OFFICER. Sixty-six Senators having answered to their names, a quorum is present. The Senator from New York will proceed.

Mr. KING. Will the Senator yield to me to offer a resolution, to which I challenged attention a moment ago?

Mr. COPELAND. I will yield with the assurance of the Chair that I do not lose my place on the floor.

Mr. PEPPER. I did not hear the request of the Senator from Utah.

Mr. KING. I ask that the resolution which I sent to the desk a moment ago be read and lie upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. WADSWORTH. Is it contemplated that the Senator from Utah will ask the Senate to take some action upon the resolution?

Mr. KING. No; merely that it be read and lie on the table.

Mr. WADSWORTH. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WADSWORTH. In the judgment of the Chair, would that action be regarded as the Senate having done business?

The PRESIDING OFFICER. The Chair thinks he ought to state, for the protection of the junior Senator from New York, that that Senator has yielded the floor several times, and the Chair thinks he should enforce the rule, and gives the warning now that if the Senator yields any further, the Chair will enforce the rule.

Mr. KING. I would not want to jeopardize the right of the Senator from New York. I therefore withdraw the request.

The PRESIDING OFFICER. The Chair would like to state that he has permitted interruptions all afternoon, but he thinks it has gone to a point now where the rule ought to be enforced.

Mr. COPELAND. I should like to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COPELAND. Suppose a Senator rises to ask me a question. Do I have a right to yield to him to ask the question?

The PRESIDING OFFICER. A Senator has a right to yield time if no one objects. If any one objects, the Senator has no right to yield. The Senator has no right to yield to any Senator for any business without yielding the floor. Rule XIX would take him off the floor after making two speeches unless permitted to continue by vote of the Senate.

Mr. COPELAND. Does that involve a question and a reply to the question?

The PRESIDING OFFICER. It would not involve an inquiry and reply if the Senator should yield, provided no one objected to the Senator yielding.

Mr. COPELAND. I thank the Chair.

The PRESIDING OFFICER. The Senator from New York will proceed.

Mr. COPELAND resumed his speech. After having spoken for some time,

Mr. CURTIS (at 6 o'clock and 25 minutes p. m.). Mr. President, I rise to a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Kansas will state it.

Mr. CURTIS. I desire to know if I shall now present a privileged motion under Rule XXII it will cause the Senator from New York to lose the floor?

The PRESIDENT pro tempore. Does the Senator from Kansas refer to a privileged motion under the first paragraph of Rule XXII?

Mr. CURTIS. No; I refer to the paragraph in relation to cloture.

The PRESIDENT pro tempore. The Senator refers to the second paragraph of the rule, beginning—

If at any time a motion, signed by 16 Senators—

And so forth.

Mr. CURTIS. I refer to that rule.

Mr. SWANSON. I do not think the Senator would lose the floor unless he consented to quit.

The PRESIDENT pro tempore. The Chair holds that "at any time" means "at any time," and that the Senator from Kansas is privileged to present his motion now if he wishes to do so, and that it will not take the Senator from New York from the floor.

Mr. CURTIS. I submit the following privileged motion—

Mr. COPELAND. A parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from New York will state it.

Mr. COPELAND. What is the significance of this? Of course I have been conscious and warned the Senate half an hour ago that the conference between the Republican leader and the President pro tempore, now in the chair, over the rules was not for nothing. Now, what is the significance of this? What does it mean?

The PRESIDENT pro tempore. The Chair does not recognize in the question of the Senator from New York a parliamentary inquiry.

Mr. COPELAND. I think that it is very proper for the Chair to give the Senate—

Mr. CURTIS. I submit a privileged motion and ask that it may be read.

The PRESIDENT pro tempore. The Senator from New York is undertaking to restate the parliamentary inquiry, as the Chair understands.

Mr. COPELAND. I asked the Chair a question. The Chair having ruled that this motion can be presented, the question I ask is, Can action be taken upon it now?

Mr. CURTIS. Oh, no; it can not be acted on until Saturday.

The PRESIDENT pro tempore. The Chair will state to the Senator from New York and to the Senate that Rule XXII provides that at any time a motion signed by 16 Senators, and so forth, may be presented, that the motion shall be read, or the Chair, under the rule, shall state the motion to the Senate, but that the motion can not be acted upon until one hour after the Senate meets day after to-morrow.

Mr. COPELAND. Mr. President, of course, I realized that this motion would be presented, but the President pro tempore is making a ruling now which may embarrass him at some other time. I think that I have a right to object to the presentation of the motion in the midst of my speech. I did not yield for any purpose. I have the floor in my own right; I seriously question the propriety of the proceeding, and I think if the President pro tempore will consider the matter for a few minutes he will see the force of my statement. I repeat I seriously question the propriety of the proceeding.

The PRESIDENT pro tempore. Does the Chair understand the Senator from New York to appeal from the decision of the Chair?

Mr. COPELAND. Not at all. I recognize how useless it would be to appeal from the decision of the Chair.

Mr. BLEASE. Mr. President—

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from South Carolina?

Mr. COPELAND. I do not yield to anybody.

Mr. BLEASE. Mr. President—

Mr. WILLIS. Mr. President, I rise to a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. WILLIS. Mr. President, I have given notice that at the proper time I will offer an amendment to the resolution of ratification. That amendment has not yet been read. I desire to submit the inquiry to the Chair as to when that amendment should be read. As I understand the rule, it must be read sometime before the notice is filed and the proceedings had thereunder. Would this be the proper time to have read the amendment to which I refer?

The PRESIDENT pro tempore. The amendment of the Senator from Ohio must be read at some time prior to the vote upon the motion proposed to be presented by the Senator from Kansas.

Mr. WILLIS. I ask unanimous consent that it may be read now. It has to be read at some time. Let it be read now.

Mr. CURTIS. I ask for the presentation of the privileged motion which I have made.

Mr. BLEASE. Mr. President, I ask the Senator from Kansas to withdraw it.

Mr. CURTIS. I can not do that.

Mr. BLEASE. Very well, sir. Then, I rise to a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from South Carolina will state his parliamentary inquiry.

Mr. BLEASE. I quote from the proceedings of the Senate on February 23, 1925, as follows:

Mr. COPELAND. Mr. President—

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from New York?

Mr. NORRIS. I do.

Mr. COPELAND. It seems to me we ought to have a call of the Senate.

Mr. NORRIS. There is no way to compel Senators to stay. I hope the Senator will not make the point. There are some few here yet.

Mr. COPELAND. Mr. President, unless the Senator seriously objects, I feel inclined to suggest the absence of a quorum. I think it is a shame to have a matter of this importance discussed in the absence of a quorum.

The PRESIDING OFFICER. The Senator from New York suggests the absence of a quorum.

Mr. NORRIS. I do not yield for that purpose, Mr. President.

The PRESIDING OFFICER. In the opinion of the Chair, the Senator can make the point of order whenever he desires to do so.

Mr. NORRIS. Whether I yield or not?

The PRESIDING OFFICER. Yes.

Mr. NORRIS. Very well.

The PRESIDING OFFICER. The Secretary will call the roll.

I suggest the absence of a quorum and demand a roll call.

Mr. CURTIS. Mr. President—

The PRESIDENT pro tempore. The Chair is constrained in response to the parliamentary inquiry propounded by the Senator from South Carolina to state that the precedents of the Senate, particularly as found on pages 494, 495, and 496 of the Precedents of the Senate, indicate clearly that a demand for a quorum can not be made in the event that no business has intervened since the calling of the last roll call.

Mr. BLEASE. Then, Mr. President—

The PRESIDENT pro tempore. Just a moment, please.

Mr. BLEASE. If the motion of the Senator from Kansas is put before the Senate, then business has been transacted.

The PRESIDENT pro tempore. As soon as the Senate shall have acted upon the motion presented by the Senator from Kansas the present occupant of the chair is of the opinion that then business will have been transacted, and a quorum call may be demanded.

Mr. BLEASE. That is the position I take, sir.

Mr. CURTIS. I ask for the reading of the motion which I have presented.

Mr. COPELAND. I appeal from the decision of the Chair.

The PRESIDENT pro tempore. The Senator from New York appeals from the decision of the Chair.

Mr. COPELAND. And on that I ask for a roll call.

The PRESIDENT pro tempore. Just a moment, please.

Mr. WATSON. From what decision is the Senator appealing?

The PRESIDENT pro tempore. Under Rule XXII, paragraph 2, page 25, of the Senate Manual, the paragraph beginning "If at any time a motion, signed by 16 Senators."

And so forth, the Chair has ruled that the words "at any time" mean at any time, and that the motion presented by the Senator from Kansas is a privileged motion and may be presented, and, in the language of the rule, "the Presiding Officer shall at once state the motion to the Senate." From that decision of the Chair the Senator from New York takes an appeal.

Mr. COPELAND. Mr. President, on that I call for the yeas and nays.

The PRESIDENT pro tempore. Upon that appeal the Senator from New York demands the yeas and nays. Is the demand sufficiently seconded? [A pause.] Not a sufficient number having seconded the demand, the question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. BLEASE. Mr. President, I raise the point of order that there is not a quorum present, and that the Senate has no right to transact business without a quorum being present.

Mr. CURTIS. I raise the point of order that no business has been transacted as yet.

Mr. BLEASE. This is business.

Mr. FESS. No; not until we vote.

The PRESIDENT pro tempore. No business will have been transacted until—

Mr. BLEASE. All right. We want to go on record. We want the country to know what is being done.

The PRESIDENT pro tempore. The Chair holds that the point of order raised by the Senator from South Carolina is not well taken, and the question is upon the appeal taken by the Senator from New York. The question, therefore, is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. BLEASE. Mr. President, I am going to vote with the Chair; but I still hold that my point of order is good, that there is no quorum present.

Mr. CUMMINS. Mr. President, will the Chair kindly state the question ruled upon?

The PRESIDENT pro tempore. The Senator from Kansas [Mr. CURTIS] presented a motion under the terms of paragraph 2 of Rule XXII. The Chair held that that motion might be presented, in the language of the rule, at any time, and therefore might be presented now. The Chair collaterally held, however, that the presentation of that motion did not necessarily take the Senator from New York from the floor, and that at the conclusion of the vote upon this question a call for a quorum would be in order, inasmuch as business would have been transacted. From the opinion of the Chair the Senator from New York has taken an appeal; and the question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. OVERMAN. Mr. President, I usually agree with the Chair, because he is always right, I believe, except this time. Whenever new business is proposed, as it is proposed here, I agree with the Senator from South Carolina; and that ought to be the rule, that there must be a quorum here when new business is proposed.

Mr. WATSON. No; not when it is proposed.

Mr. OVERMAN. When it is proposed to be transacted, there ought to be a quorum here.

Mr. McKELLAR. Mr. President, upon the suggestion of the absence of a quorum under the circumstances, as it has been suggested by the Senator from South Carolina, unquestionably he is entitled to have the roll called.

The PRESIDENT pro tempore. Undoubtedly the presence or absence of a quorum will be demonstrated upon the vote which will be taken.

Mr. McKELLAR. Not necessarily, because the yeas and nays were denied. Of course, this is proposed action, and this body can not proceed—

The PRESIDENT pro tempore. Then let the Senator demand the yeas and nays. That may be done.

Mr. OVERMAN. Mr. President, the principle of this whole thing is that a quorum shall be present when business is transacted. Now it is proposed to transact business, and there ought to be a quorum here.

The PRESIDENT pro tempore. The Chair will say to the Senator from North Carolina that the precedents of the Senate do not say that. The precedents say that business has to be transacted before a second call for a quorum may be entertained.

Mr. McKELLAR. Business was transacted when a new matter was brought before the Senate.

Mr. FESS. Mr. President, I move to table the appeal, to stop this debate.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Ohio to lay on the table the appeal of the Senator from New York.

Mr. COPELAND. I call for a division.

On a division, the motion to lay on the table was agreed to.

Mr. BLEASE. Mr. President, I ask for the vote.

The PRESIDENT pro tempore. Under a division it never is stated.

Mr. BLEASE. I ask for it now. I still maintain my point that there is not a quorum present, and the Senate has no right to transact business without a quorum. I call for the announcement of the vote.

The PRESIDENT pro tempore. Under the practice of the Senate—

Mr. McKELLAR. Mr. President, I now suggest the absence of a quorum.

Mr. BLEASE. Yes; so do I.

The PRESIDENT pro tempore. Inasmuch as a vote has been taken, the Chair holds that the call for a quorum is in order, and the Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Bayard	Brookhart	Capper	Deneen
Bingham	Bruce	Copeland	Ferris
Bleas	Butler	Cummins	Fess
Bratton	Cameron	Curtis	Fletcher



George	McLean	Pine	Smoot
Goff	McNary	Ralston	Stanfield
Hale	Means	Ransdell	Swanson
Johnson	Metcalf	Reed, Pa.	Trammell
Jones, Wash.	Moses	Sackett	Wadsworth
Keyes	Oddie	Sheppard	Watson
McKellar	Overman	Shipstead	Willis
McKinley	Pepper	Shortridge	

The PRESIDENT pro tempore. Forty-seven Senators having answered to their names, a quorum is not present. The Secretary will call the names of the absentees.

The legislative clerk called the names of the absent Senators, and the following Senators answered to their names:

Dill, Fernald, Mayfield, Pittman, and Schall.

The PRESIDENT pro tempore. Fifty-two Senators having answered to their names, a quorum is present. The question is upon the ratification of the first article of the treaty as read.

Mr. COPELAND. Mr. President—

Mr. CURTIS. I ask that the motion I made be read.

The PRESIDENT pro tempore. The privileged motion presented by the Senator from Kansas will be stated to the Senate. The legislative clerk read as follows:

We, the undersigned Members of the United States Senate, move to close the debate on the treaty between the United States and Cuba, signed on March 2, 1904, for the adjustment of title to the ownership of the Isle of Pines (Executive J, 58th Cong., 2d sess.) in accordance with the provisions of Rule XXII of the Standing Rules of the Senate:

Charles Curtis, G. W. Pepper, Reed Smoot, Seldon P. Spencer, David A. Reed, F. H. Gillett, W. B. Pine, Fred. M. Sackett, Arthur Capper, W. L. Jones, James E. Watson, George H. Moses, Samuel M. Shortridge, Guy D. Goff, J. W. Wadsworth, jr., Smith W. Brookhart, Hiram Bingham, Frederick Hale, Joe T. Robinson, Cole L. Blease, L. D. Tyson, Claude A. Swanson, William H. King, Duncan U. Fletcher, Woodbridge N. Ferris, Walter George, Sam G. Bratton, Key Pittman, Thomas F. Bayard, M. M. Neely, E. S. Broussard, T. H. Caraway, Henry W. Keyes, George P. McLean, Albert B. Cummins, O. E. Weller, Carter Glass, W. B. McKinley, Charles S. Deneen, William M. Butler, Jesse H. Metcalf, Tasker L. Oddie, S. D. Fess, J. W. Harrel, F. M. Simmons, Lynn J. Frazier, Henry F. Ashurst.

The PRESIDENT pro tempore. The question is upon agreeing to this motion; and that question will be submitted to the Senate, in accordance with the rules, one hour after the Senate meets on day after to-morrow.

Mr. COPELAND. Mr. President—

The PRESIDENT pro tempore. The Senator from New York.

Mr. WILLIS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Ohio?

Mr. COPELAND. I can not yield, Mr. President.

I want to say, so that the RECORD will show it for all time, that the Senator from South Carolina [Mr. BLEASE] was right when he said that there was no quorum present. It was only by a second call of the Senate, and the driving in of the stragglers, that the majority was able to assemble enough to make an official quorum. The Senator from South Carolina was entirely right in his contention that no quorum was present.

Sometime this overriding of Senators will come home to haunt those who did this to-day. No fair-minded person who has listened to the debate to-day, or who will read it, if so inclined, can ever say that my speech was in the nature of a filibuster. I have spoken to the point. I have discussed the question at issue, and there is much more about this subject which I intend to say. We have just started the fight.

I may say, for the comfort of those here now who do not want to stay, who have dinner and theater engagements, that, so far as I am concerned, they are privileged to go and keep their engagements. I can see no reason for having the roll of the Senate called again very soon.

Mr. SHORTRIDGE. In view of that remark of the Senator, will he excuse me until 8 o'clock?

The PRESIDENT pro tempore. Does the Senator from New York yield; and if so, to whom?

Mr. COPELAND. Mr. President, may I say to my charming friend from California, and to the other Members of the forced quorum, that anybody here who goes home to dinner goes with my full approval and permission, and I trust that digestion will wait on appetite, and that they will come back to-morrow refreshed to hear the balance of my speech.

Mr. SHORTRIDGE. The Senator will not regard it as a discourtesy if I absent myself for an hour?

Mr. COPELAND. Not in the slightest.

Mr. REED of Pennsylvania. Mr. President, will the Senator yield to me to suggest the absence of a quorum?

The PRESIDENT pro tempore. No business having intervened since the last call of a quorum—

Mr. REED of Pennsylvania. A parliamentary inquiry. Was not the notice—

The PRESIDENT pro tempore. Wait a moment. There has been a motion made, and business has been transacted. Therefore, the suggestion of the absence of a quorum is in order. Does the Senator from New York yield to the Senator from Pennsylvania for the purpose of suggesting the absence of a quorum?

Mr. COPELAND. With the greatest of pleasure, and I hope that some of the Senators will go home, so that there will not be a quorum.

The PRESIDENT pro tempore. Does the Senator from Pennsylvania suggest the absence of a quorum?

Mr. REED of Pennsylvania. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Bayard	Deneen	Mayfield	Sackett
Bingham	Fernald	Means	Schall
Blease	Ferris	Metcalf	Sheppard
Bratton	Fess	Moses	Shipstead
Brookhart	George	Oddie	Shortridge
Bruce	Goff	Overman	Smoot
Butler	Hale	Pepper	Stanfield
Cameron	Jones, Wash.	Pine	Swanson
Capper	Keyes	Pittman	Trammell
Copeland	McKinley	Ralston	Wadsworth
Cummins	McLean	Ransdell	Watson
Curtis	McNary	Reed, Pa.	Willis

The PRESIDENT pro tempore. Forty-eight Senators having answered to their names, there is not a quorum present. The Secretary will call the names of absent Senators.

The legislative clerk called the names of the absent Senators.

The PRESIDENT pro tempore. Forty-eight Senators have answered to their names. There is not a quorum present.

Mr. PEPPER. I move that the Senators present direct the Sergeant at Arms to request, and if necessary compel, the attendance of absent Senators.

The motion was agreed to.

The PRESIDENT pro tempore. The Sergeant at Arms will execute the order of the Senate.

Mr. ROBINSON and Mr. McKELLAR entered the Chamber and answered to their names.

The PRESIDENT pro tempore. Fifty Senators having answered to their names, there is a quorum present.

The Sergeant at Arms having executed the order of the Senate to request the attendance of absent Senators, further proceedings under the order will be vacated. The Senator from New York is recognized.

Mr. COPELAND resumed and concluded his speech, which is entire as follows:

Mr. COPELAND. Mr. President, yesterday I undertook to state what must be the feeling of Americans who in good faith left their homes in America on the mainland, made purchases in the Isle of Pines, and went there to build new homes under the Stars and Stripes, to this island which they had every reason to believe was American territory and would continue through all time to be American territory.

I have here a letter written to me by Col. T. J. Keenan, of Pittsburgh, a large owner of property in the Isle of Pines. I desire to read the letter in order that Senators may know exactly the attitude of mind of those who have purchased property in the Isle of Pines upon the good faith of the American Government. Colonel Keenan's letter is dated February 26, 1925, addressed to me, and reads as follows:

The Senate Committee on Foreign Relations having refused a hearing to representatives of the American colonists on the Isle of Pines and the discussion on the floor of the Senate of the Hay-Quesada treaty having demonstrated a misunderstanding on the part of many Senators as to the circumstances attending the American colonization of the territory which the treaty referred to proposes to surrender to Cuba, I feel impelled, as one who has personal knowledge of those circumstances, to lay before you certain facts which will, I trust, deter the Senate from becoming a party to the immediate expatriation and ultimate ruin of thousands of American citizens.

The Senators from Pennsylvania, to one of whom this appeal might naturally have been addressed, are, I regret to say, for the first time since the Spanish-American War, ranged upon the Cuban side of the Isle of Pines question. The Senators who had contemporaneous knowledge of all the facts in the case held without exception the American point of view. Some of these facts I had hoped to present in person



to the Committee on Foreign Relations before that body passed upon the Hay-Quesada treaty. Having been denied that opportunity, I wish now, with your concurrence, to lay these facts before the entire senatorial body.

When the writer visited the Isle of Pines and erected a home early in 1901 there was absolutely no question from any source as to the American title to the island.

And I say, Mr. President, that Colonel Keenan states the fact when he makes this statement, because, until the adoption of the Platt amendment, which was on March 2, 1901, as I recall, I doubt if there were any considerable number of persons holding the thought that the Isle of Pines was anything other than American territory.

Upon the wall of the Senate Chamber hang several maps, and yesterday the Senator from Pennsylvania [Mr. PEPPER] asked a question of the Senator from Ohio [Mr. WILLIS] as to just exactly what those maps purported to be, raising the point or alleging, as I understood him, that those maps are nothing more than simply a record of public surveys. Now, I appeal to you, Mr. President, that the average citizen seeing this map [indicating map on the wall] for the first time, and, for that matter, after continued study of it, must be impressed with the idea that this is a map showing the territorial possessions, the insular possessions, in fact, all the possessions of the United States. The legend says:

United States Territories and insular possessions.

How anybody in the world can get any other idea than that this is an official map showing the extent of territory over which the Stars and Stripes should wave I can not understand. This is a map of "United States Territories and insular possessions," and there are shown on this map, among those insular possessions, the Isle of Pines. This map, as I understand, was published in 1901 and the one on the other side of the door was published in 1900, and I am not sure but that there was a similar map published in 1903. Anyway, these maps indicate that in 1900, or certainly in 1901, the Isle of Pines was regarded by the authorities of this country as a possession of the United States. So when Colonel Keenan states that "when the writer visited the Isle of Pines, and erected a home early in 1901, there was absolutely no question from any source as to the American title to the island," I have no question that he is stating what was the current belief.

Mr. SWANSON rose.

Mr. COPELAND. I yield to the Senator from Virginia.

Mr. SWANSON. Cuba is on that map, and the Isle of Pines is on it as a part of Cuba.

Mr. COPELAND. Mr. President, is not the Senator from Virginia, who ordinarily is so fair and just, a little technical in that statement? May I ask the Senator from Virginia to be so kind as to step over to the map with me.

Mr. SWANSON. I have seen it.

Mr. COPELAND. Canada also is on the map, but are we to infer from that fact that Canada is a United States possession?

Mr. SWANSON. I think not.

Mr. COPELAND. But here [indicating] are squares which contain small maps of the insular possessions of the United States. In this space [indicating] is Porto Rico. May I ask the Senator from Virginia is Porto Rico a United States possession? [A pause.] The Senator from Virginia does not answer.

Mr. SWANSON. Yes; the treaty made it so.

Mr. COPELAND. Here [indicating] are the Hawaiian Islands, which are a United States possession; here [indicating] is Guam, which is a United States possession; here [indicating] are the Philippine Islands and the Aleutian Islands, which are United States possessions. In a square of exactly the same sort is found the Isle of Pines. There is no escape, Mr. President, from the conviction that this map, which was issued by the Department of the Interior, is a map which contains the official statement of the United States that the Isle of Pines was recognized at the time the map was issued to be American territory.

Mr. SHIPSTEAD. Mr. President, will the Senator yield?

Mr. COPELAND. I yield to the Senator from Minnesota.

Mr. SHIPSTEAD. There is another map, which was prepared by the War Department at that time, that also shows that the Isle of Pines was American territory. So, not only did the Department of the Interior print maps at that time showing that the Isle of Pines was American territory, but the War Department, which at that time had control of the Isle of Pines and also of Cuba, also printed maps. The maps prepared by these departments at that time showed that Cuba was not a part of the United States, while the Isle of Pines was a part

of the United States, and the colors used on the map so indicated.

Mr. SWANSON. Mr. President, if the Senator from New York will permit me, those maps and all that they implied were considered by the Supreme Court of the United States, and that court further said that, despite all that and despite the letters and other documents read by the Senator from New York, de jure the Isle of Pines always had been and then was a part of Cuba.

Mr. SHIPSTEAD. Mr. President, I am aware of the fact there may be some basis for the claim that the United States Supreme Court transferred this piece of territory to Cuba, but I fail to find any provision in the Constitution where such authority has been given to the Supreme Court of the United States. The Constitution says that territory belonging to the United States shall be disposed of only by act of Congress.

I am aware that the decision of the Supreme Court said that, so far as the application of the tariff law was concerned, the Isle of Pines having been transferred for governmental purposes to Cuba by an act of General Wood, contrary to the instructions sent to him by his superior officer, the Secretary of War, Mr. Root, we, of course, at that time lost possession of the Isle of Pines. However, I fail to see how by that act we could lose title to the Isle of Pines any more than I would lose title to a farm in Minnesota, having placed it in charge of a manager who while in possession of it for me should transfer this possession to one of the neighbors. I might by that act lose possession of the farm, but I certainly would not feel that I had lost my title to it.

Mr. SWANSON. If the Senator from New York will permit me, the decision of the Supreme Court was based, first, on the resolution declaring war, in which we guaranteed the sovereignty of Cuba to the Cuban people; second, on the protocol of peace that was before it, and which had been signed by our representatives; third, on the treaty made with Spain, including the provision in regard to Porto Rico and other islands; fourth, the election held there. These maps and affidavits also were before the court. Of course, the court could not dispose of property belonging to the United States, but the court decided, six judges of nine, that de jure under these treaties and under the act of Congress that the Isle of Pines belonged to Cuba.

We can exercise our power, we can exercise force, we can send battleships there and take the Isle of Pines, but it would be contrary to what our Supreme Court has said in holding that de jure the Isle of Pines belongs to Cuba. We can seize that island, and the political powers may say it is a part of the United States; we can do that despite right; but if we are going to respect right and give a proper interpretation to treaties and understandings, we must come to the conclusion that de jure the Isle of Pines belongs to Cuba.

Mr. SHIPSTEAD. Mr. President—

Mr. COPELAND. I yield a little further to the Senator from Minnesota.

Mr. SHIPSTEAD. If the Senator from New York will permit me, I will say that I did not intend this morning to revive the debate about the Supreme Court's decision. That has been debated here all winter, and I do not think we are any nearer to an agreement upon that decision and how it applies to this treaty than we were in the beginning. There are, however, a few questions involved that, it seems to me, have not been covered in the debate.

Mr. COPELAND. Just one moment, Mr. President, if the Senator will yield for a moment?

Mr. SHIPSTEAD. Certainly.

Mr. COPELAND. I want it understood, Mr. President, that if the Senator wishes to discuss this matter now, I do not want to be ruled off the floor. I want it understood that I am to have the floor when he finishes.

Mr. SHIPSTEAD. There is no intention on my part of taking the Senator off the floor.

Mr. COPELAND. I simply say that for reasons of safety.

Mr. BRUCE. Mr. President, the Senator had better take heed of what the Senator from New York has said to him, for I shall deem it my duty to make the point if the Senator from Minnesota continues his remarks. He can ask the Senator from New York questions, of course, but I shall object to anything more than that.

Mr. COPELAND. Mr. President, I am in the embarrassing position, by reason of the obsolete rules of the Senate, of which the Chair and I complain, of being ruled off the floor if I should permit the Senator to continue. Therefore, I do not wish the Senator to continue unless, by consent of the Senate, it is understood that when he finishes I shall have the floor.



The VICE PRESIDENT. The matter as between the Senator from New York and the Senator from Minnesota is one for determination by unanimous consent.

Mr. BRUCE. Mr. President, I am very sorry, but I find myself unable to unite in a unanimous consent of that character.

Mr. COPELAND. Then, Mr. President, I regret that I can not yield further to the Senator from Minnesota.

Mr. SHIPSTEAD. I will say to the Senator from New York that it was certainly not my intention to take the floor away from him.

The VICE PRESIDENT. For how many minutes does the Senator from New York yield the floor to the Senator from Minnesota?

Mr. COPELAND. For 20 minutes, if that is agreeable to the Senate.

Mr. SMOOT. O Mr. President, I do not think we had better make any arrangement of that kind.

Mr. SHIPSTEAD. Very well. I thank the Chair for his courtesy, and I shall continue my remarks at the conclusion of the address of the Senator from New York, if I can then obtain the floor.

Mr. COPELAND. Mr. President, I want the Senator from Minnesota to understand that by no means do I consider that anything that I might say would be of more importance than what he might say, but I am not permitted to yield under these obsolete rules, which we agree ought to be changed.

I am sure the Senator from Minnesota will appreciate the situation.

Mr. SHIPSTEAD. The Senator does me great honor.

Mr. COPELAND. Mr. President, I have heard the Senator from Virginia on various occasions make reference to the case which through his frequent mention has become famous. I refer to the case of *Pearcy* against *Stranahan*. I hope the Senator from Virginia will not leave the Chamber while I am expounding the law on this subject.

Mr. SWANSON. Mr. President, if the Senator will give me an assurance as to how long he will speak, I will be very glad to remain in the Chamber, but I have some important engagements that make it impossible for me to keep if he is going to speak very extensively.

Mr. COPELAND. I may say to the Senator from Virginia that if he has engagements which he thinks are more important than to be enlightened upon the pending subject, he has my full permission to leave the Chamber now. I may say to him that he probably will have the rest of the day to transact that business.

Mr. SWANSON. I have listened with a great deal of enlightenment to the Senator. I appreciate very much his able exposition of constitutional law, and I feel very grateful to him.

Mr. COPELAND. I thank the Senator for his kind remarks. Coming from a source so eminent, I can not help but feel flattered.

Mr. President, the case of *Pearcy* against *Stranahan* was a case which was presented to the Supreme Court, not to determine the title to the Isle of Pines, as the vanishing Senator from Virginia would seem to intimate. Such was not the purpose of that case. It was presented to the court on March 4, 1907, and I find written in the records of the Supreme Court in Two hundred and fifth United States Reports that it involved the political status of the Isle of Pines; whether it was under the jurisdiction of Cuba or that of the United States; and whether merchandise therefrom should be subject to tariff duties as coming from a foreign country under the meaning of the Dingley Tariff Act. That is stated in the opinion.

The question to be determined in that case, which was carried up from the southern district of New York, was whether merchandise shipped into the United States was or was not, or is or is not, subject to the tariff laws of this country, and whether such merchandise should pay the tariff duties imposed by the law. That was the question. The question to be determined was not the ownership of the Isle of Pines. The Isle of Pines at that time, Mr. President, was under the de facto jurisdiction of the Cuban Government, so placed by the act which turned over to Cuba the ownership of the island, but under the Platt amendment the question of title to the Isle of Pines was to be determined later by treaty. I wish to make that perfectly clear.

In a moment I will read to the Senate the Platt amendment, in order that there may be before us once more the exact facts regarding the status of the Isle of Pines. Suffice it to say at the present moment that under the Platt amendment Cuba had de facto possession of the island, and was to administer it until title should be determined; and the title through a period of 21 years has not been determined under the Platt amendment. Of course, so far as I am concerned, I have no doubt, and never

had any doubt, that America gained title to the Isle of Pines through Article II of the Paris treaty.

Mr. President, I repeat that the purpose of this case in the Supreme Court was not to determine the title to the Isle of Pines; but in view of the peculiar political situation existing, the island being under the de facto rule of Cuba, the question in the case of *Pearcy* against *Stranahan* was, should merchandise from the Isle of Pines shipped into the United States be taxed as if it came from Germany or France or some other foreign country? That was the question involved.

Mr. BAYARD. Mr. President—

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Delaware?

Mr. COPELAND. I yield to the Senator.

Mr. BAYARD. By the same line of reasoning, why did not the court determine that the Isle of Pines was not American territory?

Mr. COPELAND. The court was not called upon to determine whether the Isle of Pines was American territory.

Mr. BAYARD. May I interrupt just once more? I beg the Senator to read carefully the opinion in *Pearcy* against *Stranahan*, and he will find some very interesting things. He will find, among other things, that the Supreme Court first determined whether or not Cuba was American territory; and the court found that Cuba was not American territory when it came to the imposition of tax, and therefore the tax would lie. The court went further than that, and determined that for the purpose of levying the tax in that case the Isle of Pines was Cuban territory.

Mr. COPELAND. I want to be perfectly fair with the Senate, and I want to be perfectly fair with the Senator from Delaware. I am sure that he gives me credit for having read the decision. I may say, indeed, that the Senator from Delaware is the first man in the Senate who called my attention to this decision. I am well aware that the majority of the court, going entirely aside from the question at issue, by obiter dictum, as I think my friend would call it, did say that the Isle of Pines was Cuban.

Mr. BAYARD. May I interrupt the Senator once more? I do not agree at all that it was obiter dictum. I think the very point before the court was to determine what the territorial relation of the Isle of Pines was to the United States, in order that the question before the court, which was the laying and collecting of a duty on tobacco, should be determined. That was the whole point involved; and for the proper adjudication of that point they had to determine whether the Isle of Pines was American or foreign territory.

Mr. COPELAND. Mr. President, I am very happy that in this particular matter the Senate does not have to take my opinion. That would not be worth much; but I read from page 273 of Two hundred and fifth United States, the dissenting opinion, or the opinion rendered by Mr. Justice White, concurred in by Mr. Justice Holmes.

I do not need to remind the Senator from Delaware, as suggested to me just now by my friend the Senator from Indiana [Mr. RALSTON], that no greater jurist has ever graced the bench than Mr. Justice White. This is what he said:

My reasons for agreeing to the conclusion announced by the court are separately stated to prevent all implication of an expression of opinion on my part as to a subject which in my judgment the case does not require and which, as it is given me to see it, may not be made without a plain violation of my duty.

The question which the case raises by way of a suit to recover duties paid on goods brought from the Isle of Pines is whether that island by the treaty with Spain became a part of the United States or was simply left or made a part of the island of Cuba, over which the sovereignty of Spain was relinquished.

I accept the doctrine which the opinion of the court announces, following *Jones v. United States* (137 U. S. 202), that "who is the sovereign de jure or de facto of a territory is not a judicial but a political question, the determination of which by the legislative and executive departments of any government conclusively binds the judges as well as other officers, citizens, and subjects of that government." That the legislative and executive departments have conclusively settled the present status of the Isle of Pines as de facto a part of Cuba and have left open for future determination the de jure claim, if any, of the United States to the island, as the court now declares, is to me beyond possible contention.

Mr. BAYARD. Mr. President, may I interrupt the Senator once more?

Mr. COPELAND. I yield.

Mr. BAYARD. I do not say this because I happen to be a humble follower of the profession of the law; but if the Senator will read that case with care, he will find that there are



two opinions, the prevailing opinion and the assenting opinion of Mr. Justice White, and he will find that Mr. Justice White agrees in the conclusions of the court but differs from the majority of the court on certain grounds.

The majority opinion said that the question of title to the Isle of Pines was a judicial question and Mr. Justice White and his associate said it was not a judicial question, that it was a political question, and that therefore they did not find themselves qualified to pass on it from that point of view. That is the whole thing. It could not give the Senator any comfort to read an opinion based upon that plain demonstration by Mr. Justice White in his opinion, giving the reasons why he differed, not in the conclusion, but as to the law governing the case.

Mr. COPELAND. I am very glad that the dissenting opinion gives the Senator from Delaware no discomfort, but I want to say to the Senator from Delaware that it does give the Senator from New York some comfort to find that the opinion of a lay mind is coincided in by the opinion of so eminent a jurist as Mr. Justice White. Now, I will continue the reading, because, Mr. President, this gives me some comfort, and it gives comfort to American citizens who in good faith went to the Isle of Pines and invested their money, believing that the Government of the United States would never forsake an American who had a just claim upon it. The opinion continues:

Thus by the amendment to the act of 1891—

That is a mistake. It should be 1901. It is too bad to find a mistake in a judgment which otherwise is so accurate, but I am sure the Senator from Delaware will concede that that was a mistake. It was 1901.

Mr. BAYARD. 1901, the Platt amendment.

Mr. COPELAND. We will agree upon making that amendment to the record.

Mr. BAYARD. I do not know that I can assume the liberty to amend any Supreme Court record.

Mr. COPELAND. This is a rather informal way to do it, is it not? The United States Senate is such an informal body, except on occasions when its feelings have been hurt, and then, Mr. President, it becomes tremendously insistent that the formalities shall be observed. I read from the opinion:

Thus by the amendment to the act of 1901, which was enacted to determine the de facto position of the island and to furnish a rule for the guidance of the executive authority in dealing in the future with the island, it was expressly provided—

Then the second provision of the Platt amendment is stated—that the Isle of Pines shall be omitted from the proposed constitutional boundaries of Cuba, the title thereto being left to future adjustment by treaty.

That is the end of the quotation and that is the sixth article of the Platt amendment, passed, I think, on the 2d of March, 1901, and to which the court refers. Then, Mr. Justice White continues:

So, also, when the island of Cuba was turned over to the Cuban Government by the military authority of the United States, that Government was expressly notified by such authority—

That is, the Government was notified by the military authority, by General Wood, then in command:

That Government was expressly notified by such authority, under the direction of the President, that whilst the de facto position of the Isle of Pines as a part of Cuba was not disturbed it must be understood that its de jure relation was reserved for future determination by treaty between Cuba and the United States.

That is why we are here discussing this matter. The court could not pass over to Cuba the Isle of Pines. If the Isle of Pines was a part of Cuba, in the sense implied by Article I of the Paris treaty, it was Cuba's then, and is Cuba's now; but if the Isle of Pines came to us through cession under Article II of the Paris treaty, it is our property and, in spite of the Platt amendment, can not be disposed of by treaty, as I see it.

Mr. BAYARD. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. BAYARD. Does not the Senator from New York admit that both the prevailing opinion and the opinion rendered by Mr. Justice White and his associate justices both determined the law to be that the duty lay upon the tobacco imported from the Isle of Pines to the United States on the ground that the Isle of Pines was not American territory—yes or no?

Mr. COPELAND. No; I do not admit that.

Mr. BAYARD. The Senator denies that?

Mr. COPELAND. Yes, Mr. President; and I shall refer the Senator from Delaware very soon, when I get through this exposition of constitutional law, to an earlier case, upon which

this is founded. The Isle of Pines, under the decision in *Downes* against *Bidwell*, had not become incorporated in the United States. By specific act of Congress, the Platt amendment, the Isle of Pines was excluded from the geographical boundaries of Cuba and was placed by that specific act under the de facto administration of Cuba, and it was because the Isle of Pines had not become incorporated in the legal sense that the court was fully justified, in my opinion, in the decision which it made relative to the imposition of the duties.

Mr. BAYARD. Mr. President, I say with the utmost courtesy that I would like to ask the Senator whether we are now hearing *COPELAND* on the Constitution, or is he quoting the Supreme Court of the United States?

Mr. COPELAND. Mr. President, I am very happy to say—

Mr. BAYARD. The case of *Bidwell* certainly does not say what the Senator said.

Mr. COPELAND. I am very happy to say, in reply to the Senator, that the Senator from New York is not giving his opinion. He is quoting, in spirit, from a decision of the United States Supreme Court. I will read it.

Mr. BAYARD. Will not the Senator quote in words rather than in spirit?

Mr. COPELAND. Yes; Mr. President, in order that the Senator from Delaware may be sure that the Senator from New York is on safe ground he will use the language of the court, and not any feeble words which the Senator from New York might employ.

I read from the case of *Downes v. Bidwell* (182 U. S. 345):

The civil government of the United States can not extend immediately and of its own force over territory acquired by war. Such territory must necessarily, in the first instance, be governed by the military power under the control of the President as Commander in Chief. Civil government can not take effect at once, as soon as possession is acquired under military authority, or even as soon as that possession is confirmed by treaty. It can only be put in operation by the action of the appropriate political department of the Government, at such time and in such degree as that department may determine. There must of necessity be a transition period.

Mr. BAYARD. That is from the *Bidwell* case?

Mr. COPELAND. That is from the *Bidwell* case.

Mr. BAYARD. And the *Bidwell* case preceded the case of *Pearcy* against *Straubahn*?

Mr. COPELAND. Yes; it did.

Mr. BAYARD. That is what I thought.

Mr. COPELAND. Does the Senator from Delaware get any comfort from that?

Mr. BAYARD. No; I am not asking any particular comfort, but I am wondering how the Senator from New York gets any comfort from it.

Mr. COPELAND. Of course, there are some things which, like the peace of God, are past all understanding. Perhaps this is one of them.

But I say, Mr. President, that the Senator from New York does get some comfort from this particular confession, because for some reason or other the Senator from New York believes in the United States courts. He does not share the opinion held by some that the courts should be abolished or restricted. I want to say for myself that I think every child in America should be taught that the courts demand, compel, and deserve the respect of every citizen of America. It is a matter of great pride to me, too, to think that in the 136 years of the life of our National Government only 38 acts of Congress have been determined unconstitutional. When I find orators going up and down the country talking about the courts and demanding that the laws be changed in order that 5 to 4 decisions may be eliminated, it is a matter of pride to me to know that our courts have been so unanimous in their sentiments that in those 136 years there have only been nine instances of 5 to 4 decisions of the Supreme Court.

Mr. BAYARD. Mr. President, may I interrupt the Senator again for a short question?

Mr. COPELAND. Certainly.

Mr. BAYARD. In view of the high regard held for the Supreme Court of the United States and the allegiance which the Senator gives to it, might it not be well for the Senator to bow to the will of the court as expressed in the opinion he has recently read and accept that as the law of the land?

Mr. COPELAND. The Senator from New York, I hope, tells the truth when he says that he will always bow to a decision of the Supreme Court when that decision is rendered on the issue presented to the court. No citizen of the United States is under obligation to submit to the obiter dictum of the Supreme Court or any other court. It is the decision of the court that the Senator from New York follows and respects, and I follow



and respect the decision of the court in the case of *Pearcy* against *Stranahan*.

I have not yet finished my quotation from the minority opinion—the opinion of Mr. Justice White. I regret, of course—I do not know that I should say that; I do not know that I regret that my training was just what it was. I think I rather enjoy my profession. But I regret that it is not given to every Senator to have a training in all the learned professions in order that he might speak with authority on any subject which might be presented to the Senate. But if the Senator from Delaware who is on his feet again to make further objection to the exposition of the law as given by the lay Member—of course, I am sorry, I may say to him, that my training has not been so perfect as his. However, I shall be glad to listen to any comment he has to make on my exposition.

Mr. BAYARD. I would merely suggest to the Senator that he has made a very interesting point in his argument in that he said a moment ago that he did not feel himself bound by the obiter dictum which he found in the Supreme Court decision when that decision was given by a majority of the court, but at the same time he undertakes to read and to approve of—and to maintain that it is controlling—a minority opinion, which, of course, can never control in any case. So he is placing himself in the position of taking neither one horn nor the other of the dilemma, his first proposition being to read from the obiter dictum, which he says does not bind anybody, and next to read from the minority opinion, which, of course, he knows binds nobody. So I do not see where he is going to get off.

Mr. COPELAND. The Senator from Delaware need not worry any about that. The Senator from New York knows where he is going to get off. He probably will not be able to convince the Senator from Delaware that he got off on the right side. However, Mr. President, I have found myself before now on the wrong side even in the fight with death, but that did not disturb me because I did the best I could to defeat the grim reaper, and I purpose here if I can to let every citizen of the United States know that there is at least one Senator—yes; I am happy to say, there are more; but there is at least one Senator who is willing to give of his energy and of his strength to try to see to it that the rights of American citizens are protected. I said yesterday and I repeat now that I do not know anybody living in the Isle of Pines. I have no interest directly or indirectly with anybody down there. But I am a Senator of the United States. I conceive it to be my duty, even though I should be alone. You know, "One with God is a majority," and even though I am alone I am going to fight this fight. This morning somebody sent me a letter from down in the Isle of Pines. Down in the Isle of Pines every day all the people assemble together to pray. They did it yesterday, they are there to-day, to pray that this treaty may not be confirmed. In that letter it was said:

The people of the Isle of Pines have decided to close all places of business for five minutes at 11 o'clock to pray for success in defeating the treaty.

I do not know that we ought to get religious in the Senate. It would be a little bit unusual, I think; but I feel very deeply about this matter. As I have said, for no personal reason, but just because my sense of justice impels me to make the fight for those Americans down there, whether 10 or 100 or 10,000 I do not care, I am going to do the best I can to defeat the ratification of this treaty. I have said and I repeat now that I have no desire to set up my individual opinion against the majority of the Senate, but I have a right and it is my duty to impress upon the Senate the thought that every American is entitled to his day in court. Twenty-one or twenty-two years ago Americans were heard by the Committee on Foreign Relations. Every time I speak about this in a group antagonistic to the views I hold it is said, "It is all printed in a volume and you can read it all." Is it not the right of every Senator in every generation to have his day?

I am firmly of the opinion myself that we received title to this property through Article II of the Paris treaty. I think it belongs to us, but there are many reasons why we do not want it, and that I recognize, unless it should happen to have military or naval value or aerial value in the new development. I think on the whole it would be better if the Isle of Pines were given over to Cuba, and my lifelong friendship for Cuba would make me very happy if I could assist in transferring the property to Cuba with no stain upon that ownership. But I have proposed in the Senate before, and I repeat it now, that I would like to see a committee—I do not care whether it is the Foreign Relations Committee under instructions of the Senate or a special committee—take the question and deal with it as committees do in the Senate.

Let me say in passing that a newcomer to the Senate has a very wrong impression of the Senate. If he has the idea that the business of the Senate is transacted in this Chamber, he makes a mistake. It is not transacted here; it never could be. One has but to look about the Senate Chamber now to know that. The work of the Senate is done in the committee. Let me say, too, that dilatory as are the tactics of the Senate, when we get into the committees we see real work. When I was elected to the Senate it seemed to me that I was elected to the easiest job I had ever had. I have never had an easy job, but it seemed to me that at last I had been given one. I thought I would not have to get up in the morning until 10 o'clock. I thought it was wonderful. I thought I could take an hour for a delightful bath and the reading of the opposition newspapers.

Mr. WHEELER. The Senator could sleep in the afternoon, could he not?

Mr. COPELAND. Yes; I will stand corrected on that. I do not know what Senators do in the afternoon. Has the baseball season opened yet? I am not sure about that. If there is a ball game this afternoon, I assume Senators are there.

But that is not the way Senators do their work. They do not get up at 10 o'clock and have the leisure I have suggested. They have committee meetings, and they earnestly and faithfully perform their duties as Senators of the United States. When we come into this Chamber we come here as Democrats and Republicans and Farm-Laborites. We come here to struggle for political preferment and advantage.

The only time that we are free from that frame of mind and that activity is when we have a session with closed doors; but in the presence of the galleries, Mr. President, every opportunity is given to the charming people who come from every section of the United States to see what the Senate is like. We strive to impress the press gallery that the Democratic view is the right one and that we are in possession of all the brains, and our friends on the other side of the Chamber make like efforts to impress the galleries.

The work is not done here. That is the pathetic thing about this treaty, Mr. President. This treaty should be considered before a committee of the Senate. I should prefer a special committee, because the Foreign Relations Committee has many matters of much greater importance to consider. It has now before it the Lausanne treaty, and there is a great question in the minds of many people whether or not the Lausanne treaty should be favorably acted upon by the Senate. I think nearly every church denomination in my State of New York has written me almost violent appeals that the Lausanne treaty be defeated because of outrageous treatment by Turkey in times past of the Christians over there. That is a matter that must engage the attention of the Foreign Relations Committee. That committee is a new committee. Everything it did at the last session died with the session. Everything relating to the Lausanne treaty must be considered anew by the Foreign Relations Committee.

Then, Mr. President, there is the question of the World Court. To me it seems perfectly absurd to have the Senate of the United States detained here—I suppose it is unseemly for me to say so, Mr. President, in view of the fact that I am detaining the Senate just now—it seems to me absurd to have the Senate of the United States detained here to discuss this matter, which, while vital to a few persons, is of no world-wide significance, when there is pending before the Senate the great question of our relationship to the other nations of the earth—the question of the World Court.

Mr. President, I am well aware that we are not detained here because of the interest of the Senate or of the country in the Isle of Pines treaty. We are detained here in order that the President of the United States may determine what should be his action in relation to the Attorney Generalship of the United States.

A few minutes ago the proceedings were interrupted in order that a message from the President might be received. Very soon one of these nice boys passed around a paper showing that the President of the United States had again nominated Charles Beecher Warren for Attorney General. That is why we are here, Mr. President. We are not here—and let me say it to everybody within the sound of my voice—because of any interest on the part of the Senate in the Isle of Pines treaty. We are here while these absentees, in conference, are determining where the votes are, and whether Mr. Warren is to be confirmed by the Senate or whether he is to be rejected.

Mr. President, every Senator here knows that I speak the truth. I suppose I am assisting in playing the game of the Republicans; but, you see, if I did not play the game, there



would be a roll call, and 50 or 60 Senators—perhaps I had better not be so specific—a good many Senators who do not know anything in the world about the Isle of Pines, except the name of the place, would come in here and vote to ratify this treaty because the whip has been cracked, and they have been told that is the thing to do.

Mr. President, let me say that I am not being fooled a bit; but in the meantime I am going to do the best I can not to have this waste time used to do an injustice to those persons, citizens of the United States who gave up all they possessed in the States to go down and make the Isle of Pines bloom like the rose. I am going to help all I can to defeat that injustice. But, Mr. President, after the Republicans have determined that they have or have not votes to confirm Mr. Warren, I am willing at any time to say that I will accept with joy the reference of this matter to a committee of the Senate in order that it may be considered through the summer. When a report is brought back by a committee doing the kind of work which I have suggested—that thorough work which is done by committees of the Senate—which says: "We have listened to the complaints of the owners of land in the Isle of Pines; we know what their agony is, and we have made plans for their protection; we have found a way to adjust any differences which may exist between citizens of the United States living in the Isle of Pines and the government of Cuba; we offer a means of monetary relief for persons who have bought property there under misrepresentations of our own Government"—Mr. President, if that committee will come back here with such a report as that, and then say that it is our duty, having done this, to ratify the Isle of Pines treaty, I will give my vote cheerfully to adopt the report of the committee and to ratify the treaty.

But we have pending before the Senate the French spoliation claims. How long have they been here? Mr. President, those claims date back to the time when your great-great-grandfather and mine were playing marbles, 119 years ago. Are we going to impose upon the American citizens in the Isle of Pines the obligation to fight through a period of four or five generations for their rights? We are not, Mr. President, if I can help it. The time to make adjustment is now, before the treaty is confirmed.

Mr. President, I was reading from the dissenting opinion of Mr. Justice White in the case of *Pearcy* against *Stranahan*. You know, I have hopes that the leaders have determined what is to be the fate of Mr. Warren. The return of a few of the leaders makes me think that perhaps some decision has been reached.

However, Mr. Justice White says:

So, also, when the island of Cuba was turned over to the Cuban Government by the military authority of the United States, that Government was expressly notified by such authority, under the direction of the President, that whilst the *de facto* position of the Isle of Pines as a part of Cuba was not disturbed, it must be understood that its *de jure* relation was reserved for future determination by treaty between Cuba and the United States. And this notification and relation was in terms accepted by the President of the Republic of Cuba. If the opinion now announced stopped with these conclusive expressions I should, of course, have nothing to say. But it does not do so. Although declaring that the *de facto* position of the Isle of Pines as resulting from legislative and executive action is binding upon courts, and although referring to the conclusive settlement of that *de facto* status and the reservation by the legislative and executive departments of the determination of the *de jure* status for future action, the opinion asserts that it is open and proper for the court to express an opinion upon the *de jure* status; that is, to decide upon the effect of the treaty. In doing so, it is declared that all the world knew that the Isle of Pines was an integral part of Cuba, this being but a prelude to an expression of opinion as to the rightful construction of the treaty. To my mind, any and all expression of opinion concerning the effect of the treaty and the *de jure* relation of the Isle of Pines is wholly unnecessary and can not be indulged in without disregarding the very principle upon which the decision is placed; that is, the conclusive effect of Executive and legislative action.

Mr. President, one does not have to be a lawyer to see the sense of that. It is perfectly plain, as I shall show you in detail from a previous case, that the actual ownership of the Isle of Pines can not be determined by judicial decision. If that were the case, any court could say that the property which has been held by the President of the Senate is not his property; it is the property of the Senator from New York. It would be perfectly absurd to have any such possible power in a court, and the President of the Senate knows very well that no such

power exists in a court; and certainly, when we come to deal with the ownership of the Isle of Pines, its fate is a matter of congressional and Executive action. That is perfectly plain, as stated here in so forceful a way by Mr. Justice White.

To continue the quotation:

In other words, to me it seems that the opinion, whilst recognizing the force of Executive and legislative action, necessarily disregards it. This follows, because the views which are expressed on the subject of the meaning of the treaty amount substantially to declaring that the past action of the Executive and legislative departments of the Government on the subject have been wrong, and that any future attempt by those departments to proceed upon the hypothesis that the *de jure* status of the island is unsettled will be violation of the treaty as now unnecessarily interpreted.

That was the opinion of Mr. Justice White, concurred in by Mr. Justice Holmes.

Mr. President, within an hour of the time that I stop my tirade some Senator who has not been here this morning will get up and say that the Supreme Court of the United States has determined that the ownership of the Isle of Pines rests in the Republic of Cuba. That is utter nonsense. Of course, the court held in this case, and every member of the court agreed to it, that there should be an imposition of duty upon merchandise sent out from the Isle of Pines. One has but to read the case of *Downes* against *Bidwell*—and, Mr. President, if I were to read into the Record everything said in the case of *Downes* against *Bidwell* I would be speaking so long that the Republican Party would have an opportunity to determine its action not alone as it may relate to the Attorney General but to form a Cabinet for every Republican President from now to the end of time—but this case of *Downes* against *Bidwell*, which I hope not to have to read in its entirety, is another case which was before the court, argued on the 8th, 9th, 10th, and 11th of January, 1901.

There are many interesting things in this decision. They make it perfectly clear that the court, in the case of *Pearcy* against *Stranahan*, did exactly right in imposing tariff duties upon the products of the Isle of Pines.

The syllabus of this case is very interesting. This relates to Porto Rico. You see, Mr. President, it becomes very interesting, because nobody has ever contended that the United States gained possession of Porto Rico in any other way than by Article II of the Paris treaty.

We did a heroic thing, spectacular, more or less "Fourth of July" in its attitude, and yet, after all, I am sure that in this generation every American approves it. Before we went into the Spanish War, or at that time, on April 20, 1898, Congress passed a joint resolution for the recognition of the independence of the people of Cuba, demanding that the Government of Spain relinquish its authority and government in the island of Cuba and withdraw its land and naval forces from Cuba and Cuban waters, and directing the President of the United States to use the land and naval forces of the United States to carry the joint resolution into effect. This is practically the declaration of war; and may I say, Mr. President, that no citizen of the United States was happier than I when we decided to go to Cuba, release that noble people from the fetters binding them, and do away with the horrors and abominations of Spanish domination in that island. No citizen was happier than I when that declaration was made, and I regret exceedingly that circumstances have made it necessary for me to take any active part in thwarting the desire—the natural, proper desire—of the Cuban Republic to possess the Isle of Pines. I hope that out of this debate may come some decision which will not only make it possible to turn over to Cuba the *de jure* possession of this island but to give it over to Cuba unencumbered by any blot or doubt as to the legality of the action and free from those heartburnings which are bound to come if by force we arbitrarily ratify the treaty without first making the adjustments which in all justice should be made.

I suggest that the way to raise up bandits and pirates and revolutionists is by force to detach this island from the United States, where, in my judgment, it belongs under the law, and turn it over to Cuba under circumstances which must for all time make for discord and conflict between those who live there now and their descendants with the Government of Cuba.

So I repeat, when this declaration was made there was no one happier than I, and what was this declaration?

Whereas the abhorrent conditions which have existed for more than three years in the island of Cuba, so near our own borders, have shocked the moral sense of the people of the United States, have been a dis-



grace to Christian civilization, culminating, as they have, in the destruction of a United States battleship, with 266 of its officers and crew, while on a friendly visit in the harbor of Habana—

Ah, you remember, Mr. President, the thrill of horror that went over this country when we read that the *Maine* had been blown up; and every time I pass the *Maine* monument at the entrance to Central Park, very close to my own home in New York, every time I gaze upon that monument something of that old feeling of horror comes upon me. And so this joint resolution spoke of the visit of that ship, and its destruction while on a friendly visit to the harbor of Habana.

And it can not longer be endured, as has been set forth by the President of the United States in his message to Congress of April 11, 1898, to which the action of Congress was invited: Therefore

*Resolved, etc.—*

First. That the people of the island of Cuba are, and of right ought to be, free and independent.

Second. That it is the duty of the United States to demand, and the Government of the United States does hereby demand, that the Government of Spain at once relinquish its authority and government in the island of Cuba and withdraw its land and naval forces from Cuba and Cuban waters.

Third. That the President of the United States be, and he hereby is, directed and empowered to use the entire land and naval forces of the United States, and to call into the actual service of the United States the militia of the several States, to such extent as may be necessary to carry these resolutions into effect.

Fourth—

And this fourth article is the statement of the Congress of the United States, and through the Congress of the United States of the people of America, that the purpose of intervention in Cuba was not to gain any advantage for this country, but that Cuba should be taken in sacred trust, to be delivered afterwards to the people of Cuba.

Fourth. That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said island except for the pacification thereof, and asserts its determination, when that is accomplished, to leave the government and control of the island to its people.

When the protocol was written by Mr. Day, then Secretary of State, Spain was reminded that the intervention in Cuba had cost a lot of money and lives, many millions of dollars, and it was determined that, in addition to the relinquishment of title to Cuba, which was provided for under Article I of the protocol and Article I of the Paris treaty, our country should be indemnified for its losses by the cession of certain territory. So Article II of the treaty provides for the cession of territory and is more or less specific. I say more or less, because if the Isle of Pines had been named in Article II we would not be here to-day; we would be taking a recess while the Republicans determine what they are going to do about the Attorney Generalship.

Unfortunately, however, the protocol was written in language more or less indefinite, and the treaty itself was more or less indefinite in regard to such matters. Article II of the treaty, which I quote, provides:

Spain cedes to the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies, and the island of Guam in the Marianas or Ladrones.

Therefore, you can see, Mr. President, there was no question as to the cession of Porto Rico. Porto Rico was ceded specifically by name. I have quoted from the decision in *Downes against Bidwell*, relating to the imposition of duties upon merchandise or vegetables or fruit shipped from the island of Porto Rico to the United States, and everybody knew that that property was coming from a possession of the United States.

My friend, the Senator from Delaware [Mr. BAYARD], asked me two or three questions and then slid away before he got full answers—not an uncommon practice, Mr. President, and I can not blame the Senator; I would not blame the Vice President if he called some other Senator to preside for a time, and let me say to him that I would be entirely satisfied if he did, because I have been here a long time, and I am going to be here a long time yet.

The VICE PRESIDENT. The Senator will excuse me, then, while I go to lunch?

Mr. COPELAND. Certainly; I will be very happy to do so. Mr. FESS thereupon took the chair.

Mr. COPELAND. As I have said, there was no doubt regarding the island of Porto Rico. That was American territory. That was ours, ours by right of conquest, ours by right of our

victory over Spain, a victory which gave happiness and joy to the hearts not only of all Americans but to all others whose hearts beat warmly. So there was no question at all about the ownership of Porto Rico.

Here is the interesting thing, Mr. President. I read from the syllabus in the case of *Downes against Bidwell*:

The island of Porto Rico is not a part of the United States \* \* \*.

That is rather startling, is it not? We fought a victorious war, we gained a victory by our arms, but the Supreme Court of the United States said, "This is not a part of the United States." Of course that is modified by the further language:

The island of Porto Rico is not a part of the United States within that provision of the Constitution which declares that "all duties, imposts, and excises shall be uniform throughout the United States."

That is found in the syllabus to the case of *Downes v. Bidwell* (182 U. S. pp. 244, 245, and 246). I read further:

There is a clear distinction between such prohibitions of the Constitution as go to the very root of the power of Congress to act at all, irrespective of time or place, and such as are operative only throughout the United States or among the several States.

A long-continued and uniform interpretation put by the executive and legislative departments of the Government upon a clause in the Constitution should be followed by a decision of the judicial department, unless such interpretation be manifestly contrary to its letter or spirit.

Note this language:

A long continued and uniform interpretation put by the executive and legislative departments of the Government upon a clause in the Constitution should be followed by a decision of the judicial department, unless such interpretation be manifestly contrary to its law or spirit.

Yesterday the Senator who is now in the chair, the junior Senator from Ohio [Mr. FESS], made much of the case of *Pearcy against Stranahan*. He disregarded the minority opinion and overlooked entirely the case of *Downes against Bidwell*, a case which makes it so clear that the wayfaring man or fool need not err therein and that he who runs may read that the judicial department can not settle a question of ownership unless the executive and legislative departments of the Government have taken proper action.

Wherefore, in view of the fact that the legislative and executive departments of the Government have not taken such action with regard to Porto Rico, the court held that "the island of Porto Rico is not a part of the United States within the provision of the Constitution which declares that all duties, imposts, and excises shall be uniform throughout the United States." That was exactly the decision which Mr. Justice White, and Mr. Justice Holmes concurring, followed in the matter of *Pearcy against Stranahan*. So it is laid down here by Mr. Justice Brown:

A long-continued and uniform interpretation, put by the executive and legislative departments of the Government, upon a clause in the Constitution should be followed by the judicial department.

Which, if I may say in all respect, of course was not followed in the obiter dictum laid down by the Supreme Court in the case of *Pearcy against Stranahan*.

It is very interesting to note that this opinion, which was rendered by Mr. Justice Brown, and another, rendered by Mr. Justice White, concurred in by Mr. Justice Shiras and Mr. Justice McKenna, agreed as to the relationship of Porto Rico to the United States, as far as the collection of revenue was concerned. I quote further:

The Government of the United States was born of the Constitution, and all powers which it enjoys or may exercise must be either derived expressly or by implication from that instrument. Even then, when an act of any department is challenged because not warranted by the Constitution, the existence of the authority is to be ascertained by determining whether the power has been conferred by the Constitution, either in express terms or by lawful implication, to be drawn from the express authority conferred or deduced as an attribute which legitimately inheres in the nature of the powers given, and which flows from the character of the Government established by the Constitution. In other words, whilst confined to its constitutional orbit, the Government of the United States is supreme within its lawful sphere.

Every function of the Government being thus derived from the Constitution, it follows that that instrument is everywhere and at all times potential in so far as its provisions are applicable.

Hence it is that wherever a power is given by the Constitution and there is a limitation imposed upon the authority, such restriction operates upon and confines every action on the subject within its constitutional limits.

Consequently it is impossible to conceive that where conditions are brought about to which any particular provision of the Constitution applies, its controlling influence may be frustrated by the action of any or all of the departments of the Government.

You see, Mr. President, that was so clear in the case of *Pearcy* against *Stranahan*. The court said:

It is impossible to conceive that where conditions are brought about to which any particular provision of the Constitution applies, its controlling influence may be frustrated by the action of any or all of the departments of the Government.

So it will be seen that the court itself might improperly, if I may say with respect, frustrate the legitimate action of government.

Those departments when discharging within the limits of their constitutional power the duties which rest on them may, of course, deal with the subjects committed to them in such a way as to cause the matter dealt with to come under the control of provisions of the Constitution which may not have been previously applicable. But this does not conflict with the doctrine just stated, or presuppose that the Constitution may or may not be applicable at the election of any agency of the Government.

The Constitution has undoubtedly conferred on Congress the right to create such municipal organizations as it may deem best for all the Territories of the United States, whether they have been incorporated or not, to give to the inhabitants as respects the local governments such degree of representation as may be conducive to the public well-being, to deprive such Territory of representative government if it is considered just to do so, and to change such local governments at discretion.

That is great power, Mr. President, remarkably well expressed in the language of this decision. I continue the quotation:

As Congress in governing the Territories is subject to the Constitution, it results that all the limitations of the Constitution which are applicable to Congress in exercising this authority necessarily limit its power on this subject. It follows also that every provision of the Constitution which is applicable to the Territories is also controlling therein. To justify a departure from this elementary principle by a criticism of the opinion of Mr. Chief Justice Taney in *Scott v. Sandford* (19 How. 393) is unwarranted. Whatever may be the view entertained of the correctness of the opinion of the court in that case in so far as it interpreted a particular provision of the Constitution concerning slavery and decided that as so construed it was in force in the Territories, this in no way affects the principle which that decision announced that the applicable provisions of the Constitution were operative.

In the case of the Territories, as in every other instance, when a provision of the Constitution is invoked, the question which arises is not whether the Constitution is operative, for that is self-evident, but whether the provision relied on is applicable.

As Congress derives this authority to levy local taxes for local purposes within the Territories, not from the general grant of power to tax as expressed in the Constitution, it follows that its right to locally tax is not to be measured by the provision empowering Congress "to lay and collect taxes, duties, imposts, and excises," and is not restrained by the requirement of uniformity throughout the United States. But the power just referred to, as well as the qualification of uniformity, restrains Congress from imposing an impost duty on goods coming into the United States from a Territory which has been incorporated into and forms a part of the United States.

Which had not been done as yet in the case of *Porto Rico* and which has never yet been done in the case of the *Isle of Pines*.

This results because the clause of the Constitution in question does not confer upon Congress power to impose such an impost duty on goods coming from one part of the United States to another part thereof, and such duty besides would be repugnant to the requirement of uniformity throughout the United States.

Then Mr. Justice Gray said:

The civil government of the United States can not extend immediately and of its own force over territory acquired by war. Such territory must necessarily, in the first instance, be governed by the military power under the control of the President as commander in chief.

That, it will be recalled, in the case of *Cuba* was done by General Wood, who first had military control of *Cuba* and at the same time had military control over the *Isle of Pines*, and then later the control of the *Isle of Pines* was given over to *Cuba*, the de facto government—not the legal government, not the de jure government, but the de facto government—and so, as Mr. Justice Gray said:

The civil government of the United States can not extend immediately and of its own force over territory acquired by war. Such territory must necessarily, in the first instance, be governed by the military power under the control of the President as commander in chief. Civil government can not take effect at once, as soon as possession is acquired under military authority, or even as soon as that possession is confirmed by treaty. It can only be put in operation by the action of the appropriate political department of the Government, at such time and in such degree as that department may determine.

So in the case of the *Isle of Pines*. The *Isle of Pines* has never even yet been incorporated in the United States. Therefore for the purposes of taxation it must of necessity be considered foreign soil.

To continue the quotation from Mr. Justice Gray:

In a conquered territory, civil government must take effect, either by the action of the treaty-making power, or by that of the Congress of the United States. The office of a treaty of cession ordinarily is to put an end to all authority of the foreign government over the territory; and to subject the territory to the disposition of the Government of the United States.

But the Congress determined that it would not incorporate the *Isle of Pines* into the territory of the United States, as I feel it could have done, because in my opinion we acquired title to the *Isle of Pines* through Article II of the treaty of Paris, which is the identical article of the treaty which gave us *Porto Rico* and which we afterwards incorporated into our territory. If we had chosen to incorporate the *Isle of Pines* and made it a part of our country in that sense, then of course the *Isle of Pines* would have had a territorial government and would have had the same freedom from duties and taxes that any other section of the United States would have. Mr. Justice Gray continues:

The government and disposition of territory so acquired belong to the Government of the United States, consisting of the President, the Senate, elected by the States, and the House of Representatives, chosen by and immediately representing the people of the United States.

So long as Congress has not incorporated the territory into the United States, neither military occupation nor cession by treaty makes the conquered territory domestic territory, in the sense of the revenue laws. But those laws concerning "foreign countries" remain applicable to the conquered territory, until changed by Congress.

If Congress is not ready to construct a complete government for the conquered territory, it may establish a temporary government, which is not subject to all the restrictions of the Constitution.

In this case, so far as the *Isle of Pines* is classed, instead of getting it to incorporate in our territory and get a government of its own, it chose deliberately to turn it over for the de facto administration of the *Cuban Republic*, where it remains to-day.

Mr. President, I am well aware that this long and possibly specious argument has not convinced any of the proponents of the treaty, because the proponents of the treaty have not been here. In all probability they would not have been convinced had they been here.

A man convinced against his will  
Is of the same opinion still.

But, Mr. President, it will be recalled that in the church to which you and I belong, sir, they sometimes sing that old song:

While the lamp holds out to burn,  
The vilest sinner may return.

So I hope that some influence, which must be far above that which I possess, may bring to you, sir, new light on the subject so that you may take the same view of it which the Senator from New York holds.

When I was diverted into this long rambling departure from my main argument I was reading a letter from Col. T. J. Keenan, of Pittsburgh, Pa. I will now resume the reading of that letter.

When the writer visited the *Isle of Pines* and erected a home early in 1901, there was absolutely no question from any source as to the American title to the island.

To that statement I think we must agree. I exceedingly regret that the *Platt* amendment was ever enacted. If it had not been, I doubt if there would be to-day the slightest question in the mind of any person who examined at all into the merits of this question that the *Isle of Pines* is American territory. The adoption of the *Platt* amendment on March 2, 1901, was unfortunate. It was unfortunate, in my judgment, for several reasons. In the first place, it seems to me like the act of a



bully for this powerful Government to say to the little Republic of Cuba, which had just been born, "You must change your constitution; you must add to it certain articles." As all the world knows, those articles were added by the constitutional convention of Cuba.

Some of the articles of the Platt amendment are very important, and I think that they have been of great value to the people of Cuba and to the people of the United States; but there might have been found, it seems to me, some other way than the one which was chosen by Congress at that particular time. The debates in Congress at that period indicate that there was serious difference of opinion as to the propriety at least of some of the articles of the Platt amendment. The first article of the Platt amendment denied to Cuba the right to impair her independence by treaty with a foreign power. That article, which is in force now because it is a part of the constitution of Cuba, was forced into that constitution by the action of this Congress. It deprives Cuba of any right to make any treaty with a foreign power which might impair her independence.

The other day, Mr. President, a Member of the Senate said that we would hesitate to impose upon Cuba any obligation as to the future rights of American citizens in the Isle of Pines should the Isle of Pines be turned over by treaty to the Republic of Cuba; in other words, in case this treaty should be ratified. The question raised by that Member of the Senate was that we would not impose upon a sovereign power any obligation to do this, that, or the other thing. Yet when we made Cuba a free nation we did impose upon Cuba, by action of the Congress, certain duties and responsibilities. I think I am right in saying that we bullied Cuba and forced her into a position relative to these matters.

The second article of the Platt amendment defines Cuba's fiscal policy. If there is anything a good American resents it is to be told how much money he can spend and how much he can not spend. I had the pleasure, Mr. President, to visit my dear old father and mother on last Friday. My father was 87 years of age on that day and it was the sixty-third anniversary of my parents' wedding. My father, a New England Yankee, believing in thrift, insisted on knowing whether or not I was saving any money. I think he was leading up to asking me what I intended to do with the \$2,500 a year extra which Congress has voted each of us. Of course, one will take such a question from his father, but if anybody else talks to him about how he is going to spend his money and whether he is going to save it and what he is going to do with it, he is apt to resent it a little bit.

However, Mr. President, we did not hesitate in the second article of the Platt amendment to tell Cuba how she should spend her money. We determined what should be her fiscal policy. Article III recited the right of the United States to intervene to preserve the independence and repose of Cuba. It gave us the right to go down there at any time when some persons may stir up a revolution and create enough sentiment here to give the spectacular newspapers an opportunity to say that great outrages are being perpetrated in the island of Cuba which deserve the immediate attention of the United States. In such contingencies resolutions are passed by the thousand, and petitions by the hundreds come to the Senate demanding intervention in Cuba. We did go down to Cuba and intervene a second time. So Congress decided to fix matters so that we could go at any time; and the Platt amendment, which we forced Cuba to write into her constitution, recites the right of the United States to intervene. For what? For the ostensible purpose of preserving the independence and repose of Cuba.

Mr. President, Article IV of the Platt amendment validated the action of the military authorities of the United States during the occupancy of Cuba. I suppose we feared that by reason of the acts which were perpetrated by our military forces we should get a release, and so this particular article of the Platt amendment provides for that release.

The fifth article guaranteed the sanitation of Cuba. It will be recalled, Mr. President, that when we first occupied Cuba yellow fever was prevalent there. One of the most remarkable advances in sanitary science was put in effect by General Gorgas. I am proud to think that an American did this great work. Americans discovered that not only is malaria carried by the mosquito but that yellow fever is so conveyed.

Some of our brave soldiers permitted themselves to be shut in rooms, screened off from the possible admission of mosquitoes, and there slept upon bedding moist with the secretions of persons who died of yellow fever, in order to make clear that it was not the excretions or secretions or emanations of the victim of yellow fever which made possible the transmis-

sion of that disease to other persons, but that it has to be carried through the intermediary of a mosquito.

I am surprised, Mr. President, that the Congress of the United States would do so human a thing as to give thought to the health of the people. I recall that when the tax bill was pending last year I proposed an amendment to exempt from taxation losses incurred by reason of sickness, including doctors' bills, medicine bills, nurses' bills, and hospital bills. The Senator from Utah [Mr. Smoot], mistaking the point entirely, asked, "You are not serious about this, are you?" I replied, "I certainly am." He said, "If you are going to do something for the doctors, why do you not do it for the lawyers?" I answered, "The lawyers are already in the bill." He said, "I will defy you to show where the lawyers are in the tax bill." I replied, "The bill provides exemptions for losses incurred by reason of theft and other casualties, and that covers the lawyers." That got a laugh from the Senate, but it did not help put my amendment in the bill. Afterwards I asked one of the venerable Members of this body what was wrong with my proposal. He answered, "Well, the purpose of government is to protect property." When I thought about that it disturbed me, and I spent practically the entire summer last year studying the Constitution and its origin. I was amazed to find that in the Constitutional Convention the thread ran all through that the purpose of government is to protect property.

Mr. President, I dispute that with all the strength of my body and soul. The purpose of government is to serve humanity. So, while I find fault with the spirit of the Platt amendment in many respects, I am glad that it contained that provision in regard to sanitation in Cuba, because it guaranteed that not alone should the Cuban people be protected but our people should also be protected by wiping out the source of infection. So that was one of the clauses of the Platt amendment.

Then we come to Article VI, which says:

That the Isle of Pines shall be omitted from the proposed constitutional boundaries of Cuba, the title thereto being left to future adjustment by treaty.

It is that article of the Platt amendment, forced into the constitution of Cuba by action of the this Congress, which raised a doubt as to the ownership of the Isle of Pines, and which, as I have said before in this body, placed a moral mortgage upon the title of the United States to that island. So long as the Platt amendment remains in force, there is a mortgage upon that title which I think no fair-minded person can disregard. That is one reason why I am so insistent that the Senate shall commit this subject to a committee, because if it were not for that mortgage placed upon the title by the action of Congress in passing the Platt amendment I should insist, so far as I am concerned, that the title to the Isle of Pines is in the United States, and that we should proceed to incorporate it in the territory of the United States. Candor forces me to state, however, that with that mortgage upon the title we can not take possession of the Isle of Pines without the consent of Cuba.

Mr. President, I begin to feel a sense of relief. I find that more and more of the real leaders of the Republican Party are appearing, and I feel hopeful that the differences which existed have been ironed out, and that soon there will be transmitted to the Senate the message of what it is the Senate's duty to do in the matter of the confirmation of an Attorney General.

So, to revert to the letter of Colonel Keenan, he says:

When the writer visited the Isle of Pines and erected a home early in 1901 there was absolutely no question from any source as to the American title to the island.

He was there, you see, before the mortgage of the Platt amendment had been placed upon this title.

Continuing, Colonel Keenan's letter says:

Not only had assurance of such title been officially given to various inquiries addressed to the Government at Washington and by President McKinley to personal friends—

I should be glad to direct the attention of the Senator from Ohio [Mr. Fess], now in the chair, to this statement, because I was much impressed yesterday by his insistence that President McKinley never had expressed himself on this subject. Here is a witness, Mr. President, who should be a competent witness to bring to the committee any evidence which he may possess as to the actual attitude of President McKinley, because he says this in the letter:

Not only had assurance of such title been officially given to various inquiries addressed to the Government at Washington and by President McKinley to personal friends—



I have no testimony on the subject, but I wish that might be followed out; and I had in mind, after hearing the Senator from Ohio yesterday, that I should attempt to find from Colonel Keenan what he knows about any statement which may have been made by President McKinley—

but the island had by the direction of the President himself been placed upon the official map of the United States and its colonies. The United States Government had even issued a pamphlet of information for the benefit of prospective settlers in the new American territory.

That was so ably presented yesterday by the Senator from Ohio [Mr. WILLIS], who brought before the Senate the copy of that particular pamphlet which emphasized the many attractions of the Isle of Pines that after one read that pamphlet he would wonder why anybody would want to go to heaven instead of going to the Isle of Pines, because it certainly did give a picture of a most marvelous piece of ground; and when my colleague [Mr. WADSWORTH] a day or two ago spoke about the lack of fertility of the Isle of Pines and its uselessness generally I regretted that he did not hear the words used by the Senator from Ohio, quoted from this particular description of the Isle of Pines.

Here is a very important statement made by Colonel Keenan:

The Catholic Church, regarded as an authority in Spanish-American countries, had formally attached the island to the diocese of Florida instead of that of Habana.

According to this statement, there had been a formal transfer of the Isle of Pines from the diocese of Habana to the diocese of Florida. That is a very important statement. I want to read it again.

Mr. BLEASE. Mr. President, whose letter is that?

Mr. COPELAND. This is a letter of Colonel Keenan, of Pittsburgh, a large owner in the Isle of Pines:

The Catholic Church, regarded as an authority in Spanish-American countries, had formally attached the island to the diocese of Florida instead of that of Habana, and innumerable publications, official and unofficial, classed it—

#### Meaning the Isle of Pines—

with Porto Rico, the Philippines, and other territory that had come to the United States as a result of the war with Spain. To cite a single instance, that standard work, *Our Islands and Their People*, published the year following the Spanish-American War, and edited by Gen. Joseph Wheeler, one of the heroes of that war—a book which reached a greater circulation than any similar publication had ever attained—says, in referring to the Isle of Pines—

This is a quotation from Gen. Joseph Wheeler's book—

as one of the fruits of her recent victory over Spain, the United States acquired by right of conquest the beautiful West Indian region known as the *Isla de Pinos*, which translated signifies the Isle of Pines.

So apparently General Wheeler, one of the heroes of the war, whose statue was unveiled to-day in Statuary Hall, a great publicist, familiar with all the details of the matter, had not the slightest doubt, as this quotation indicates, that the Isle of Pines was acquired by the United States by right of conquest.

Continuing the quotation from the letter of Colonel Keenan:

The text of official utterances from Acting Secretary of War Meiklejohn, General Pershing, and others, which the above quotation reflects, have already been laid before the Senate and need not be repeated here.

You will recall those letters—the letter of Mr. Meiklejohn, Assistant Secretary of War and at one time Acting Secretary of War; General Pershing, at that time an officer in the War Department; and others who wrote in reply to inquiring persons that the Isle of Pines was American territory. It is all a matter of record. I do not think we can refer to them too frequently, because they indicate the responsibility of our Government in this matter of the purchase of land in the Isle of Pines by American citizens. Sneer at it as we may, the fact remains that the Assistant Secretary of War, Mr. Meiklejohn, on August 14, 1899, directed John J. Pershing, Assistant Adjutant General, to write to George Bridges, of Carlisle, Pa. Mr. Bridges had said he was no land-grabber, but desired to operate sawmills on the island. General Pershing replied:

This island was ceded by Spain to the United States, and is, therefore, a part of our territory, although it is attached at present to the division of Cuba for governmental purposes.

On January 13, 1900, and January 15, 1900, Mr. Meiklejohn again replied to correspondents, stating that the Isle of Pines was a part of our territory.

Mr. BLEASE. Mr. President—

The PRESIDING OFFICER (Mr. Fess in the chair). Does the Senator from New York yield to the Senator from South Carolina?

Mr. COPELAND. I yield.

Mr. BLEASE. I should like to ask the Senator if he can tell us to what religious denomination the Americans in that island belong?

Mr. COPELAND. I think the Americans are all Protestants.

Mr. BLEASE. I thank the Senator.

Mr. COPELAND. I have been so told by persons who know. So that is what Mr. Keenan means when he says:

The text of official utterances from Acting Secretary of War Meiklejohn, General Pershing, and others, which the above quotation reflects have already been laid before the Senate and need not be repeated here, but as a matter of personal knowledge I wish to state that President Roosevelt himself previous to the negotiations of the Hay-Quesada treaty favored the American annexation of the Isle of Pines; that Secretary of State Hay openly stated that the treaty did not represent his personal views, which coincided with those of President McKinley, and that P. C. Knox, Attorney General in the Roosevelt Cabinet, refused to concur in the opinion that the Isle of Pines should be surrendered to the Cuban Republic.

This is an interesting statement from Colonel Keenan, because if this statement can be verified, it shows that prominent officials knew the fact, and opposed the treaty which has been pending here for 21 years, and which we seem to be under some obligation to ratify this week. It seems to me that a treaty which has been pending 21 years might well be put over for six months while American citizens by the hundreds, our own flesh and blood, of our own Nation, should be given the privilege of explaining their desires to Senators of the United States. It seems to me that we might well wait a few more months and do this in a decent way rather than now, after waiting all these years, by unseemly haste to rush into a decision.

Continuing the letter from Colonel Keenan:

Even the Cuban officials from President Palma down with whom I talked in Habana in 1901, and previous to the American evacuation in 1902, voiced the universal impression that the Isle of Pines was American territory, and many of them, in view of this fact, advised me to increase my investments on the island.

The national responsibility is piling up if this man tells the truth. He was advised by responsible persons that this island belonged to us, and he was advised to increase his holdings in the island.

As the result of this advice—

You know, Mr. President, Lincoln said he was the most advised man in the world. I suppose every man, looking back on his own life, would feel that he was the most advised man in the world, but there is one good thing about advice—you do not always take it. There is no obligation resting upon you to do so, but it seems that Colonel Keenan took the advice that was offered him. So I continue his letter:

As a result of this advice, in which Gen. Leonard Wood, the military governor of Cuba, concurred—

Here is another witness, Mr. President, who can be called in, a man still with the Government, now in the Philippines. This writer quotes him:

As a result of this advice, in which Gen. Leonard Wood, the military governor of Cuba, concurred—

The present occupant of the chair [Mr. Fess], who spoke yesterday, said that a remarkable thing about this whole transaction is that reference is made always to dead men. Here is a living one to whom reference has been made:

As a result of this advice, in which Gen. Leonard Wood, the military governor of Cuba, concurred, I largely increased my holdings on the Isle of Pines, and invested over \$50,000 in buildings and other permanent improvements.

I did not know there was that much money in the world, but this man bought \$50,000 more of property in the Isle of Pines because persons in authority, including General Wood, as he says, advised him to do this.

I largely increased my holdings on the Isle of Pines and invested over \$50,000 in buildings and other permanent improvements. My total investment of approximately a quarter of a million dollars was all made under what I regarded as unquestionable assurances that the Isle of Pines would remain American territory.

A quarter of a million dollars! I do not know Colonel Keenan. A quarter of a million dollars may be to him what a postage stamp would be to me; but he made this investment,



That is not the worst of it, however. There were others who made investments, who did not have a quarter of a million dollars, who could not, on the advice of anybody, invest \$50,000 more. They invested a few hundred dollars, or a thousand dollars, or two or three thousand dollars. They built little homes, and planted orange and grapefruit trees. They cultivated the soil, and made it, as I said, to bloom like the rose. They put all they had into the Isle of Pines, because they thought it was American territory.

I continue reading from the letter of Colonel Keenan:

As to the attitude of Secretary Hay and Attorney General Knox I have already submitted affidavits which are, I believe, in the possession of Senator UNDERWOOD. The views of Governor Wood are clearly set forth in the following set of resolutions which by his advice—

Once more, Mr. President, here is a reference to a man who is alive. He can be brought before the committee. He can be asked whether these statements are true or not. He must know a lot about what was going on down in Cuba, for he was down there a long time. This correspondent says:

The views of Governor Wood are clearly set forth in the following set of resolutions which by his advice were submitted and approved by a meeting of American settlers held at Nueva Gerona, Isle of Pines, on January 25, 1902.

I quote the resolution:

Whereas the treaty of Paris and the act of the United States Congress, commonly called the Platt amendment, plainly foreshadow that the Isle of Pines, a territory at present within the jurisdiction of the War Department of the United States Government, is to become a permanent possession of the United States—

This was in 1902. These were some resolutions which this writer, Colonel Keenan, says were prepared on the advice of General Wood:

And whereas large investments in real estate and improvements upon the island have been made under the assurances of future ownership by the United States Government; and

Whereas any period of transition from the present military government (with which we desire to express our entire satisfaction) to a permanent civil administration must be a period of unrest and uncertainty; and

Whereas it is our firm belief that as United States territory the Isle of Pines, with its exceptional advantages of soil, climate, and geographical location, will become one of the most favored and prosperous spots on earth:

*Resolved*, That we, the undersigned property owners and residents on the Isle of Pines, representing in our own persons or as authorized agents the ownership of more than one-half the area of the Isle of Pines, respectfully petition that the formal acquisition of the island by the United States be accomplished as speedily as possible; and we earnestly hope that whatever change in government such acquisition may involve may be a change in form only, and that the flag of the United States, which for more than three years has floated above our island, may never be hauled down.

Colonel Keenan continues:

While Governor Wood, after carefully reading the above resolutions, informed me that they exactly expressed his own sentiments—

Now, it can be seen, Mr. President, that here is reference to a man who is alive, who is quoted. I do not know whether this is true or not. I am assured that the gentleman who writes this letter is a man of character.

I never saw him but once in my life and that for about 10 minutes. He came into my office, having flown from the Isle of Pines by airplane over to Key West. He is an able-bodied man who seemed to me to possess the qualifications of manhood and uprightness which characterize every American citizen. He said, to repeat:

While Governor Wood, after carefully reading the above resolutions, informed me that they exactly expressed his own sentiments, he made one suggestion regarding them with which I could not agree. I told the general that the resolutions dealt with a subject of such great importance that I thought they should be addressed to the President of the United States. General Wood insistently urged, however, that they be addressed to the Secretary of War. When I explained the general's views to my fellow colonists on the Isle of Pines, they unanimously agreed with me that the resolutions should go direct to the President. A final decision in the matter was, however, left to my judgment, as it was fully recognized that the influence of the governor would be potential in securing the early annexation of the Isle of Pines to the United States.

That was the ambition of those persons in the Isle of Pines, that there should be a speedy incorporation of the Isle of Pines into the territory of the United States in order that there should be no doubt at all as to the ownership and particularly as to the administration of the island after the military occupation should end.

Returning again to the letter:

Immediately after the passage of the resolutions I left the island for Habana en route to Washington. Calling upon General Wood I asked if he would not formally approve the resolutions that had been passed at his suggestion. He said that his official position made it inadvisable to do this, but that he would do the next best thing by giving me a letter of introduction to Secretary of War Root to accompany the resolutions. This letter read as follows:

HEADQUARTERS MILITARY GOVERNOR, ISLAND OF CUBA,  
Habana, January 27, 1902.

HON. ELIHU ROOT,  
Secretary of War.

DEAR MR. SECRETARY: Permit me to introduce to you Col. T. J. Keenan, of Pittsburgh, Pa., a large landowner in the Isle of Pines and one who has done much to improve and develop the island.

Yours sincerely,

LEONARD WOOD.

When I reached Washington a few days later I showed the resolutions to Senators Quay and Penrose, of Pennsylvania, with an explanation of the circumstances relating to their adoption. Both of the Senators advised me to take the resolutions to President Roosevelt, volunteering to accompany me. On the following day we met the President by appointment at the White House. I handed him the resolutions and letter of introduction from General Wood as well as the following letter of explanation:

NUEVA GERONA, ISLE OF PINES,  
January 25, 1902.

HON. ELIHU ROOT,  
Secretary of War, Washington, D. C.

DEAR SIR: At a meeting of the American residents and property holders of the Isle of Pines held at the Isle of Pines Hotel in Nueva Gerona on Friday evening, January 24, the accompanying resolution was passed by a unanimous vote.

The resolution was subsequently circulated as a general petition and signed not only by those present but by a large proportion of the native property holders of the island.

Very respectfully yours,

CHARLES RAYNARD, Secretary.  
T. J. KEENAN, Chairman.

Senators Quay and Penrose explained to the President that I had brought the resolutions to him at their suggestion, as they regarded the question of territorial acquisition of sufficient importance to warrant presidential consideration.

President Roosevelt read the resolutions and accompanying letters carefully and said:

"I am glad that you took the advice of your Senators and brought these papers to me. The subject interests me very much, as I am anxious, if possible, to retain the Isle of Pines. Although the resolutions are addressed to the Secretary of War, I would suggest that you leave them with me, and I will myself hand them to Mr. Root."

That President Roosevelt kept his promise to personally transmit to Secretary Root the papers I had left with him is demonstrated by the production of those papers by the War Department in response to a request conveyed in a resolution of the Senate. They are printed on page 108, Senate Document 166.

On May 20, 1902, about four months after my interview with President Roosevelt, General Wood formally transferred the Government of Cuba to the duly elected President of the new Republic, Estrada Palma. I was present at the inaugural ceremonies in the presidential palace in Habana and talked freely with the leading Cuban officials who were in attendance. I heard no dissent from the general opinion that the constitutional omission of the Isle of Pines from Cuban territory, in accordance with the Platt amendment, was a preliminary step toward annexation of the island to the United States. This was undoubtedly the view of the matter taken by General Wood when he informed me less than a week before the inauguration of President Palma that he intended, when he evacuated Cuba, to send a military force to hold the Isle of Pines. Telegraphic orders received at the last moment from Secretary of War Root changed this decision, as he afterwards explained.

That Secretary Root persuaded President Roosevelt, against the latter's own better judgment, to order the preparation of the Hay-Quiesada treaty, I have never had the slightest doubt.

The writer brings out the fact it will be seen that the territory was not prized previous to American occupation. It was a very poor territory—I mean poor in the sense of more or less



poverty-stricken persons living there. I was much impressed by the report of the census to which reference was made by a Senator a few weeks ago. He gave emphasis, I thought, to the persons of superior education in the Isle of Pines at the time the enumeration was taken in 1899.

Mr. McKELLAR. Mr. President, may I ask the Senator a question?

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Tennessee?

Mr. COPELAND. I yield.

Mr. McKELLAR. I understand there are on the island about 900 white people—Americans—and 4,000 Cubans. Is that correct?

Mr. COPELAND. I think that is about right.

Mr. McKELLAR. And, of course, if the Americans are left there, they will be under the absolute domination and control, locally—

Mr. COPELAND. And politically.

Mr. McKELLAR. Yes; and politically, of the Cubans. I also understand that of the 4,000 Cubans practically none of them can read or write in any language.

Mr. COPELAND. That is the point I was about to bring out.

Mr. McKELLAR. And what the American Government will be doing if the treaty is ratified, as I understand it, after having invited the 900 white people to go there and settle on that island as American territory and after they have acquired 90 per cent of the real estate of the island, is then to turn them over to the tender mercies of the colored population of the island, practically all of whom can not read or write, and put those white persons under their dominion and control. I take it that it is hardly humane to treat American citizens in that way. Of course, Congress, as I look at it, will have to take the back track if we attempt to turn the island over to Cuba and turn these white people over to the dominion and control of the colored population of that island, and that for humanitarian reasons, if for no other reason, we will have to pay the American citizens for their holdings in the island—for their property in the island—and in addition to that we will have to bring them back to America. May I ask the Senator if that is not the situation?

Mr. COPELAND. I may say that undoubtedly there will be complications very difficult to deal with. Let me warn the Senator that unless the Republicans are ready to proceed with the confirmation of the nomination of an Attorney General I do not want to be ruled off the floor, so I hope the Senator will not speak too long.

Mr. McKELLAR. If there is any intention to take advantage of the rule in that way, I do not want to deprive the Senator from New York of his rights.

The PRESIDING OFFICER. The Chair will protect the Senator from New York until objection is made.

Mr. COPELAND. I thank the Chair.

Mr. McKELLAR. Why not send the treaty back, if we can not do any better, with request to the President to negotiate a treaty in keeping with the facts as they are to-day, and not the historic facts as they were twenty-odd years ago. The entire situation has changed. Why ratify a treaty that was made so long ago? The statute of limitations has run against the treaty. Two Presidents passed by without ever knowing there was a suggestion of such a treaty. If they did, they never made it known to the Senate.

Mr. BRUCE. Mr. President, I serve warning that I propose to raise the point of order if the Senator from Tennessee continues.

Mr. McKELLAR. I ask the Senator from New York if he does not agree with that state of facts?

Mr. COPELAND. I must reserve my right to the floor and proceed.

What the conditions were previous to the American occupation will probably be the most illuminating answer which I could possibly make to the Senator from Tennessee. I have here the report of the census of Cuba made by the War Department in 1899. At that time there were 3,199 persons on the island, a total population of 3,199. There were 1,782 males and 1,417 females. There were 2,480 natives and 190 foreign whites, according to the census. Of these persons 2,990 appeared to be natives, at least; whether born there or not, I do not know. But here is the interesting thing: A Senator said, or I thought the inference from his statement was, that the educational facilities were so superior that everybody was educated, but that there were 22 persons who had what might be called technically a superior education. Now, what are the facts? Of the Cuban citizenship of the males who can neither read nor write there are 316; who can read but not write, there are 2; who can read and write, there are 283. Out of 617

male natives more than half could not read or write. Of the colored persons, there were 110 who could not read or write, and only 33 who could read and write.

The school attendance is interesting. Of children under 10 years of age, only 38 attended school; 784 did not go to school at all.

Mr. McKELLAR. Mr. President, will the Senator from New York yield to me?

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Tennessee?

Mr. COPELAND. I yield for a question.

Mr. McKELLAR. Certainly the people down there do not need any schooling to rule over and dominate and control the 900 Americans whom we have sent down there?

Mr. COPELAND. Of the children of what we call school age, above 10 years of age, attending school, there were 37, and of the children of school age who could not read or write there were 1,343; of those who can read and write there were 954. Three-fourths of those children of school age could not read or write. That shows how little interest was taken in the Isle of Pines before American occupation. Wherever there is civilization the first effort is to disseminate knowledge. Schools are the means of education; so are the churches and other uplifting organizations. So Colonel Keenan says:

I heard Gonzalo de Quesada make the first declaration of Cuba's intention to demand the Isle of Pines. I know that that demand was inspired solely by a realization that American settlement and development had given a new value to a despised and neglected territory.

Mr. President, was it not despised and neglected when three-fourths of the children of school age could not read or write? Colonel Keenan continues:

I have seen the demand grow proportionately insistent as Cuban cupidity became more and more excited by the growing value of the Isle of Pines. I know that if the island is turned over to them by a vote of the United States Senate it is the intention of the Cubans to drive away the American colonists by a campaign of persecution and repression and gain possession of their property. The treatment which the colonists have already received at the hands of the carpet-bag Cuban officials is ample evidence of what is in store for them when those officials no longer fear the restraining hand of Uncle Sam.

Quoting further from Colonel Keenan's letter:

I venture to predict that the fate of the American colony on the Isle of Pines under unrestricted Cuban rule would lie heavily upon the conscience of every Member of the United States Senate who voted for the approval of the Hay-Quesada treaty. At the very moment when our Government is wrestling with Holland, the most competent of colonial administrators, for possession of an insignificant islet in the vast Philippine Archipelago, it is proposed to turn over to a weak and incompetent Government an island of great strategic and commercial value as large as an American State and only 160 miles distant from our own coast line.

As publisher of a Pittsburgh newspaper, I strongly supported the cause of Cuban independence in 1897 and 1898, for I had in the former year witnessed in Cuba the inauguration of Weyler's inhuman recontra policy; a policy which in a few months wiped out one-fourth of the Cuban population. At the time of the establishment of the independent Cuban Government, my prejudices were all in favor of the new Republic, but aside from my own unpleasant experiences with Cuban officials on the Isle of Pines I have found nothing but black ingratitude toward the United States on the part of the Cuban Government and people. The advice of the United States on matters of vital importance that came plainly within the purview of the Platt amendment has been openly flouted, and the platform upon which the present President of Cuba was elected declared boldly for the abrogation of the amendment itself.

Mr. KING. Mr. President—

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Utah?

Mr. COPELAND. I will yield for a question.

Mr. KING. I wish to be entirely frank with the Senator. I wish to introduce a resolution, to have it read, and then have it lie upon the table, if the Senator will consent to yield to me for that purpose.

Mr. COPELAND. Mr. President, if my yielding does not endanger my possession of the floor, I will yield.

Mr. KING. I do not think it will do so; and if it does, I shall not press the request.

Mr. SMOOT. The only objection to the Senator from New York yielding to my colleague would be that the presentation of a resolution by my colleague might be considered business; and so the Senator from New York on resuming the floor would be making his second speech during the day.



The PRESIDING OFFICER. The Chair will say to the Senator from New York that he will protect him so long as he proceeds in order.

Mr. KING. I will not press my request for a moment.

Mr. COPELAND. Let me say, Mr. President, that I have no objection at all, if it shall be a parliamentary procedure, to the introduction of the resolution by the Senator from Utah, but I do not want it to interfere with my rights.

Mr. KING. It might do so, and so I shall not press the request for the moment.

The PRESIDING OFFICER. The Senator from New York will proceed.

Mr. COPELAND. Of course, this statement made by Colonel Keenan is a very strong one, and I do not vouch for it, but it is a statement which should be verified by the Senate or else disproven. Colonel Keenan says:

The advice of the United States on matters of vital importance that came plainly within the purview of the Platt amendment has been openly flouted, and the platform upon which the present President of Cuba was elected declared boldly for the abrogation of the amendment itself. It is openly boasted in Habana that as soon as Cuba has secured the Isle of Pines under the provisions of the Platt amendment repudiation of that document will follow as a matter of course.

In this connection I desire to read a statement which was mailed to me by a correspondent in which there is copied a quotation, as the writer says, from a reputable magazine. I do not wish to insert a lot of hearsay material in the Record, but I do want to put this into the Record for the purpose of further study and investigation. The quotation is as follows:

July, 1923, the Cuban Congress passed a joint resolution condemning American interference and urging that "all parties unite in order to impress upon the Government of Cuba and the United States that the Cuban people do not desire any outside interference with their civil affairs," and hinting that any such interference might end in the breaking of the moral and historical ties which have hitherto bound our country to the great Republic of North America.

I simply speak of that at this moment because it is apropos the statement made to me in the letter of Colonel Keenan from which I have been reading and to which I desire again to direct my attention.

And yet Secretary Root in a letter to Senator T. C. Platt on December 18, 1903, found in Senate Document 166, at page 284, after declaring that Assistant Secretary Meiklejohn and Assistant Adjutant General Pershing had no authority to say that the Isle of Pines was American territory, concludes:

"I also think, however, that the Americans who settled in the island could not be expected to know whether it was a part of the duty of an Assistant Secretary of War to decide or make representations about the title of the island, and that they have a strong equitable claim to have our Government to take special pains to see that their rights are protected."

That is the letter of Secretary Root to Senator T. C. Platt, dated December 18, 1903.

Who can dispute the logic of that statement. I have heard on the floor of the Senate statements belittling the importance of Assistant Secretary Meiklejohn's letters, whether he acted as Assistant Secretary of War or as Acting Secretary of War; but I ask you, Mr. President, who can doubt that the average American citizen, reading the letters written by Mr. Meiklejohn and by General Pershing, reading the pamphlet issued by the Government calling attention to the beauties and the desirability of the Isle of Pines, and gazing upon any one of these maps, whether issued in 1899 or 1900 or 1901 or 1903—who can doubt that any average citizen, with that evidence before him, would naturally form the conclusion that the Isle of Pines is American territory and a suitable place for an American to make his domicile who desires at the same time to live under the Stars and Stripes.

There is not any doubt in my mind, Mr. President—not the slightest doubt—that that would be the logical conclusion for any person, no matter how intelligent, no matter how well informed, except he had expert knowledge of government, to reach regarding the ownership of this island.

So Secretary Root well says in this letter:

I also think, however, that the Americans who settled in the island could not be expected to know whether it was a part of the duty of an Assistant Secretary of War to decide or make representations about the title of the island, and that they [such citizens] have a strong equitable claim to have our Government take special pains to see that their rights are protected.

Mr. President, why belittle Secretary Meiklejohn? In my judgment, Secretary Meiklejohn in the statements he made and the letters which he wrote was simply giving out to the public the information that the Isle of Pines was American territory. Why? Because it was the belief of the Government at that time that the Isle of Pines belonged to the United States.

If I may continue the reading of this letter, Mr. President:

None of the Senators who advocate the approval of the Hay-Quesada treaty seem to be willing to go as far as the instigator of that treaty himself in protecting the rights of the American colonists on the Isle of Pines.

It might be remarked in passing that Secretary Root, in undertaking to repudiate the assurances which an "Assistant Secretary of War" gave to the Isle of Pines colonists, ignores the fact that at least one of his communications is signed by Mr. Meiklejohn as "Acting Secretary of War." In this capacity it must be admitted that Mr. Meiklejohn's assurances were as authoritative as those of Mr. Root himself would be.

I do not think anybody can question that statement; and my surprise is that there are not more of these letters in evidence, because I am convinced by my study of this question that there never was a doubt in the mind of William McKinley, beloved by everybody in this great country, regardless of his political affiliations, that the Isle of Pines was acquired under Article II of the Paris treaty; and if so acquired, and if by some legerdemain, if by some magic, if by some revelation it could be made clear to Senators who oppose the view I take upon this subject, Senators who are proponents of the treaty, that we acquired title to the Isle of Pines under Article II of the treaty, we would not be here to-day. We would be in recess, as I said a little while ago, while the Republicans are determining what shall be done about the nomination of Mr. Warren as Attorney General of the United States.

Painful as it may be to you, Mr. President, to listen to these remarks of mine, I confess that there are things which I would rather do than to hold forth on this particular subject; but there never was any question in the mind of President McKinley that the Isle of Pines belonged to the United States, and 10,000 American citizens, or at least some reasonable fraction of this number of citizens, located in the Isle of Pines because of assurances given by officials of the United States Government that the Isle of Pines was the property of the United States.

There is not anything quite so formidable or impressive to one unfamiliar with such matters as to receive a letter under the frank of the United States. Whenever you can send something through the mail and not pay for it, it is like riding on a pass on a railroad; somehow or other there is a joy in it and an impression made by it which is irresistible to the ordinary human being. In my city of New York if you put on the front of an automobile a "P. D." sign, showing that that automobile is franked by the police department, it immediately increases the social standing of the possessor of the automobile and of the sign! There is something in human nature which renders the average person susceptible to the influence of the emblem of authority; and so when these American citizens received letters under the frank of the Government, with the official emblem of the department in the corner, sent out to one who is anxious to make his removal to some other section of our great country, who can doubt that Mr. Root was right in saying that—

Americans who settled in the island could not be expected to know whether it was a part of the duty of an Assistant Secretary of War to decide or make representations about the title of the island, and \* \* \* they have a strong, equitable claim to have our Government take special pains to see that their rights are protected.

And, besides that, Mr. President, the Assistant Secretary himself, at the time he gained his information as to the title of the Isle of Pines, undoubtedly received it from an authoritative source, a source which he could not ignore.

I continue the reading of the letter:

It might be remarked in passing that Secretary Root in undertaking to repudiate the assurances which an "Assistant Secretary of War" gave to the Isle of Pines colonists ignores the fact that at least one of his communications is signed by Mr. Meiklejohn as "Acting Secretary of War." In this capacity it must be admitted that Mr. Meiklejohn's assurances were as authoritative as those of Mr. Root himself would be.

On November 10, 1902, I was a member of a delegation which called upon Secretary John Hay to urge the retention of the Isle of Pines by the United States.



The delegation was headed by Senator Cullom, chairman of the Senate Committee on Foreign Relations. Responding to remarks by Senator Cullom and others, Secretary Hay stated that he had no hesitation in saying that he believed that the Isle of Pines had been ceded by Spain to the United States, and that it was as much American territory as the ground on which the War, State, and Navy Building stood. President Roosevelt had, however, directed him to prepare a treaty ceding the island to Cuba and it was his official duty, as Secretary of State, to obey those instructions.

I had subsequent assurances from Hon. P. C. Knox, Attorney General in the Roosevelt Cabinet, that he shared Secretary Hay's views regarding the Isle of Pines, and that the Hay-Quesada treaty did not have his approval. If the treaty had been brought up during Mr. Knox's senatorial term I had his assurance that he would vote against its confirmation.

As Secretary of State in the Taft Cabinet Mr. Knox never asked for the approval of the Hay-Quesada treaty, and it was at his suggestion that I prepared the open letter, of which I send you a copy. Mr. Knox finally decided, I was informed, that out of courtesy to a predecessor in the State Department he would permit the treaty to be disposed of by the Senate without suggestion from him. Neither President Taft nor President Wilson during their terms of office ever asked the Senate to ratify the treaty, and even President Roosevelt, in whose administration the treaty was negotiated, refrained from any effort to influence the Senate in its favor. Among all the Secretaries of State who have been in office since the Spanish-American War, Root and Hughes alone have urged the Senate to ratify the Cuban treaty, and even Secretary Root had too much respect for the dignity of his office to permit the State Department to be made a disseminating agency for the paid propaganda of a Cuban lobby.

It has been stated several times—and it has seemed to me that the statement is unfair—that we should ratify this treaty because every President from Roosevelt to Coolidge, and every Secretary of State from Hay to Hughes, has recommended its ratification. That is not the fact. During Mr. Taft's administration nothing was said about the treaty. During the two terms of Mr. Wilson's administration nothing was said about it. Why has it become so tremendously important just now to ratify the treaty? What is there about this year of grace, 1925, which makes it the particular year when this treaty must be ratified?

I have suggested to the Senate a means of ratification, so far as I am concerned, a ratification which could occur in the year 1925, if necessary and essential. Why is it, I ask, that any Senator is so insistent that the treaty should be ratified now? What is there about it that makes that necessary? Why is it that I find in a bulletin of the National City Bank a strong argument in favor of the treaty? What interest has the National City Bank in the ratification of this treaty? Why should the National City Bank in a bulletin devoted to the financial interests of this country, devoted to economic conditions, Government finances, and United States securities—why should that great organization, that great Standard Oil organization, be so interested in the Isle of Pines treaty? What concern, may I ask, has the sugar interest, or the tobacco interest, or the citrus fruit interest, in this question?

[At this point Mr. COPELAND yielded to Mr. McKELLAR, who suggested the absence of a quorum, and the roll was called.]

Mr. COPELAND. Mr. President, it has seemed remarkable to me that a great financial institution like the National City Bank should be so excited over this matter. I do not know what are the great interests behind this question. There is no doubt about their being here. It costs a lot of money to put out the sort of propaganda which has been distributed in behalf of this enterprise. So I am not surprised that Colonel Keenan in his letter makes reference to it.

Colonel Keenan continued in his letter:

The amount of credence to which this propaganda is entitled may be judged from the declaration in paid advertising in American newspapers that every President from McKinley down, and every Secretary of State, favored the surrender to Cuba of the Isle of Pines.

As I said a few moments ago, it is not true that every President from McKinley down and every Secretary of State from Hay to the present time has recommended it. Through a period of at least 16 years no President and no Secretary of State made any appeal to the Senate. Why is it, I ask again, that it should become a matter of such vital importance that immediate action is demanded? Methods are already in mind to shut off debate. Why this great necessity? If the Senate of the United States would get as excited as this over the World Court a lot of folks in the United States who now think the Senate is not of much use in the world would have confidence restored.

Why is it that there should be this great excitement over the ratification of the treaty? Why is it that these great capitalistic institutions have an interest in what shall become of an island the size of Rhode Island and where live only 4,000 persons? Why is it, I ask, that the Senate actually considers the violation of the moral rights and I believe the legal rights of American citizens in order that now, this week, by Saturday night, this treaty shall be ratified? What is there about the treaty of such vital importance all at once? Why should a document, which for 16 years has reposed in the dust of the archives of the Capitol, now be resurrected? There have been so many changes and so many vicissitudes in the personnel of committees and in the physical location of committee rooms that the first treaty could not even be found, or was not found until I advertised to the world that the treaty had been lost. The treaty would have been lost, too, if there had not been some great power back of it, a power which all at once realizes that for some reason of its own the treaty must be put into effect and the Isle of Pines turned over to Cuba. What reason is there? I ask the proponents of the treaty, what reason is there? What reason is there that they are not willing to let the Committee on Foreign Relations or a special committee of the Senate take the matter in charge, have hearings, and let those persons have their day in court who are going to be heard anyhow? Why not? Why not? Ah, I hope there are enough fair-minded, open-minded, generous-hearted, warm-blooded, and red-blooded Americans in the United States Senate to say "We decline to take conclusive action in this matter until our brothers and sisters, American citizens, have been heard." Is there anything wrong about that? Is there anything unreasonable about it?

Mr. President, once more I want to test the sentiment of the Senate. I ask through you, sir, are not the proponents of the treaty willing to let the matter be considered and fix a day, I do not care what day it is, in December when the report shall be received and voted upon? That is a fair offer. There is not so much at stake surely that the matter must be acted upon now and action taken immediately. That is what I am asking Senators. I think I can even see the document which, under that unusual rule of the Senate that can be invoked on occasion, is being prepared, where 16 Senators sign a petition and present it to the Presiding Officer. On the second day thereafter, which would be Saturday, without debate, two-thirds of the Senate concurring, and to the exclusion of everything else, this matter is to be before the Senate, each Senator having an hour to debate it, and at the end of that limited debate a vote shall be taken upon whether or not the treaty is to be ratified.

Senators, I can not believe it possible, I can not believe it possible that the men chosen by the various States of the Union should so disregard the property rights and the moral rights and the legal rights of those citizens who have gone to the Isle of Pines. To me it is an amazing thing. I feel humiliated almost beyond words to think that it should be necessary, as I believe it is or I would not be here, to go forward in this manner in order to defer action. This is an action which will cause shame in my humble judgment in the years to come to every Senator voting to ratify a treaty giving over these persons and their property to a people with whom they have nothing in common, and sacrificing the property and personal and natural rights of these citizens—and why? Because, forsooth, the treaty has been pending for 21 years and must be settled this week. At least, Mr. President, I have a comfortable place to go and when I go to my home and look up into the trees and the mountains I shall have the consciousness in my soul that I have done the best I could do to save these Americans from the humiliation and the miseries which will come to them if the treaty shall be ratified.

Colonel Keenan's letter continues:

The American colonists who were fighting for their homes and liberties in the Isle of Pines have neither the means nor the inclination to imitate the methods by which a subsidized lobby of Cubans and Americans at Washington are seeking support for the Hay-Quesada treaty. They have right, justice, and American patriotism on their side, and with these they feel confident that their cause will ultimately prevail.

A little while ago—it might have been two or three hours ago, because I am on my fifth hour now—I read a letter stating that every day at 11 o'clock the men, women, and children in the Isle of Pines meet to pray that Senators will not ratify this treaty. It was in old-fashioned times when people resorted to prayer. The method now, Mr. President, is to advertise, so this propaganda has gone out; and the question involved here



is whether the prayers of those poor persons, American citizens on the Isle of Pines, shall prevail or whether the propaganda put out by the great financial interests of this country shall prevail. This letter goes on to say:

Senator Foraker, whose favorable report of the Hay-Quesada treaty, as the chairman of the Senate committee in 1906, has often been referred to, at a later date changed his mind completely in regard to the matter. In a letter to W. F. Nelson, of Chicago, written September 5, 1916, he strongly advocates the retention of the Isle of Pines by the United States.

Yesterday the Senator from Ohio [Mr. Fess] laid great stress upon the position taken by Mr. Foraker, the chairman of the Subcommittee on Foreign Relations, who at first recommended the ratification of the treaty. I quote from the CONGRESSIONAL RECORD of yesterday, page 136, and from a speech made by the Senator from Ohio.

Mr. SHORTRIDGE. Mr. President, may I ask the Senator from New York a question?

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from California?

Mr. COPELAND. I will yield for a question.

Mr. SHORTRIDGE. Certainly; I only ask the Senator to yield for a question. About how many hours does the Senator expect to continue his address?

Mr. COPELAND. Mr. President, I am willing to stop now—

Mr. SHORTRIDGE. Thank God!

Mr. COPELAND. Yes; thank the Lord. I have felt that way when the Senator from California is talking, even when he is talking for a shorter time than I have occupied this afternoon. I am willing to stop now if the Senate is willing to fix a date in December, 1925, for a vote on this treaty, in the meantime instructing the Committee on Foreign Relations, or a special committee, to hear these persons from the Isle of Pines and to take into consideration all the features involved. As I have previously stated, if that committee, after having heard these persons, shall bring in a report saying that such and such an adjustment should be made and that the treaty should be ratified, I pledge myself, as I have done repeatedly, that I shall vote for the report of the committee. I am willing at this moment to yield the floor if it may be the understanding that such a motion shall be agreed to. I do not wish to talk; I have had 4 hours and 22 minutes of it already.

Mr. SHORTRIDGE. Mr. President—

Mr. COPELAND. Mr. President, I yield for a question. I do not want to lose the floor.

Mr. SHORTRIDGE. I merely ask the Senator to yield for a question. Inasmuch as the Senator from New York has so elaborately and earnestly advised the Senate and the country as to the facts, would he not be willing to agree to vote upon the treaty on Saturday next, say, at 2 o'clock; in view of all that he has said and the full and elaborate explanation he has given of the subject matter?

Mr. COPELAND. Mr. President, I do not believe for one moment that I am pushing out the boundaries of knowledge regarding this matter. I assume that every Senator in this body knows at this moment how he is going to vote. He knows at this moment how he is going to vote, regardless of how much he knows or how little he knows about the subject. What I am asking and what I am seeking to bring about as the grain of wheat out of all the chaff, which I hope some proponent of the treaty may discover, is the desirability of permitting the sort of investigation which I have described. Is there anything wrong about that?

Senators are going to put over the Lausanne treaty. There is not any more chance to consider the Lausanne treaty than there is to consider the golden streets of heaven; it will not be done. Senators are going to put over the World Court proposition. There is not any desire on their part to do otherwise, but I know that so far as Republicans are concerned they are rather indifferent as to how much physical effort I expend, because the Republicans have got to stay here anyway until the Warren matter shall be disposed of. So I do not think the Senator from California has any very great grievance. If he did not listen to me, he would have to listen to some other Senator; and if he does not want to listen to me, he can go and play, and I should like to go with him, but he has got to stay here anyway. He would not be permitted to leave the town until the confirmation or the refusal of the confirmation of Mr. Warren is consummated. So I do not think the Senator from California has any grievance.

The particular appeal that I am making is to a Senator whose view in favor of the treaty is just as earnest, just as

conscientious, and just as honest, and just as well founded as mine. If the Senator from Pennsylvania [Mr. PEPPER], who is the leader in this matter, would rise in his place and say, "We will agree to the appointment of a special committee, or we will agree to instruct the Committee on Foreign Relations to consider this matter and to hear these persons," and then he should move that a vote be taken on some date certain, within the next few weeks or months, if the Senator feels that we are to be kept here that long, or at any date, I do not care what it may be, in December and at an hour fixed, I will leave the floor at once.

I pause for a moment to see if the Senator from Pennsylvania, whose advocacy of this matter is just as disinterested and unselfish as my attitude on the opposite side, will give me that assurance. If he will, I shall desist at once, as I should like to do.

May I say, Mr. President, that if light should come to the mind and heart of the Senator from Pennsylvania in five minutes, or this evening, or some time to-morrow, I should be glad to yield the floor at once, and we would have a love feast and go home.

Mr. President, yesterday the Senator now in this chair, the Senator from Ohio [Mr. Fess], said:

Senator Foraker, who held an official position here and who wrote the original declaration of independence for Cuba, and who was the author of the statute forbidding the issuance of franchises, and who was also the author of the Porto Rican organic law, became the chairman of the committee to report on this treaty. I do not believe that anybody who knew Senator Foraker would believe that he would easily deny to American citizens their rights. I am quite certain that no man was ever more jealous of the rights of American citizens than was Senator Foraker; and yet he, as chairman, made a long survey and had printed as a document the facts on our relationship to this matter. Here is the document, which has been reprinted. It covers many pages. He says in his "Life and works" that it took arduous labor and tedious investigation. After this man, as well versed in our relationship to this issue as anyone in this body, had gone through this research he reported that we ought to ratify the treaty and thus relinquish any claim to the Isle of Pines; we have no right to give the Isle of Pines to Cuba; we do not have the Isle of Pines to give; Senators continue to misquote the wording. The only thing we do is simply to relinquish any sort of claim that we might have to the Isle of Pines in behalf of Cuba.

That is what the Senator from Ohio said about Mr. Foraker. I referred to the matter yesterday in a brief colloquy with the Senator from Ohio, but I wish to refer again to the report to which reference was made by the Senator from Ohio in his speech yesterday.

This is Senate Document No. 205 of the Fifty-ninth Congress, first session, reprinted as Document 166 of the Sixty-eighth Congress. Mr. Foraker, from the Committee on Foreign Relations, submitted the report. It is the report which transmitted to the Senate the treaty which is now pending before the Senate. It is the report made February 1, 1906. That is 19 years ago. This egg has been incubating for 19 years. It is not to be hatched until Saturday. This report, with the treaty, was submitted by Mr. Foraker. I want to call the attention of Senators to page 37 of this report, to this one sentence. It gives information about the protests, and all that sort of thing, and it says:

In addition to the foregoing, attention is also called to Exhibit C hereof—

Now, note this—

the same having been prepared by the chairman of the Committee on Foreign Relations and printed for the confidential use of members of the committee.

Attention is called to Exhibit C. Now, what is Exhibit C?

At page 205 is Exhibit C. It is marked:

Confidential.—For use of members of the Committee on Foreign Relations.

I do not want anybody to think I am revealing something that was a confidential document. The injunction of secrecy was long since removed, and this is now an official document; but this was originally a confidential document for the exclusive use of the members of the Committee on Foreign Relations. Now, you know, there are no secrets in the committee.

Mr. Foraker or any other Senator jealous of the prerogatives and rights and privileges of Senators and the relationship of his country to other countries might hesitate to speak freely in the open; but in a confidential report for the exclusive use of the members of the committee, prepared, as the report shows, by the chairman of the committee personally, the whole structure built up yesterday by the Senator from Ohio [Mr. Fess],



now in the chair, falls to the ground, because, listen to the chairman's words in confidence to the committee:

A strict construction of the treaty of peace with Spain would probably give to the United States title to the Isle of Pines.

That is the language of a confidential report to the Committee on Foreign Relations. I may be mistaken, but I thought yesterday that the Senator from Ohio [Mr. Fess] was somewhat embarrassed when I read him the statement made by the chairman of the committee at a time when officials had intimate knowledge of the problems relating to this great subject. He said:

A strict construction of the treaty of peace with Spain would probably give to the United States title to the Isle of Pines.

Mr. DILL. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Washington?

Mr. COPELAND. For a question.

Mr. DILL. What reason has been given for never giving the Americans who are interested in the Isle of Pines a hearing before the Foreign Relations Committee?

Mr. COPELAND. Certain letters were placed before the committee 20 years ago, when the charming Senator from Washington was not yet a citizen with the right of voting, a period so long ago that a man who was then a youth has grown into eminent manhood and so distinguished himself that he has been elected to the great office of United States Senator. Think of it! That question could come from no other Senator with the same appropriateness that it comes from my charming friend the Senator from Washington.

Twenty years ago—20 years! A man has grown from a youth and is serving his third year as a Senator, after a distinguished service in the lower House. Twenty years ago, or 25 years ago, letters were put before this committee. Whether persons were permitted to say anything or not I am not fully informed, but my impression is they were not. A generation has come up, just as this young man has grown to bright manhood and to achieve fame for himself. A generation has grown up on the Isle of Pines. Men and women, boys and girls, are on their knees at 11 o'clock every day in the Isle of Pines with faith yet in Almighty God, a faith, Mr. President, which I hope will not be dispelled and destroyed by any action taken by the Senate. These persons, many of them born since this treaty first appeared in the Senate, had no opportunity to express their feelings. Why should they not have? Why should they not have?

Ah, if the Senator in charge of this measure were a different man than he is; if the Senator from Pennsylvania [Mr. PEPPER], warm of heart and lofty of character, were a different man, I could quite understand why such a course might be taken. But, Mr. President, the Senator from Pennsylvania is too fine of character and too warm of heart to disregard the appeal of these American citizens who live in the Isle of Pines. Their ancestors went there because they had faith in the Government of the United States. They believed what their eyes revealed. They took seriously and believed what they read. They believed that nobody could hold office in an executive department of this great Government without being an honest man, a man who would perform his official duty in accordance with the dictates of morality and law and decency.

I do not know, I say to the Senator from Washington, I can not understand, why there should be any unwillingness now to listen to these people. I do not know anybody living down there. I have seen three or four people 10 or 15 minutes, perhaps, at a time, all told perhaps two hours. They look to me like persons having the same impulses and the same natures that we possess. I can not see anything about these persons that should make them formidable or dangerous to the Senate of the United States or to the able Senator from Pennsylvania, who leads the fight for the treaty. I can see no reason why they should not be heard. I can not answer the inquiry of the Senator from Washington. I do not know. I wish I did.

There is a tremendous amount of mystery about this thing. There have been more mental gymnastics performed, more antics and didoes cut up in connection with this thing, more somersaults performed, more changes of sentiment, than in regard to any similar matter that I can recall. Why, no wonder that a Senator who lives in a new generation, who lives in the great West, where the mountains are high, where the trees grow great, where men have their heads above the clouds, asks this question. I wish I could answer it, but I can not.

Mr. President, to return to Colonel Keenan's letter:

Senator Foraker's views regarding the value of the Isle of Pines for naval purposes are strikingly supported by the results of the survey of

Isle of Pines waters now being made by the Hydrographic Bureau of the United States Navy Department. A depth of 40 feet of water has been found in Siguanee Bay, with a clear channel of 20 feet leading to it. An ordinary sand dredger can deepen this channel indefinitely. A copy of this survey would contain information valuable for the Senate of the United States to study in this connection.

That is what Colonel Keenan said, and I say it, too. If I could coax one or two Senators to look at this map I have here, I would be quite content. Perhaps the Senator from Washington [Mr. DILL], who seems, by reason of his youth, perhaps, to be uncrystallized in his views, might help me.

I have heard the statement made time and time again that the Spaniards gave up using the Isle of Pines as a penal colony because the water was so shallow that prisoners could walk to the Cuban shore. Of course, I have read in Holy Writ about the children of Israel going over the Red Sea dry-shod, and I suppose there might be some kind of a miracle which would make it possible to wade from the Isle of Pines 30 or 40 miles to the shore of Cuba, but whoever made that statement founded it apparently on those old Spanish surveys, many of which were 7 miles off in their locations.

How do I know all this? Because I had a man from the Hydrographic Office of the United States Navy, an official of the Government, come and give me a little instruction on the subject.

Let me say to the Senator from Washington that there are statements in this Foraker report, made 19 years ago, which have been obsolete ever since the Senator from Washington could vote, perfectly absurd statements.

Wade ashore from the Isle of Pines! Mr. President, we have before us a blue print of this territory, with the depths of water marked everywhere, as the Senator who sits by me [Mr. DILL] will observe. There are depths indicated here of 24 feet, 30 feet, 27 feet, 23 feet, and so forth. Wade ashore? Goliath of Gath, who was 6 cubits and a span in height, could not wade ashore there, out on these keys, which are marked on the map as islands, little fringes of land, with lagoons in the center, guano making up very much of the soil and mud the rest.

When they were making this chart the hydrographic experts set up one of these tripods to run the triangle. They set up a tripod 40 feet high, and the next morning it had sunk out of sight in the mud and guano. Wade ashore? It is ridiculous; perfectly absurd.

I took down what this hydrographic man told me. He said that if a man were 75 feet tall and had the strength of 50 giants, he could not get his feet out of the mud along in those flats over which this man who wades ashore would make his way to Cuba.

Entirely surrounding this island is deep water. In this Siguanee Bay, where, as somebody said here yesterday, could be floated the navies of the world, there is a channel now 700 feet wide, going into that bay, which would take vessels of 19 feet draft, and an ordinary sand dredger could deepen it so that you could take in a vessel of 27 feet draft. At present you could take destroyers and submarines and submarine chasers into that bay and around the island.

Let no man rise in his place in the Senate and tell me that you could wade ashore from the Isle of Pines. As a matter of fact, very much less money than we have spent at Pearl Harbor would make this bay on the west side of the Isle of Pines as fine a harbor as could be found on the face of the earth. Those are the facts about the depth of water and the conditions surrounding this island.

Our late lamented friend, Senator McCormick, made very much of what we would do with these other islands around Cuba if we finally decided that we had the Isle of Pines under Article II of the treaty. As a matter of fact, these other islands are, as I have said, only fringes of land, with lagoons in the center, and at most there are only a few fishing huts, two or three here and there, in various places throughout this body of water. So I may say of Mr. Keenan's letter that he is entirely right in his statements relative to the depth of the water in this bay. He says:

A depth of 40 feet of water has been found in Siguanee Bay, with a clear channel of 20 feet leading to it.

That was his statement, and that is exactly the statement made to me by the officer from the Hydrographic Survey. He said that there was a depth of 40 feet in the bay, and that vessels of 19-foot draft could make the passageway into it. So the statement made by Colonel Keenan in his letter is verified by the official of the Government. I agree with the statement of Colonel Keenan that a copy of this survey would contain



information valuable for the Senate of the United States to study in this connection.

I hope these maps may be placed upon the wall, if I may say that to some official of the Senate, so that they will not be misplaced.

I continue reading from the letter of Colonel Keenan:

Secretary of the Treasury Mellon, responding to a recent inquiry, states that Cuba has taken no steps whatever toward the liquidation of its obligations to the United States for the intervention of 1906.

In the report of the Secretary of War for the fiscal year ending June 30, 1909, the total expenditures for military purposes during the second occupation are given as \$6,262,104.58. This, however, does not include naval or incidental expenses. Congressman F. C. Stevens, a former member of the House Committee on Military Affairs, in a careful compilation of the cost of the second intervention reached the total of \$10,958,683.02, which, with simple interest at 5 per cent, would now amount to considerably over \$20,000,000. This constitutes a clear legal obligation of Cuba to the United States, as the intervention was reluctantly ordered by President Roosevelt at the urgent request of the Cuban Government. Congress took official notice of the debt in 1907 when, in the deficiency act of that year, the President was authorized to receive from time to time such payments in liquidation of the cost of the intervention as Cuba might be able to make.

While persistently urging an alleged claim to the Isle of Pines, Cuba seems to have forgotten entirely her obligation of \$20,000,000 to the United States. It might be pertinent to inquire why she has never been reminded of it by the United States Government, as contemplated by an act of Congress passed 18 years ago. That is a fair question. Here we are, Senators of the United States, proposing to give away the Isle of Pines—which, virtually, I believe, is the property of the United States—to a country which owes us \$20,000,000. So far as I am concerned I would be willing, I will say to the Senator from Pennsylvania, to contribute that amount or my share of that amount for some peaceful arrangement and adjustment of the matter.

I heard the Senator from Pennsylvania make a splendid speech. It impressed me strongly at the time, because I felt it was more or less destructive of my view of the treaty. I have read it since and I have read it again. In his speech the Senator from Pennsylvania indicated—and I want to quote him correctly. The impression I had was, as I said in responding, that a "deal" was made; there had been a transaction involving secret diplomacy. He implied that they sat around a table and in exchange for a treaty there was passed over a lease for certain coaling stations in Cuba. If we are in the habit of dealing with Cuba through the instrumentality of a diplomatic card game I think \$20,000,000 would be a pretty good stake to have in the game. I do not want that kind of diplomacy myself, and at some time during the discussion I shall attempt to present to the Senate what I think really happened in connection with those leases. But that is another matter to which I shall refer at a later hour.

Anyhow Cuba owes us \$20,000,000. That is a lot of money, I think, but Cuba owes us that money. I do not think Cuba has very much of a grievance. We spent a lot of money and a lot of human lives gaining independence for Cuba. As for myself, much as I hate war and much as I deplore the suffering which came from those deaths, I think the money was well spent in the cause of humanity and that the lives were well sacrificed. There must be a satisfaction in the heart of every relative of every boy who died in that war that he sacrificed to free a people and to bring into existence a great nation which may perhaps become one of the powerful nations of the earth.

Mr. WILLIS (at 5 o'clock and 5 minutes p. m.). Mr. President, will the Senator yield?

Mr. COPELAND. I yield for a question.

Mr. WILLIS. I do not desire to put the Senator's position in doubt. I was about to ask him if he would yield to me to permit me to make an inquiry of the Senator from Pennsylvania.

Mr. COPELAND. Mr. President, will it be permissible for me to so yield?

The PRESIDING OFFICER. The Senator yields the floor if he does so.

Mr. COPELAND. I am sorry then, I must say to my friend from Ohio. I think he will have to ask the question privately.

Mr. WILLIS. Will the Senator yield to me for a question?

Mr. COPELAND. I yield for a question.

Mr. WILLIS. Will the Senator from New York inquire of the Senator from Pennsylvania what are the plans of the Sen-

ator from Pennsylvania with reference to continuing this afternoon and whether he intends to hold the Senate in session this evening? Will the Senator from New York make that inquiry of the Senator from Pennsylvania?

Mr. COPELAND. May I ask the Senator from Pennsylvania what his plans are, Mr. President, and whether he intends to continue this agony or to move an adjournment?

The PRESIDING OFFICER. The Senator may ask, and if the Senator from Pennsylvania gets the floor the Senator from New York loses it.

Mr. COPELAND. Mr. President, I observe that the Vice President is present on the floor. There is one nice thing about the Senate of the United States. There are some rules which are made for the limitation of debate. In the very nature of things I may say to the Vice President that human endurance must wear out and after a while relief will come. Apparently the able Senator now in the chair has a thorough understanding with Senators upon the floor that the rules are to be invoked; so if the Vice President will stay here and not go down to the Willard Hotel he will see how the rules really work. [Laughter.]

Colonel Keenan continued:

In over 20 years of de facto occupation the Cubans and their government have done absolutely nothing to develop the Isle of Pines. They have, on the contrary, done everything in their power to hamper American development by vexatious restrictions and the enforcement of inapplicable and obsolete laws. American planters are heavily fined for cutting timber for their own use on their own lands, and it is a notorious fact that American litigants have no standing in the Cuban courts.

These are strong statements. It would seem to me that if any American citizen in the world could prove to the United States Senate that an American is being deprived of his rights the Senate of the United States ought to be in the forefront in its endeavor to right those wrongs. That is what government is for. The nation which makes its flag respected and makes itself a power is the nation which flies to the relief of its citizen if he has just complaint, no matter where he may be in the world. The long arm of power should reach out to lend a hand to the American citizen wherever he is if he has a just claim upon his Government.

The Roman Empire at the time of the Apostle Paul had extended its boundaries to cover practically the entire known world. Almost the entire known world was contained within the boundaries of the Roman Empire. The Romans built up a system which made of every Roman citizen a power so great in his own community that no matter where he might be, I care not where, an appeal to Cæsar meant that he had the right to go in person to the Emperor to present his claim.

Is it possible that the United States in the year 1925, with all the advances which have been made during our national life and with the enforcement of all the laws we make for the betterment of the health and the happiness of our people—is it possible that in this generation this great Nation, the greatest on the face of the earth, is going to fail to heed the call of American citizens who have made appeal to the Senate? Why, Mr. President, I can not believe it is possible that any Member of the Senate should insist upon an adjustment of the treaty now before these citizens have been heard and before opportunity is given to adjust their differences, if any they have, with this Government. If I felt that there was anything unreasonable or improper in the stand I am taking to-day I certainly would not be here at the expense of body and mind to try to impress upon Senators the significance of the thing about to be performed.

Mr. President, after 21 years what difference does it make whether the treaty is ratified on the 14th day of March, 1925, which will be Saturday, or on the 14th day of December next? What difference can it make?

One would think, to listen to speeches which are made in the Senate, that if we did not ratify the treaty on the 14th of March, next Saturday, we shall have a war with Cuba, a war with Colombia, a war with Panama, a war with all the Latin nations to the south of us. What an absurdity. I have not heard anybody yet suggest that we will have a war with Ireland if we do not ratify the treaty, but that we are going to have a Latin-American union against us. Senators, does anybody believe that? Of course not. Why should we have a war? What are we going to fight about? If we do not ratify the treaty, Cuba will not be any worse off than it has been; it will still have de facto possession. Likewise if we do not ratify the treaty our people will not be any better off. I realize that. That is the reason why I suggest that we talk about this in committee and let those folks come and tell their story. When



I see the stony faces of Senators in opposition, I realize that their hearts also must be of stone. Anybody who has warm blood in his veins and a love of humanity in his heart and the milk of human kindness in his soul must believe that these citizens are entitled to an adjustment of their affairs now. I think we may well wait until the 14th of December before we make our decision.

Colonel Keenan says that—

In over 20 years of de facto occupation the Cubans and their Government have done absolutely nothing to develop the Isle of Pines. They have, on the contrary, done everything in their power to hamper American development by vexatious restrictions and the enforcement of inapplicable and obsolete laws. American planters are heavily fined for cutting timber for their own use on their own land, and it is a notorious fact that American litigants have no standing in the Cuban courts.

Can Senators hear those things and fail to be impressed by them? The only answer that can be made is that it is not so. Like the Irishman who saw the hippopotamus for the first time, and who shook his head and said, "There ain't no such animal," Senators say, "This is not so."

I am no prophet; when you hear from the Senator from Idaho [Mr. BORAH] you will know whether these things are true or not. This letter continues:

If this state of affairs prevails when Cuba has no title to the Isle of Pines, what may be expected to happen to the American colonists who have not already been driven away if the island, as contemplated by the Hay-Quesada treaty, is placed unrestrictedly in Cuban hands? The Cuban Government has deliberately violated the provisions of the Platt amendment, which is embodied in its own constitution, by extending its full constitutional government to the Isle of Pines. Ex-Secretary of State Bryan who, during a visit to the island, expressed full sympathy with the American colonists and who did not urge the approval of the treaty by the Senate when he was Secretary of State, declared that the Cuban residents of the island had no right to participate in local and national elections while the Americans, whose country was conceded at least an equal interest in the island by the Platt amendment, had no voice whatever in the management of their own affairs or in the disposition of the revenues of the island, which they almost exclusively provided. Some years after Mr. Bryan's somewhat precipitate retirement from office, when he had been dined and grape-juiced in Habana—

I am not sure, Mr. President, what that reference means. It probably would be more familiar to the present occupant of the chair than to the Senator from New York. However, the letter says:

Some years after Mr. Bryan's somewhat precipitate retirement from office, when he had been dined and grape-juiced in Habana, he began to write letters advising the surrender to Cuba of the Isle of Pines. Some people were unkind enough to say that Mr. Bryan also favored the surrender of the United States to Germany during the World War.

There is no reason on earth why the Isle of Pines, being outside of the constitutional limits of Cuba, should not during the period of the Cuban de facto administration have been given a government suitable to its needs and development. It will never be accorded such a government if it is turned over to Cuba, as the Hay-Quesada treaty provides.

Not only do Americans own over 90 per cent of all land and control the public and private enterprises on the Isle of Pines, but the agricultural development has been entirely in their hands. It is a noteworthy fact that not a single one of the many plantations on the island is Cuban owned.

That is a very significant thing; not a single plantation, according to this statement, on the Isle of Pines is owned by a Cuban. They are all owned by Americans, Mr. President. And yet there is some sentiment in the Senate in favor of turning over this American-owned property to Cuba, although not a single plantation on the island is owned by anybody but Americans.

Mr. President, if there were any constitutional way to do it, I am very much afraid that there would be Senators who would propose that Staten Island and Long Island, which are always referred to in this debate, and Nantucket be turned over to Cuba. Why not? The Isle of Pines is just as much American as is Staten Island; the Isle of Pines is just as much American as is Long Island; the Isle of Pines is just as much American as is Nantucket. It is an American possession owned by Americans, its institutions are maintained by Americans, and yet we have to turn it over to Cuba on Saturday. Senators, how can you do it?

Mr. President, I have been speaking so long in this isolated position that I do not know the gossip; I wish I knew what was going on. I should like to get into one of the groups of Senators I can see conversing here and there in the Chamber

and hear all the news about who is to be the Attorney General. It looks to me, I may say to my Democratic colleagues, as if the Republicans were feeling pretty good. My advice to the Democrats is, while I am holding the fort, to go out and use the telegraph wires and bring in all of our Members. As soon as there can be found any parliamentary excuse for doing it we will have a vote on the question who is to be the Attorney General.

Mr. BLEASE. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from South Carolina?

Mr. COPELAND. Mr. President, I wish to say to my friend from South Carolina that he, too, is new here, and the present Presiding Officer, hard-hearted as he is, has warned me that if I permit a question and give up the floor I will lose it. I am sorry; I want to yield; but I want the Senator to understand the situation.

Mr. BLEASE. I will say, that being the case, under no conditions would I ask the question. I am interested in the Senator's speech, and I hope he will just keep on going.

Mr. COPELAND. I am very much obliged to the Senator for his kind remark. I have noticed that he has been an attentive listener, and I want to say to him that he has grown into my heart to-day, for anybody who would listen for 5 hours and 28 minutes to me is a man either of mighty good heart or else in some way he is one of my own kin.

Mr. BLEASE. I am both, Mr. President.

Mr. COPELAND. I want to thank the Senator from South Carolina, and I intend at the earliest possible moment to have a visit with him because he looks to me like a human being. And here is the good Senator from Indiana [Mr. RALSTON]. God bless him!

Mr. NEELY. Mr. President—

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from West Virginia?

Mr. COPELAND. I do not yield to anybody.

The PRESIDING OFFICER. The Senator from New York declines to yield.

Mr. NEELY. I am surprised at the Senator.

Mr. COPELAND. I want to say to my friend from West Virginia that I should like to yield the floor to him, so far as I am concerned. I have been preaching health for a good many years, strange as it may seem, I have practiced some of the things which I have preached, but I do not think I ever before realized how really valuable they are. I have been asked to write an article on "Do statesmen dig their graves with their teeth?" Now, you can see just how I can treat that subject. I am digging my grave with my teeth to-night. But I do find, Mr. President, that Senators gain too much weight during sessions.

I suppose I am the greatest authority on fatness in the world. My specialty, really, is fat women rather than fat Senators. At one time one of the New York papers thought they would like to have a fat contest. They asked me if I would take 50 fat women, while one of their women editors took 50 fat men, and we would have a contest of a month to see which group took off more weight.

We were going to have a health show before long, and I saw the advertising value of this contest to a health show. Consequently I said I would be glad to do it if they would have the last week of the contest coincide with the week of the health show. That was agreed to, so one Monday morning, this newspaper announced that at 2 o'clock the health commissioner would be glad to see fat women in his office. They started coming at 10 o'clock in the morning, and I will give you my word, Mr. President, that at 2 o'clock there never was such an aggregation of fatness gathered together in one place in the world. There were 500 of these fat women. They varied in weight from 180 to 368. We put them under training, and in 30 days they took off seven and one-half feet of waist measure and half a ton of weight. [Laughter.]

Senators do dig their graves with their teeth; and it is only right that I should give you such advice as I can, and make use of my time here in a way which will really appeal to your sympathetic attention.

I was speaking about the ownership of the Isle of Pines and it leads me now, according to Colonel Keenan's letter, to this statement, which is made here:

Attention has been called to the apparently small consideration of \$2,000 a year paid by the United States for the use of the Cuban coaling stations. This may be regarded as merely nominal. The great and real consideration for Cuba was contained in the clause: "To enable the United States to maintain the independence of Cuba and protect the people thereof."



Were Cuba required to fortify her coasts and maintain an army and navy for defensive purposes, it would cost her many millions of dollars annually, ineffective as such defense would be against the attack of any considerable power. The prosperity of Cuba and the stability of her government are based entirely upon the guaranteed protection of the United States, typified in the naval station at Guantanamo. Even the profit to Cuba involved in the cost to the United States of maintaining the Guantanamo naval base, which probably amounts to as much in a week as the entire annual rental paid by our Government, is trifling in comparison with this tremendous consideration of the guaranteed protection of Cuban independence.

In the discussion of the terms of the treaty, no note has been taken of the fact that only one coaling station has in reality been obtained by the United States. Bahia Honda has been found useless, and has never been utilized. The Isle of Pines, on the contrary, as the recent United States naval survey of its waters has shown, could be converted into a first-rate naval base, and is, as naval officers who have investigated the subject can testify, the only available base for the defense of the Yucatan Channel and the Gulf of Mexico.

At this point I want to call attention to the map. Upon the wall is a map that shows the Caribbean Sea. If Senators took any note at all of the resolution which I presented in the last Congress, calling for a special committee to listen to the protests of the Isle of Pines residents, and to consider what claims, if any, they hold, such Senators will recall that I proposed other things in the resolution. In addition to this proposal I suggested that the committee should give consideration to the possible use of St. Thomas, in the Virgin Islands, as our naval base, instead of Guantanamo.

We bought the Virgin Islands at great expense. Of course, I was not in Congress at the time, and do not know the underlying reasons for the purchase of the Virgin Islands; but the Virgin Islands represent a very valuable property, a property of tremendous possibilities in industrial and agricultural development. As I understand, the harbor at St. Thomas is wonderfully situated and capable of development as a great naval base.

Putting the station there, and abandoning the station at Guantanamo, would permit us to develop on our own soil, with all the advantages which accrue from the location of such an establishment, this territory which is ours—ours, purchased at great expense. So I had in mind not alone the question involved in this treaty, but also that this committee might give consideration to our entire Caribbean policy.

We have the Panama Canal, tremendously important to us commercially and for military purposes, vital to us and to our safety. One thing which has been in my mind in relation to the Isle of Pines is the importance of a resurvey of its possible use to us, not alone as a naval base. I know the objections which have been raised, and which will be raised tomorrow, and by others who will speak before we vote on Saturday under the cloture rule, or whenever 96 Senators have spoken an hour apiece.

I have spoken six hours. Let me see: That would be 96 days—well, about three months—April, May, June. We ought to get away from here by the 4th of July under the cloture rule, I should say. You know there are Senators who are circulating the cloture petition who do not realize the number of Senators who have speeches in their systems. You can count on at least 90. So the Isle of Pines for two reasons is a matter of greater importance to us now than it was when the report was made upon which we are acting.

My colleague [Mr. WADSWORTH] referred, in his able speech the other day, to the futility of any thought of using the Isle of Pines as a naval base, on the theory that it had been surveyed and had been considered as such, and rejected. I have put into the RECORD to-day these maps and my explanation of them, founded wholly on opinions given me by the experts, which indicate that this property has much greater value from a naval and military standpoint than was anticipated when this report was made a generation ago.

Mr. DILL. Mr. President—

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Washington?

Mr. DILL. If the Senator will yield to me, I make the point of no quorum.

The PRESIDING OFFICER. The Senator from Washington is out of order.

Mr. DILL. There is no quorum present.

The PRESIDING OFFICER. The Senator from Washington is out of order. Nothing has intervened since the last point of no quorum was made.

Mr. DILL. The Senator from New York has been speaking all the time.

The PRESIDING OFFICER. That is not business.

Mr. COPELAND. Mr. President, let not the Senator from Washington worry; the Senator from New York has made his own bed and he must sleep in it. The Senators who make use of technicalities on an occasion like this usually get caught ultimately in their own net; so I may say to the Senator from Washington that they will wear us out ultimately, if we do not wear them out. It is all right, and we are not going to worry at all about that.

Senators who are so hard-hearted that they have no consideration for the rights of American citizens, I may say to the Senator from Washington, certainly are not going to have any consideration for the ordinary rules of common parliamentary decency, so do not let us worry about that. It is quite all right.

I was speaking of these hydrographic surveys which are in process now and which I think even the Senators who think this treaty should be ratified on Saturday might well look at. I have not seen any enthusiasm on their part to look at these maps, but we hardly expect enthusiasm from persons who disregard the rights of American citizens. These surveys indicate that the Isle of Pines is capable of development into a very wonderful naval and military base, and I assume, since majority Senators have no interest in the World Court and any plans which make for peace throughout the world, that they certainly must be in favor of national defense. Therefore it may be that some Senators here might think of the possible use of the Isle of Pines as a naval base.

Why do not Republican Senators give some thought to the Caribbean policy. They ought to have interest enough in the proposal I have made to accept this idea of the committee in order that a Caribbean policy may be established. It should determine whether or not the Air Service might not make good use of the Isle of Pines, if we ever have an Air Service.

All through their campaign the Republicans told about what a great thing the disarmament conference was, how much it had accomplished. What did the disarmament conference accomplish? It accomplished the destruction of some good American ships. That is the first thing it accomplished. It relieved France of the necessity of keeping up with the naval procession, so she did not have to spend millions for capital ships, and France used that money to build airships and submarines, and moved into the Ruhr, to disturb the peace of the world.

Every nation in the world, of the major nations, is building airships. What is the matter with the United States? It is the best country in the world; yes, and we want to keep it the best country in the world. As I conceive, as I understand it, as I view it, it is the duty of the party in power to make possible the construction of these airships, so that America may keep up in this procession.

As a result of the war, Germany was forced to stop the construction of airships which could be used for military purposes, a perfectly proper regulation. But the Council of Ambassadors, having charge of the operation of the treaty, has taken a very peculiar view about the Zeppelin works in Germany. It has said to Germany, "You can not make airships except for commercial purposes." Then it has defined what is a commercial airship, and has held that no airships shall be made of a greater capacity than a million cubic feet.

Permission was given Germany to build the ZR-3, which we now call the *Los Angeles*. The ZR-3 had a cubic content of 5,000,000 cubic feet. Germany sold that to America for 38 cents a cubic foot. We can not build such airships in America for less than \$1.38 a cubic foot. Germany could deliver those airships in five or six months. It would take us several years to produce them. I protest against the failure of the Republican Party to make known to the Council of Ambassadors that America is unwilling to have the Zeppelin plant destroyed, as will probably be the case very shortly. We have no business to let that be done.

The PRESIDING OFFICER. The Chair must admonish the Senator from New York that he must proceed in order.

Mr. COPELAND. Must do what?

The PRESIDING OFFICER. Proceed in order.

Mr. COPELAND. A parliamentary inquiry. What does the Presiding Officer mean by that?

The PRESIDING OFFICER. No Senator can speak from a seat. He must stand on his feet.

Mr. SMOOT. I will say to the Senator that I have had that rule applied to me.

Mr. COPELAND. I do not want any sympathy from the Senator from Utah. I have two feet and am quite able to stand upon them. I am enough of a sportsman to take my medicine,



whatever it is, and I will be here when some of the rest of you have gone home. I suppose there must be a way of adjourning the session at some time or other, but when that time comes we will deal with it as circumstances dictate.

I never supposed that a Methodist could be so hard-hearted. I have always looked upon the Methodists as being kind, considerate, and thoughtful of other people's welfare, and as a Methodist I have tried to live up to that standard. But I see that the Presiding Officer has forgotten for the time being that he is a Methodist, and for the time he is an advocate of that most unmethodistic procedure, the rape of the Isle of Pines.

I return to what I was saying when interrupted by the Presiding Officer when I was violating the rules by leaning upon a desk. By the way, a parliamentary inquiry, Mr. President. Am I permitted to drink milk between times? Is there anything in the rules that prevents that?

The PRESIDING OFFICER. That is not a parliamentary inquiry.

Mr. COPELAND. Very well. Then I assume it is not a violation of the rules, because if it were mentioned in the rules, of course, the question would relate to a matter which is a proper subject to deal with by a parliamentary inquiry.

Mr. OVERMAN. Mr. President, I will say to the Senator—

Mr. COPELAND. I regret to say and I would be glad, Mr. President, if you would say to my friend, the Senator from North Carolina, that I am under injunction of the Chair that I must not yield to anybody.

The PRESIDING OFFICER. The Senator from New York will suspend just a moment. If the Chair were to enforce the rule strictly he would require the Senator from New York to remain at his desk.

Mr. COPELAND. I can do that if need be. Does the Presiding Officer desire that I shall do that?

The PRESIDING OFFICER. The Chair has not decided upon the enforcement of that rule.

Mr. COPELAND. Very good. I begin to realize that the advent of the new Vice President who believes in revision of the rules has already made itself felt, and I am the first recipient of its benefit under the new régime.

When interrupted by the hard-hearted verdict of the Presiding Officer I was discussing the Zeppelin plant in Germany. My thought about it is that we should make known in a proper way to the Council of Ambassadors, even though we have no direct affiliation with countries abroad, our unwillingness to have that plant dismantled. I do not know how thoroughly understood this matter is by the Senate, but the progress of aeronautics in Germany in the matter of commercial airships is remarkable.

I stop a moment to felicitate myself that the Senator from New Hampshire [Mr. MOSES] has taken an interest in the blue print I have upon my desk which has to do with the hydrographic soundings of the Isle of Pines. I trust that the Senator will study the map carefully. He will find there much information which will be of interest even to his brilliant mind and be helpful to him in performing his duties as a Senator of the United States, although I do say for him that he performs those duties very well indeed now, except that he is intensely partisan on some occasions, which of course I hold against him.

Germany has made such progress in aeronautics that her airships are extremely safe. The pilot of a German airship has the same favorable life-insurance rate that a citizen has who drives a truck or works as a mail carrier or is engaged in any enterprise which is free from extraordinary hazards. For 15 years she has developed the airship enterprise.

The Senator from Missouri [Mr. REED] has just reminded me of what I knew before, but in order that my friends on the other side may know that I know it, let me say that I am not disposed of when I get through with this speech, because we will take up the treaty article by article and amendments will be offered, and in spite of the cloture rule I think I am good for three or four days yet.

Mr. SHORTRIDGE. Mr. President, will the Senator yield? It is not for the purpose of having him lose the floor at all.

Mr. COPELAND. I can not yield to the Senator from California.

Mr. SHORTRIDGE. It will not cause the Senator to lose the floor. It is merely to ask a question in the utmost good faith.

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from California for a question?

Mr. COPELAND. If by so yielding and answering the question I do not lose the floor. I would like a ruling, Mr. President.

Mr. SHORTRIDGE. I wish to ask just a simple question in the best of faith.

The PRESIDENT pro tempore. The present occupant of the chair hesitates to reverse the ruling made by his predecessor in this place.

Mr. COPELAND. That being the case, I will have to say to my friend from California that I shall have to forego the ordinary courtesy which would make it necessary to answer a question from a fellow Senator; but I must remind the Senator from California that the hard-hearted Methodist who just left the chair had ruled that I would lose the floor if I yielded to a question, and the kind-hearted non-Conformist who is now in the chair, who would be more considerate if he could be, feels that he is bound by the ruling of the late occupant of the chair. Therefore I can not yield, and I am sorry.

Mr. SHORTRIDGE. I do not want to be rude, but it was merely in kindness and in candor and in the utmost courtesy that I wanted to ask the Senator the question whether he desires to proceed—

The PRESIDENT pro tempore. The Senator from New York declines to yield.

Mr. BLEASE (at 6 o'clock and 5 minutes p. m.). Mr. President—

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from South Carolina?

Mr. BLEASE. I rise to a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from South Carolina will state the parliamentary inquiry.

Mr. BLEASE. Is it proper for this body to proceed with any business without a quorum? A quorum is not present. I take the position that the Senate should have a quorum present in the transaction of any important matter.

The PRESIDENT pro tempore. The Chair will state in answer to the inquiry that upon a call of the Senate a short time ago a quorum was disclosed to have been present, and no business having been transacted in the meantime the assumption under the practice in the Senate is that a quorum is still in attendance.

Mr. COPELAND. I may say to the Senator from South Carolina that he always has the right of appeal from a decision of the Chair if he is so disposed. I thank him. Undoubtedly it is out of kindness that he proposes the inquiry, and the only reason in the world why I would agree to his following it up is because it is unkind to the Senator from South Carolina to keep him here so long. However, so far as I am concerned, I was well aware of what would take place, and I take my medicine, whatever it is.

Mr. President, to revert to the question of the Zeppelins, I can see that there are very important uses to which we can put the airships in the carrying of mail, and undoubtedly for commercial purposes, but there can be no doubt that with the development of both the airship and airplane, until we have that harmonization which makes war impossible, it is wise for this country to keep up with the military procession.

I believe that the country is very greatly aroused over the revelations which have taken place in the last few weeks, and I say that without any feeling of partisanship as regards the persons involved in the controversy. But out of this controversy has grown the feeling for our country that we are not doing our duty in keeping up with the advances in the air. We have the Panama Canal, tremendously important commercially and for the purposes of defense, but if we have not supremacy in the air or at least protection from the air to guard the canal, its uses in time of war, its commercial uses and military uses become as nothing. They are destroyed. When we look at the map carefully we realize that the Isle of Pines, situated as it is, bears a very important relationship to the protection of the Panama Canal. One has but to look at a map of the Caribbean Sea to realize what the possibilities there are, and I speak not with any desire to rattle the sword in the scabbard, but simply to point out the significance of the geography of that region.

We have, at the eastern extremity of the Caribbean, for instance, the British possession of Trinidad, and above that the French possession of Martinique, and then in the very heart of the basin the British possession of Jamaica, and down at the bottom of the basin in Curaçao, owned by Holland. Think of the possibilities in case of unfortunate complications with the British, the French, the Dutch, and with the progress made in aeronautics and of the possibility of that great flight around the world in airships; it is not an academic question at all. We have here a question involving the national defense and the very safety of our country. In view of our hydrographic knowledge and our knowledge of the surroundings of the Isle of Pines, with our knowledge that this



bay on the western side could be made capable of accommodating our Navy, in view of the relationship that the Isle of Pines bears to the Panama Canal and to foreign possessions in the Caribbean Sea it must be perfectly apparent to every American that America is far behind in airship development and that by giving up the Isle of Pines we are robbing ourselves of a very important location in the Caribbean Sea.

Of course, I could not hold any brief in favor of a surrender of morals. If I thought that Cuba had acquired the Isle of Pines under Article I of the Paris treaty, and that the Isle of Pines were the property of Cuba, no matter what its military importance was, no matter what its possession might mean to our country, I should not, of course, for one moment advocate its retention simply because of its military importance; but, Mr. President, my study of the treaty of Paris, and the study of all the circumstances leading up to its formulation, convinces me that the Isle of Pines is American property and has been American property since the treaty was written and ratified.

It has been mentioned here before now that in the protocol submitted by the Spanish commissioners they gave voice to the demand of the American commissioners that everything around the island of Cuba—

[At this point Mr. CURTIS submitted a privileged motion under Rule XXII, and debate and roll calls ensued.]

Mr. COPELAND. Mr. President, it becomes more and more evident that the Senator from South Carolina [Mr. BLEASE] was right when he said there was no quorum present when the cloture rule was invoked. Here we find a group of men determined to take action which will disfranchise, humiliate, and impoverish American citizens, our own flesh and blood, our own nationals, who in good faith, believing in the honor and integrity of governmental officials, relying upon the information furnished by these officials, left their homes in America to take up homes on this Isle of Pines. I am not surprised that those in control of a group so oblivious to the highest instincts of the human heart should be anxious over the display of force and end discussion of a subject which should be made clear to every Senator before he undertakes to vote upon the pending treaty.

[At 7 o'clock p. m.] I leave my formal remarks for a moment to say that I welcome to the chair the Vice President, refreshed by a couple of meals and a nap, and ready to come here and help the Senator from New York to do away with those rules which are so obstructive to the highest purposes of statesmanship.

Mr. President, I tried the best I could to prevent the application of the cloture rule. I did it not because I am in opposition in general to that rule, but I did it because I am so confident in mind that a great injustice is being done innocent American citizens that I was willing to give of everything in me to prevent the consummation of such an act, which historians of the future will write down as one of the blots, the black splashes, upon the fair pages of American history. No man voluntarily does an unkind act to a child.

A man who goes out of his way to hurt a little child in person or in mind is regarded in any community as a bully, as a tyrant, as an undeserving citizen, and is reviled of all mankind. Is there any difference, Mr. President, between a man who would do a dastardly deed of that sort and a nation which would willfully and deliberately harm the children of the nation, the citizens of the nation?

I am ashamed of the Senate. I am not surprised at its action. To me personally it means nothing. In personal grief over any individual or in pocket so far as American interests are concerned, it means nothing to me. But as a Senator, as one who has taken an oath to do his duty as a Senator, I am frank to say, as I see it, that we have gone out of our way to do a wicked thing, and the historians of the future will point to this act of ours as a dastardly, degrading act. I speak feelingly because I feel deeply.

Senators, we are doing wrong. When I think about the matters which have been passed here, the bills passed to benefit this material industry and that one, measures which had to do with the advancement of wealth and financial prosperity—when I think of those measures, some of them debated over day after day, week after week, and year after year, and yet involving nothing but money, I am astounded. Here is a matter involving the educational, the religious, the social, the personal, the national welfare of hundreds of American citizens. Their rights are swept aside and given no more consideration than the sands upon the seashore.

If the Isle of Pines were a great populous community with potential votes, with the possibility of great contributions to political parties, with the possibility of advancing the political interests of would-be statesmen, there is no doubt about what

the Senate would do. It would defeat the treaty in 20 minutes, and there would be a mad scramble on the part of political parties to take possession of the loot. But there is nothing involved here except the welfare of a few men and women, boys and girls. What do we care about them? They do not mean anything to us. We do not care whether they shall be fined for cutting timber on their own lands. We do not care whether they are deprived of the privilege of schools and churches. We do not care whether they have roofs over their heads. Why, Mr. President, it is amazing! I wish I could look into the mind of the Vice President, now presiding over the Senate, who came here with no preconceived ideas about the subject and who, in spite of "Hell and Maria," has a heart as big as an ox. I wish I could know what he thinks about this calm, cool, deliberate disregard of the rights of human beings, the nationals of the United States.

The senior Senator from Indiana [Mr. WATSON] just passed me with a broad smile on his face. The future must look brighter to the Republican Party when the Senator from Indiana beams like that. Is it because he has eaten a few Isle of Pines or had some great glorious Republican victory?

In the letter of Colonel Keenan he said:

Bahia Honda and Guantanamo are leased, not ceded, to the United States, and both leases can be terminated under certain conditions. Even were it conceded that the Isle of Pines were an *ex post facto* consideration for those leases and Guantanamo, like Bahia Honda, should ever be given up, would not the recession of the Isle of Pines to the United States follow as a matter of course?

While Guantanamo is unquestionably an excellent harbor as far as it goes—

But before I come to that I want to speak briefly with reference to those leases. Article I of the pending treaty reads:

The United States of America relinquishes in favor of the Republic of Cuba all claim of title to the Island of Pines, situate in the Caribbean Sea near the southwestern part of the island of Cuba, which has been or may be made in virtue of Articles I and II of the treaty of peace between the United States and Spain, signed at Paris on the 10th day of December, 1898.

As I pointed out this afternoon, it is perfectly absurd to make reference to Articles I and II, because if the Isle of Pines is a part of Cuba it came to us in trust, as I said, under Article I of the treaty of Paris; and if it came under Article II, it is ours, and can not be transferred by treaty. Somebody, somebody is going to test that in court. Sometime the Supreme Court will have a chance to decide the ownership of the Isle of Pines. As I have said, it has not had an opportunity so far; that question was not involved in the case of *Pearcy* against *Stranahan*, but it will be involved in a case some day. However, Article II reads:

This relinquishment on the part of the United States of America of claim of title to the said Island of Pines is in consideration of the grants of coaling and naval stations in the island of Cuba heretofore made to the United States of America by the Republic of Cuba.

I hope, Mr. President, if this treaty shall be ratified that article will be stricken out in the interest of good morals. How can this relinquishment be made the consideration of the grants of coaling and naval stations in the island of Cuba when on the 2d of July, 1903, the Government of Cuba made lease to the United States of these stations, and the consideration named in Article I of the lease is—

The United States of America agrees and covenants to pay to the Republic of Cuba the annual sum of \$2,000, in gold coin of the United States, as long as the former shall occupy and use said areas of land by virtue of said agreement.

Cuba entered into a solemn agreement with the United States; she leased to the United States these stations, two of them, in the island of Cuba, and the consideration is named in the contract as being \$2,000 a year. I think I am correct in saying that we have made an advance for 51 years on that. In order to enable Cuba to acquire the land, as I understand, we advanced \$102,000. I think that is correct. However, I will ask the chairman of the Committee on Finance, the senior Senator from Utah [Mr. SMOOT], if he remembers as to that?

Mr. SMOOT. I did not hear the Senator's statement.

Mr. COPELAND. We were to pay Cuba \$2,000 a year rent for those stations, and in order that Cuba might have the money with which to buy the land we advanced \$102,000.

Mr. SMOOT. It was something over \$100,000, although I do not remember the exact amount. I think, however, that is correct.

Mr. COPELAND. Yes. We have paid 51 years' rent, beginning on July 2, 1903, so that we have paid the rent until



July 2, 1954. That was the consideration. How can anything else be a consideration? It is foolishness of the highest type to put in this treaty that "this relinquishment on the part of the United States of America to claim of title to the said Island of Pines is in consideration of the grants of coaling and naval stations in the island of Cuba heretofore made" to us when we have paid for the concession for a period extending over 50 years.

Mr. President, the more one finds out about this treaty the more he wishes to find out. One becomes filled with curiosity to know what there is back of it all. I should like to know what great influences are back of this treaty. Is it the National City Bank, the Sugar Trust, the Tobacco Trust, or the Citrus Fruit Trust? What is back of it, Mr. President?

This letter continues:

While Guantanamo is unquestionably an excellent harbor as far as it goes, nothing is to be gained by overestimating its advantages. As every naval officer knows, it is too small to serve as a great naval base, and it has been stated that it could not even accommodate a great war-time fleet with all its accessories.

Who knows why the Vice President has come into power? Who knows but this is an opportunity for him to use his great talents to investigate for the good of his country the conditions down in the Caribbean and the approaches to the Panama Canal?

The letter continues:

For the defense of the Yucatan Channel, 600 miles away, it would be practically useless.

I wish every Senator would take time to look at this map. Here [indicating] is the Yucatan Channel, next door to the Isle of Pines, a channel which in case of war would have to be protected in order that the southern coast of the United States might be protected from an enemy which might take possession of the Panama Canal or come through the Caribbean. For the defense of the Yucatan Channel Guantanamo is 600 miles away and therefore would be practically useless, as the writer says. He continues:

Siguenea Bay, fronting the Yucatan Channel on the Isle of Pines, is indispensable. A small part of the money already expended at Guantanamo would make Siguenea Bay one of the greatest naval stations in the world.

This antiquated, obsolete book [indicating], this report made 20 years ago, is the law and gospel to all the proponents of this treaty. Because some naval officer who knew nothing more about it than the Spanish surveys reveal said the bay is no good for naval purposes that statement is accepted as the truth. A hydrographic expert the other day told me that errors of 7 miles in location in that region were apparent upon these charts. We have not known anything about the real surroundings of this island until recently; and when those of us who believe in the treaty are not looking if some Senators who are proponents of it will just creep over here and take a glimpse at this chart [indicating] they will find it very illuminating; they will find out how valuable the Isle of Pines is, and I am not sure but Cuba has found out how valuable it is. My observation of the Cubans is that they are a very intelligent, alert people; they have brains and ability and they know, if we do not, the strategic as well as the commercial value of this island.

The letter continues:

Naval aviators who have studied the capabilities of the Isle of Pines in flights between Panama and the United States ports are prepared to testify that the island is almost essential as a flying station on this all-important route. Its other strategic advantages as an air port may be judged from the fact that it is within 2 hours' flight from ports in Florida and the Gulf of Mexico—

The Gulf of Mexico is within two hours by airplane—

3 hours from Jamaica, 45 minutes from Cuba, and 6 hours from the Canal Zone.

It is a six-hour flight from the Canal Zone. If we had possession of the Isle of Pines as a great naval and aviation center, there would not be any question of our protection of the Panama Canal.

The letter goes on:

Topographically it is exceptionally suited to the accommodation of both land and sea planes. Aviation, naval, and air forces in cooperation on the Isle of Pines could not only make the Yucatan Channel impregnable to the greatest fleet afloat, but could render impossible a successful attack on the Panama Canal.

That mere statement, Mr. President, should be enough to make Senators pause. I may say to the Senator from Minnesota [Mr. SHIPSTEAD] that it is unfortunate for us that our political proclivities are such that we are not invited to the White House.

If the President had taken the Senator from Minnesota and the Senator from New York on his yacht, we, too, would use nautical language and, on orders from the White House, say "Aye, aye, sir"; and when our turn came around we would have been invited to take breakfast at the White House. I suppose it is getting a little late in the season now for buckwheat cakes and maple sirup, but if we had been feasted on these delicacies we would vote right. There are some Senators who are so dyed in the wool, so thoroughly committed to Republicanism that they do not need to be invited; so if the Senator from Utah [Mr. SMOOT] has not been invited for two years—

Mr. SMOOT. No, Senator; I waited 22 years.

Mr. COPELAND. Oh, I see! The Senator from Utah waited 22 years. The Senator from Minnesota and the Senator from New York will wait 220 years before they are invited. However, I want Senators to know that I am not speaking in an unfriendly sense at all of the President. I admire him greatly; and I have had the feeling that if somebody could only tell him this story about the Isle of Pines so that he would understand how these men and women, boys and girls, are being outraged, the President would be one of the first to say, "This must not be."

I suppose it is due to my dumbness, but I have not been able to figure out, in spite of the eloquence yesterday, why the Senator from Ohio [Mr. FESS], who is now in the chair, changed his mind about the Isle of Pines. I am sure it can not be on orders from the White House, because if there is one Senator who on all occasions is independent of the orders from the boss, and who votes his convictions regardless of what those orders are, that Senator is the Senator from Ohio; and yet I have felt that his regularity is never questioned. I refer to the junior Senator from Ohio.

The letter continues:

All the facts which I have stated can be fully verified by the adoption of your suggestion that a senatorial committee be appointed to investigate and report before final action is taken on the Hay-Quesada treaty.

I did not need to have that written to me to know that that is so. What possible harm could follow a delay of eight or nine months in the ratification of this treaty? I hope that by day after to-morrow, when the ax is to fall, according to the schedule now proposed, there may be a change of heart. I hope that the prayers which are now being offered up in the Isle of Pines may have their appeal. I wish I had some gift of tongue so I could say the words to convince Senators that this wicked thing should not be done. It is wicked—wicked beyond words.

In conclusion—

The letter says—

Let me ask, Mr. Senator, whether in your judgment, taking into consideration all the circumstances attending the American colonization of the Isle of Pines, any Member of the Senate can conscientiously say that the colonists were not fully justified in their conviction that they were acquiring lands and building their homes on territory of the United States?

Mr. President, who can doubt it? Who can doubt it? These poor, misguided persons, through no fault of their own, trusted to a Government which had never failed them, strong in the belief that Uncle Sam, in his benevolence and his kindness of heart, would never do a wrong act. Much as I regret it, however, I feel that in all human probability the 14th of March will be the fatal day; and I say to Senators, as has been said in times past, "Beware the ides of March." It is not well for Senators to take this cruel stand.

A few weeks ago, Mr. President, a question arose in the Senate, I think in a debate over the speech of the Senator from Pennsylvania [Mr. PEPPER], about the attitude of the people living in the Isle of Pines at the time of the Cuban revolution or rebellion. The statement was made, and the usual quotation from the law and gospel of the proponents, that quarter-century-old report, that after the war was over, after our intervention and our military occupation of Cuba, certain American officials went down to the Isle of Pines, and they found a ragged company of Cubans lined up, and they said: "Viva Cuba!" "Hurrah for Cuba!" which proved that they were insurgents in the Isle of Pines. I want to dispose of that theory, Mr. President.



I have here a book which was published by the Cuban committee in London, the Revolution in Cuba. This was published in 1895 by the Cubans. They had a propagandistic organization in Europe to influence sentiment abroad in order that funds might be raised and moral support given to the efforts of the Cubans to gain their liberty, a very proper undertaking, I should say; a very proper missionary effort. These Cubans prepared some maps, and one of the maps shows Cuba and the Isle of Pines, and indicates exactly the progress of the revolution in Cuba. If any Senator is interested, he will find that all the eastern part of the island, which is colored yellow on this map, at the time of its making was held by the Cubans. The part colored red, in the middle of the island, was a sort of neutral ground, one group holding it part of the time and the other group the rest of the time. It was territory in dispute much of the time; while all the western part, printed in blue on this map, is the part conceded by the Cubans to be held by the Spanish. I want you to see that the Isle of Pines here is in blue, indicating that it was held by the Spanish.

The Isle of Pines from early times was used by the Spanish as a penal colony. From all parts of the Caribbean, from all sections of the West Indies where the Spanish had holdings, they would take their prisoners to the Isle of Pines; from Porto Rico, and years before from Haiti, when the Spanish had possession of Haiti, from Cuba, from all sections of the Western Hemisphere; so it was always a penal colony.

At the time we intervened there were about 350 Cubans who were prisoners on the Isle of Pines. They roamed at large, and the Spaniards had a company of guards—soldiers—very poorly armed, but nevertheless armed sufficiently to keep the prisoners from “wading ashore.”

When our soldiers went down there, of course word was sent that the Spaniards were out of business, and there was a man there who was secretary to the captain general. His name, which I will not undertake to pronounce, was Don Felix Arras Segrera, a political deportee. He had been sent there as a prisoner, and he had talent, so the captain general made him his secretary. The secretary commenced to play the game of revolution in the islands, and trapped the captain general as he went to make love to a certain maiden of the island. I will not enlarge upon that because the sentimental hearts of Senators would be so touched and they would be so moved by these love-makings that I fear their hearts might melt, and that, of course, would be a disaster too terrible to contemplate.

So they had the makings on the island of a little company, and just as soon as word came that the Americans had taken the island they turned their guns over to these prisoners, and they had a little straggling line to show when the American troops came. But the Cubans themselves—and I have shown that by the evidence—never made any claim that there was any insurgency in the Isle of Pines; and there never was. Therefore that disposes thoroughly, if I am right, of the contention that the Isle of Pines having joined with Cuba in the revolution, the island was entitled to the same consideration, should be dealt with in exactly the same way as Cuba, because it had a revolutionary partnership with Cuba. But that is not the fact.

There is no reason—geographic, geologic, historic, sentimental, no reason in the world—why the Isle of Pines should of necessity go to Cuba. As a matter of fact, the Isle of Pines came to the United States by cession under the second article of the treaty and, if it were not for the Platt amendment, would be just as much our property as Florida or Porto Rico or any other piece of land formerly owned by the Spanish.

We won the Spanish-American War and got certain land by right of conquest, in spite of our high pretense of disinterestedness and unwillingness to share at all in the outcome of the war. As a matter of fact, we did, under the second article of the Paris treaty, take Porto Rico, Guam, and all the islands under Spanish dominion in the West Indies, and under Article III the Philippines.

What is it that puts it into the hearts of Senators—I have seven minutes yet, I will say to the Senator from Virginia. I did not promise to stop until 8 o'clock; and the Senator need not worry, I am just as anxious for 8 o'clock to come as he is. You know, to speak eight hours is some achievement.

I was walking down the street the other day with a friend of mine, when he said, “Doctor, I have been married 15 years to-day.” Of course, I congratulated him and felicitated him; wished him many returns of the day. He said, “A remarkable thing about my married life is that during these 15 years I have never spoken to my wife.” Of course I was embarrassed, and said, “I am sorry; I hope there is nothing

wrong.” He said, “Oh, no; there is nothing wrong, everything is all right; but I did not want to interrupt her.”

I may say to the Senator from Virginia that to talk eight hours, with the decision of the Presiding Officer that I must not be interrupted, and to keep it up without interruption, is one of the achievements that will be marked down in the annals of the Senate, and if there were anything to be gained by it, I would be very happy to go along for another eight hours. I feel entirely ready for it, and have material which, if listened to and absorbed by Senators, I feel would be enlightening to them. I perhaps am wrong, because the interesting thing about these performances is that after one has done all that, he has not made a vote, not one.

As Senators intended to vote at 12 o'clock to-day, they will vote next Saturday. There is no change.

I shall look back on this debate with a clear conscience. I have done my level best to present the cause of a thousand American citizens who live in the Isle of Pines, not one of whom I know personally. I have done my level best to protect the property interests of 10,000 American citizens who own property in the Isle of Pines. Ninety-five per cent of that island is owned by American citizens. I have done my level best to protect the rights of the owners of the plantations in the Isle of Pines, plantations capable of raising tobacco and sugar cane and citrous fruits and vegetables to feed a multitude; and if it were not for the fact that the Isle of Pines has soil capable of raising the things I have suggested, there would be no enthusiasm in this country for the ratification of the treaty.

Ah, my friends, I want to say that the ratification of the treaty at this time, without opportunity afforded these citizens to be heard, without opportunity for them to tell how they feel about it, to present the evidence which they claim they have—I say that to permit the ratification of the treaty under such circumstances is little short of infamy.

I regret that there is not some way, I hope there may be some way presented, so that the prayers of these people may be answered. I hope that the Great Father who oversees us all may somehow soften the hearts of those who must vote. I pray that somehow there may come a way to defeat the immediate ratification of this treaty, that good counsels may prevail, and the Senate may decide to appoint a committee to give consideration to all these matters, and that that committee may have wisdom in its acts, and that its decision may be a just one.

Senators, I am sure that you know me well enough to know that this long talk of eight hours has been made because of an honest desire to have justice done to these people. I am sincere when I say to you that I think it is a terrible thing, an unkind thing, an unjust thing, an unchristian thing to disregard the rights of these Americans. I am not asking Senators to defeat the ratification forever. I am not asking Senators to change their convictions. I am merely asking Senators to defer action until those persons can be heard. After these 21 long years a few months more will make no difference, and so I beg that my colleagues may review all the elements involved and, if possible, bring about some solution or some means of averting what will be a disastrous thing to these men and women, our brothers and sisters, now living in the Isle of Pines.

Mr. SHIPSTEAD. Mr. President, I can assure Senators that I rise at this late hour not for the purpose of prolonging the discussion and the debate, but because in the treaty with reference to the Isle of Pines it seems to me we find a new departure, a deviation in the public policy of the Government of the United States. The debate has been prolonged throughout the winter, and one would naturally believe that all the facts and all the arguments pertaining to the discussion of the treaty had been presented. I have followed the debates and the arguments, and I still believe there are some facts that should be presented. It is for that reason I rise at this late hour to address the Senate. I shall speak as hurriedly as I can, and for the benefit of Senators who may have an idea that I intend to talk for any extended length of time, I will say that if I am not interrupted I expect to conclude within an hour.

The proponents of the treaty say that the Isle of Pines has always belonged to Cuba. They say that it belongs to Cuba because for a long time it was united with Cuba for governmental purposes; that it belongs to Cuba because it is near Cuba, like Nantucket is near Massachusetts and Long Island near New York. The islands near Alaska are adjacent to Alaska. They also claim that we never had title to the Isle of Pines under the treaty of Paris; that it is not ours now and never has been ours. Then they say we are disposing of it to Cuba for a “consideration,” that “consideration” being



coaling stations. The treaty has been pending for something like 20 years. It seems to me that the questions involved are—

First. Is the title to the Isle of Pines vested in the Government of the United States?

Second. If we are in possession of the title, should we dispose of it to Cuba?

Third. Is the treaty the proper method of transferring title?

Fourth. Are the rights of the American citizens protected in their equity accruing to them as a result of damages due to this prolonged controversy?

An equity was admitted by Mr. Root, under whose Secretaryship of War the Isle of Pines for governmental purposes was transferred to Cuba.

The Isle of Pines is situated about 30 miles south of the island of Cuba. It contains an area of about 900,000 acres. Prior to the treaty of peace following the war with Spain the Isle of Pines, together with Cuba, Porto Rico, and other islands of the West Indies, were possessions of the Kingdom of Spain.

The treaty of peace with Spain, known as the treaty of Paris, was signed December 10, 1898. This treaty contained the following provisions as to the islands in the West Indies:

ARTICLE I. Spain relinquishes all claim of sovereignty over and title to Cuba.

ART. II. Spain cedes to the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies and the island of Guam in the Marianas or Ladrones.

The act of Congress providing for a constitutional government for the island of Cuba was approved March 2, 1901. This act had the following provision, which is known as the Platt amendment:

That the Isle of Pines shall be omitted from the proposed constitution and boundaries of Cuba, the title thereto being left to future adjustment by treaty.

In 1903 the first proposed treaty was prepared, proposing to relinquish to Cuba all claim to the Isle of Pines, but this proposed treaty lapsed, because it failed of ratification by the United States Senate within the seven months' time limit fixed for its ratification.

On March 2, 1904, almost 20 years ago, the pending proposed treaty was prepared. Its provisions are as follows:

ARTICLE I. The United States of America relinquishes in favor of the Republic of Cuba all claim of title to the Isle of Pines situate in the Caribbean Sea near the southwestern part of the island of Cuba, which has been or may be made in virtue of Articles I and II of the treaty of peace between the United States and Spain signed at Paris on the 10th day of December, 1898.

ART. II. This relinquishment on the part of the United States of America of claim of title to the Isle of Pines is in consideration of the grants of coaling and naval stations in the island of Cuba heretofore made to the United States of America by the Republic of Cuba.

From the time of the treaty of Paris and until the Republic of Cuba was inaugurated on May 20, 1902, Cuba was ruled by military governors appointed by the United States; first by Major General Brooke and later by Governor General Leonard Wood, who succeeded him, and during this time the Isle of Pines was attached to the division of Cuba for governmental purposes.—Letter of C. G. Meiklejohn, Senate Document No. 205, Fifty-ninth Congress, page 212.

On May 16, 1902, Secretary of War Root cabled to Governor General Wood at Habana, in reply to dispatches that he had received relating to the Isle of Pines, as follows:

It is understood by the United States that the present government of the Isle of Pines will continue as a de facto government, pending the settlement of the title of said islands by treaty pursuant to the Cuban constitution and an act of Congress of the United States approved March 2, 1901.

Note that this instruction from Secretary Root was given many days prior to the transfer of the Government of Cuba to the President and Congress elected by the people thereof, and that the instruction was that the then present government of the Isle of Pines should continue as a de facto government. At the time this message was sent, and for several days thereafter, the only government the Isle of Pines had was the military government of the United States, and this is the government that Secretary Root intended should continue. But these instructions seem to have been misunderstood by General Wood, and in place of retaining the military government over the Isle of Pines he transferred the Isle of Pines as a de facto government to the Cuban Republic and withdrew the military government of the United States from the Isle of Pines. This mistake

has been very injurious to public and private interests and rights.

Ever since May, 1902, the Isle of Pines has remained under the Government of Cuba, and the treaty the Senate is now considering has been lying dormant for many years.

After briefly reciting the facts in this case, let us now look at the treaty more closely and determine in ordinary business terms what kind of a transaction this really is. Is it a bargain and sale by which we sell property that we absolutely own to the island of Cuba for a stated consideration? If so, we ought to inquire into the adequacy of the consideration. Or is it simply a relinquishment of a cloud on the title that the United States may have on Cuba's title to the Isle of Pines; and if this is the case are we not charging Cuba entirely too much for a quitclaim deed if we have no interest whatever in this island? Is the United States to be in the same position as the real-estate shark that files a lis pendens on a piece of real estate simply for the purpose of beclouding the title to the land and then asking a substantial consideration for giving a quitclaim?

It appears to me from a careful examination of all the data on this subject that I could get hold of that the United States is the absolute owner of the Isle of Pines—that is, has absolute sovereignty over it—and that the treaty we are now considering is a sale or cession of the Isle of Pines to the Republic of Cuba.

I have been presented during the last year with numerous documents and briefs from both sides, those in favor of this treaty claiming that the Isle of Pines is an integral part of the island of Cuba. Most of the arguments advanced to support this claim are that the Isle of Pines has for centuries been attached to Cuba for governmental purposes, and by reason thereof the Isle of Pines is an integral part of the island of Cuba. I do not think that these arguments are worthy of any consideration. The second argument advanced is that the Isle of Pines is physically, geographically, or geologically a part of the island of Cuba, and it is upon this point alone that we must determine the question whether the Isle of Pines is an integral part of the island of Cuba. If so, it was never intended to be ceded to the United States under Article II of the treaty of Paris, but comes within the provisions of Article I of said treaty and within the policies of the United States declared when we entered the war with Spain that we were going to intervene to make Cuba free.

In a circular entitled "Cuba's Claims to the Isle of Pines," by Gonzalo de Quesada, reproduced from the North American Review, November, 1909, and which reproduction last year was distributed by the Department of State, an extensive quotation is made from William Edward Hall's International Law, from which I quote the following:

On the south coast of Cuba the Archipelago de los Canarios stretches from 60 to 80 miles from the mainland to la Isla de Pinos. The length from the Jardines Bank to Cape Frances is over a hundred miles. It is inclosed partly by some islands, mainly by banks, which are always awash, but upon which, as the tides are very slight, the depth of water is at no time sufficient to permit of navigation; spaces along these banks, many miles in length, are unbroken by a single inlet; the water is uninterrupted, but access to the interior gulf or sea is impossible. At the western end there is a strait 20 miles or so in width, but no more than 6 miles of channel intervenes between two banks, which rise to within 7 or 8 feet from the surface and which do not, consequently, admit of the passage of seagoing vessels. In cases of this sort the question whether the interior waters are, or are not, lakes inclosed within the territory must always depend upon the depth upon the banks and the width of the entrances. Each must be judged upon its own merits. But in the instance cited there can be little doubt that the whole Archipelago de los Canarios is a mere salt-water lake and that the boundary of the land of Cuba runs along the exterior of the banks.

I will not dispute the law as laid down by Doctor Hall, but he is mistaken as to the facts so far as the Isle of Pines is concerned, and, for that reason, the principle of law that he has enunciated does not apply to the case at bar. Doctor Hall was under the impression when he wrote the above-quoted paragraph that this whole archipelago was a mere salt-water lake. Anyone who has visited the Isle of Pines and sailed the waters surrounding it knows that this is not so; but the best proof of all that Doctor Hall was mistaken is that the United States has almost completed a survey, or rather soundings, of the water surrounding the Isle of Pines, and the map of these surveys shows that this island is surrounded by water, the depth of which is at no place less than 20 feet. Doctor Hall must have based his opinion upon the rumors or gossip that



existed throughout Europe that the Isle of Pines could not be used as a penal colony for the reason that the prisoners could wade from the Isle of Pines over to the island of Cuba at stages of low water.

Doctor Hall's statement as to the status of the Isle of Pines seems to have misled many experts on international law.

In an article by Gonzalo De Quesada, former minister of Cuba to the United States, published in the *North American Review*, November, 1909, the learned writer states:

And in no case the Isle of Pines has been considered other than a part of Cuba, as much as Staten Island or Long Island are part of New York State; the keys to the southwest of Florida, extensions of the mainland; Nantucket a portion of Massachusetts; and the Isle of Wight a part of England.

In a letter to Senator McCormick dated October 16, 1922, Secretary of State Charles E. Hughes states as follows (p. 2, S. Doc. No. 166, 68th Cong.):

The Isle of Pines is situated about 50 miles from the coast of Cuba, and therefore, as was indicated by the Supreme Court of the United States in its opinion in the case of *Pearcy v. Stranahan* (205 U. S. 257), under the principles of international law applicable to such coasts and shores as those of Florida, the Bahamas, and Cuba, it would ordinarily be regarded as an integral part of Cuba.

There we have the eminent former Secretary of State enunciating international law in regard to the Isle of Pines.

In letter to Senator Shelby M. Cullom, dated January 8, 1906, Secretary of State Root, in answer to inquiry in regard to Isle of Pines, inclosed a typewritten copy of the paragraph that I have heretofore quoted from Hall's *International Law*. In the letter Secretary Root states:

You will see that it contains a very good description of the physical condition, and that, as I mentioned to you, the undoubted appurtenance of the Archipelago de los Canarios, including the Isle of Pines, to the country called Cuba, is used as in illustration of the general proposition. (S. Doc. 166, 68th Cong., p. 3.)

In letter to Senator T. C. Platt, dated December 18, 1903, Secretary of State Elihu Root states as with reference to the Isle of Pines (S. Doc. 166, 68th Cong., p. 284):

I think at the time the treaty was made it was as much a part of Cuba as Nantucket is a part of Massachusetts.

So we have the opinion of two former Secretaries of State, two very eminent authorities on international law. Certainly, Mr. President, it is not from vanity that I question their authority. I am not so vain as to want to set myself up as an authority on international law. If I so attempted to do, it would be the best evidence that I knew nothing about international law. It may be presumptuous on my part, a layman, to discuss constitutional law, but I want to remind you, Mr. President, that there is an old saying that you can find out something about religion almost anywhere except in a theological seminary; and so you can find out something about constitutional law almost anywhere except in the office of a man who claims to be a constitutional lawyer.

It is interesting to note that these eminent authorities on international law claim that the Isle of Pines is a part of Cuba because it is contiguous to Cuba, because it lies near Cuba, as Long Island lying near the mainland of New York and Nantucket lying near the mainland of Massachusetts and the islands lying near the Peninsula of Florida are a part of the mainland of the United States, because they lie near that mainland. But, Mr. President, an examination of the treaties that the United States has made for cessions of land will show that the title of the United States to islands in the Atlantic and Pacific Oceans and the Gulf of Mexico is based upon treaty stipulations particularly in regard to treaties with Great Britain, Spain, France, and Russia.

In the treaty of peace between the Colonies and Great Britain at the close of the Revolutionary War, Great Britain ceded to the Colonies all islands within 20 leagues of the shore line and lying between lines to be drawn due east from the main land ceded.

In the Florida treaty of 1819 Spain ceded to the United States the mainland of Florida and the adjacent islands owned by Spain.

Adjacent islands are also included in the Louisiana purchase and the Alaska purchase. The title of the United States to the Florida keys, Long Island, Nantucket, and other islands mentioned is not based upon the contiguity of these islands to the mainland, but these rights are specifically secured by treaty.

These eminent authorities all seem to claim that because Nantucket belongs to Massachusetts, the Isle of Pines belongs to Cuba. Nantucket belongs to Massachusetts not on account

of its contiguity to the mainland of Massachusetts but is entirely based upon treaty rights.

King Charles the Second by patent to the Duke of York, in 1664, ceded a part of the mainland embraced in the State of New York which is in said treaty drawn by metes and bounds and "also all that island or islands commonly called by the several names of Mattawacks or Long Island, situate, lying, and being toward the west of Cape Cod and the Narro Higan-set \* \* \* and also all those several islands called or known by the names of Martins Vineyard and Nantukes, otherwise Nantuket." A similar grant was made by King Charles the Second in 1674 to obviate the objections raised against the validity of the first charter. Macy's *History of Nantucket* states that a certain Governor of New York notified the inhabitants of the Isle of Nantucket that if any of them had any private claims to ownership of land thereon they should present their claims to ownership of such land within a certain time. In pursuance of this notice a delegation from Nantucket appeared before the Governor of New York and presented their claims. The Governor of New York recognized these claims to private ownership of land on the condition that the inhabitants of Nantucket furnish to the Governor of New York every year four barrels of merchantable codfish. (This was before the adoption of the gold standard in New York.) Afterwards, and about the year 1692, the Isle of Nantucket was transferred to the Colony of Massachusetts by an act of Parliament. This shows that the claim to sovereignty by the State of Massachusetts over the Isle of Nantucket is not based upon geographical location of the island, but is based upon an act of Parliament.

In Senate Document No. 205, Fifty-ninth Congress, page 198, it is stated:

It is not true, in point of fact, that the Isle of Pines was always a part of Cuba either politically or geographically. It was discovered by Columbus in 1494, and was named La Evangelista by him, and occupied as a separate discovery under the flag and the name of Spain. For a great many years it was not included in the Government of Cuba by any edict or act of the Spanish Government. It was never so included as a separate political department of Cuba.

HOW WAS THIS ISLAND CONSIDERED DURING THE NEGOTIATIONS OF THE TREATY OF PARIS AND DURING THE YEARS IMMEDIATELY FOLLOWING?

From evidences that I have examined, I am satisfied that Senators William P. Frye, of Maine, and Cushman K. Davis, of Minnesota, two of the commissioners who negotiated the treaty, claimed that the Isle of Pines was not a part of Cuba, but was ceded to the United States under Article II of the treaty of Paris. That President McKinley was of the same opinion is also well established. The fact that he ordered the Commissioner of the General Land Office, Hon. Binger Hermann, to indicate on the map prepared by the General Land Office that the Isle of Pines belonged to the United States and not to Cuba, is conclusive evidence that President McKinley understood that this island was ceded to the United States under Article II of the treaty of Paris. Senator O. H. Platt, of Connecticut, who introduced the Platt amendment, and Senator John T. Morgan, of Alabama, who filed the minority report when this treaty was first reported, were of the same opinion.

Mr. President, I am aware that the charge has been made that the map prepared by Mr. Binger Hermann was based upon a mistake.

Mr. KING. Mr. President, before the Senator proceeds to that, will he yield for a question?

The PRESIDING OFFICER (Mr. Fess in the Chair). Does the Senator from Minnesota yield to the Senator from Utah?

Mr. SHIPSTEAD. Yes.

Mr. KING. I understood the Senator to state that Senator Cushman K. Davis and Senator Frye, who participated in the negotiation of the treaty, both took the position that the Isle of Pines was ceded to the United States; and I deduced from the Senator's statement that his contention was that they insisted or concluded that it was territory belonging to the United States. I was anxious to know where such a statement was made by those Senators—where the Senator finds the authority for it.

Mr. SHIPSTEAD. There are several letters on the subject in the records. I have not the letters here. I have read them. I think there are several affidavits to that effect.

Mr. KING. If the Senator will pardon me, I think he will find that Senator Davis and Senator Frye did not contend that the Isle of Pines came in the same category as Porto Rico and was carried as territory ceded to the United States in virtue of the provisions in the treaty by which Porto Rico and other islands—of course, referring to those that were contiguous to Porto Rico—were ceded to the United States. I



confess that I have given some little attention to the matter, and I can find no statement by either of those Senators which would justify or warrant the assertion that they regarded the Isle of Pines as territory ceded to the United States, as an independent cession, the same as Porto Rico was, and under the terms of which cession the United States might exercise complete sovereignty—quite the reverse. I reached the conclusion, from the investigations which I made, that they took the position that the Isle of Pines was a part of Cuba, and would go as Cuba went.

If the United States retained jurisdiction and sovereignty over Cuba, it might then retain jurisdiction and sovereignty over the Isle of Pines; but if, on the contrary, Cuba became an independent state, or we had a protectorate over it, then we would bear the same relation to the Isle of Pines, and no other, that we would bear to Cuba under any arrangement which we might make with the Cuban people.

Mr. SHIPSTEAD. May I ask the Senator where he found any evidence to arrive at that conclusion?

Mr. KING. All I can say to the Senator is, as he replied to me, that I think the hearings before the committee, the multitudinous documents which have been presented to the committee from time to time, bear out the position which I have assumed. I have not time now to go through the record and point them out.

Mr. SHIPSTEAD. I do not mean to say that Senator Frye and Senator Davis went into such detail as the Senator from Utah does in his statement denying their position; but I think there is considerable evidence in the records to show that they had an opinion, and that they considered that it was United States territory. I went through the various documents a year ago, and I remember distinctly the statement in a letter that I read from Senator Davis, he being from my State.

Mr. KING. If the Senator will pardon me, I think the Senator would be entirely within the bounds of accuracy if he were to state that they regarded the treaty as a complete dispossession—if I may be permitted to use that term—of Spain of any title which Spain had in the Isle of Pines, the same as the treaty constituted a dispossession of Spain of any title which she had in Cuba. In other words, they regarded the treaty as having deprived Spain of all sovereignty, all right of possession, all proprietary interest, not only in Cuba but in the Isle of Pines and Porto Rico and contiguous islands; but I think that they differentiated Cuba and the Isle of Pines from Porto Rico and the contiguous islands to which I have referred.

I hope the Senator will pardon me for having taken so much of his time.

Mr. WILLIS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Ohio?

Mr. SHIPSTEAD. Yes; I yield.

Mr. WILLIS. I do not desire to intrude upon the Senator's very able argument, but I should not like to have the statement made by the Senator from Utah go unchallenged. In my remarks yesterday at some length I undertook to place in the RECORD and did place in the RECORD very definite evidence to the contrary of the statement which the Senator from Utah has just made. There was no direct statement from Senator Frye, but there was and is to be found in the minority report written by Senator Morgan when the treaty was before the Senate the first time the very definite statement that Senator Frye, in the private deliberations of the committee, had stated that he regarded the Isle of Pines as coming to the United States; and then I placed in the RECORD—the Senator will find them in to-day's RECORD—the sworn statements of the men to whom Senator Davis, likewise a member of the commission, had made similar statements indicating his clear opinion that the Isle of Pines was not a part of Cuba.

I thank the Senator for yielding to me.

Mr. KING. Mr. President, of course the Senator will recall that Senator Frye joined in reporting the treaty favorably and asked for its ratification.

Mr. WILLIS. There is no evidence that he joined in the majority report. He did not make a minority report, but we have no evidence at all that he joined in the majority report.

Mr. KING. I think it is very evident that Senator Frye took the position that the treaty should be ratified.

Mr. WILLIS. I will say to the Senator that there is no evidence of that.

Mr. SHIPSTEAD. Let us assume that he did. Senators very often change their minds, if for no other reason in order to be regular. I will say to the Senator from Utah that I thought the evidence of the opinion of Senator Frye, and par-

ticularly of Senator Davis, had been so thoroughly established that I did not bring a copy of the letters to read into the RECORD.

On this wall we have a map prepared by the Geodetic Survey in 1901 for the use of the President of the United States. It is reproduced by the Military Intelligence Division of the United States Army, and if you will look on that map you will see that the Isle of Pines is shown to belong to the United States. So we have not only the Department of the Interior and the General Land Office making maps of the possessions of the United States, but we have the Geodetic Survey making them, and we have the Department of War copying and reproducing the maps printed by the Geodetic Survey showing that the Isle of Pines was then United States territory.

How can we account for the pending treaty, by which the United States is to cede all its claims both under the first and second articles of the treaty of Paris?

If we have any claim it must be under either one or the other—either the first article or the second article. It can not be under both, and certainly not under the first, because the first article states that the Kingdom of Spain relinquishes all claim of sovereignty over and title to the island of Cuba. It does not say that it gives Cuba to the United States. Consequently, we could not, under any stretch of the imagination, obtain title under Article I of the treaty of Paris. We could only have it under Article II.

The Senator from Ohio [Mr. WILLIS] presents to me the letter he inserted in the RECORD of yesterday showing the position of Senator Davis, of Minnesota. I shall not take the time of the Senate to read it, however, because it is already in the RECORD, and I do not care to have it printed again. The very able Senator from Ohio, in his remarks of yesterday, covered that point.

Then, to make it doubly strong, the pending treaty is based upon a consideration; but this consideration is purely fictitious, because the lease for coaling and naval stations in the island of Cuba had been made long before this treaty and was to be for a consideration of \$2,000 a year paid by the United States as long as the United States chose to occupy said stations for the purposes set forth in said treaty, but for no others. This treaty does not relieve the United States from paying this \$2,000 a year rental.

We are called upon to ratify this treaty 20 years after it was negotiated, when the eminent statesmen that I have mentioned, such as Senators Frye, Davis, and Morgan, are no longer with us, after over 10,000 American citizens have acquired interests in that island upon the belief that this island would remain under the sovereignty of our country, relying upon the policy of this Government never to cede any of its territory and transfer its citizens to that of another.

How can it be contended that the Isle of Pines was politically a part of Cuba? Up to the time of the treaty of Paris, Cuba was absolutely under Spanish sovereignty. So were Porto Rico and the other islands in the Caribbean Sea.

Cuba had no sovereignty except that given it by the United States under the Platt amendment. Until that sovereignty was established by the Government of the United States, Cuba could not hold sovereignty over the Isle of Pines, because it did not have sovereignty of its own. It could not own anything.

Mr. SIMMONS. Mr. President, referring to the statement the Senator just made—and I do not interrupt him with any idea of disturbing his discourse—

Mr. SHIPSTEAD. I am glad to yield to the Senator.

Mr. SIMMONS. I think the Senator is clearly in error in saying that Cuba had no sovereignty at the close of the insurrection. If that were true, then the United States had no sovereignty at the close of the War of the Revolution. In 1807, more than a year before the war against Spain terminated, the Cuban people, in insurrection, just like the American people, met in convention, duly and formally called, with delegates elected from and representing all the Provinces of Cuba, including the Province of Habana, the delegates from the Province of Habana being voted for by the people of that part of the Province of Habana termed the "Isle of Pines" as well as by the people of that part of Habana Province lying in the island of Cuba, and adopted a regular constitution, declaring that the Republic of Cuba was free and of right entitled to be an independent nation. That constitution was modeled very largely upon our own Constitution. The first article of that constitution undertook to declare, and did declare, the territorial limits of the new government of the Republic of Cuba, and that declaration included the Isle of Pines.

At that time the revolution had been in progress for more than two years. More than 50,000 Cuban soldiers were under



arms. The Isle of Pines contributed a part of that army. The constitution went into effect providing for the civil government of the new Republic of Cuba. That constitution was filed with the Department of State of this Government, and it was upon the request of the representatives of the new Government of the Republic of Cuba that the United States intervened in the war between Cuba and Spain. So that Cuba was a Government—an orderly, regularly, and legally organized Government—at the time we intervened, and we intervened at the request of that Government.

How the Senator can say, therefore, that Cuba had no sovereignty, I can not understand. According to my theory of this matter, whether the Isle of Pines was geographically and integrally part of the island of Cuba or not, the Isle of Pines had a right to associate itself in the rebellion with Cuba, and it did associate itself in that rebellion with Cuba. It furnished its just and fair quota of soldiers in the struggle. It joined itself with Cuba in the formation of this new Government and became politically a part of the Republic of Cuba, and when we entered the war we recognized that Government and declared that it was free and of right ought to be free and independent.

We did not win the war with Spain ourselves, alone. We won it in cooperation with the new Republic of Cuba, organized as formally as the Government of the United States, under the Declaration of Independence of 1776, was organized. We acquired the same status among the nations of the earth that we had at the time France came to our assistance, and at the close of that war we had the same status and no other status than that which the Republic of Cuba had at the time of the close of the rebellion of that country against the Kingdom of Spain.

So that to my mind it makes but little difference, in the consideration of this problem, whether the Isle of Pines was geographically a part of Cuba or not; she became politically a part of Cuba, as she had a right to do, and after the adoption of a constitution, in which she participated, she became a part of the Cuban Government.

During the whole of the insurrection, before the constitution was adopted and after the constitution was adopted, the Isle of Pines was engaged, just as the island of Cuba was engaged, in the contest against Spain. We intervened in behalf of the liberty and the freedom of those people who were engaged in insurrection against Spain, and there can not be a scintilla of doubt that the Isle of Pines was as much in insurrection against the oppression and misrule of Spain as the island of Cuba was, and there can not be a doubt that those two countries, even if they were before independent of each other politically, did come together and did organize and agree in solemn constitutional convention, that thereafter they would be one political unit under the name of the Republic of Cuba.

Mr. SHIPSTEAD. Mr. President, I want to say that the Senator from North Carolina is always worthy of consideration when he expounds his views. When I made the statement that Cuba was not a sovereign nation until the United States made her so, of course I made the statement with this in mind, that Cuba was not able to maintain or enforce her sovereignty until the United States came to her assistance.

When the treaty of peace was signed, the disposition of the territory of Cuba was provided for in the treaty of Paris between the United States and the Kingdom of Spain, and in that treaty, Article I, Spain gave up title and claim to and possession of the island of Cuba, and the United States held possession at the time. We might say that the Government of the United States held the island in trust for the Cuban people until a government could be established, and a government was established after the enactment of the Platt amendment providing for a constitution for the people and government of Cuba.

There may be a difference of opinion as to the exact time when Cuba became a sovereign nation, and due to the lateness of the hour I do not intend to go into any extended discussion of that, but, as a matter of fact, sovereignty over Cuba, so far as the nations of the world were concerned, was in the Kingdom of Spain until possession over the island of Cuba was wrested from the Kingdom of Spain by the armies of the United States. I might add that I was under the impression that during the Cuban rebellion a majority of the people of the Isle of Pines were noncombatant Spaniards who did not support the rebellion.

If Spain had seen fit to put Cuba and Porto Rico under the same governor, would that have given Cuba the right to claim Porto Rico under the treaty of Paris? Certainly not. Spain could place as many of these islands under one governor or local legislature as she saw fit and could change this arrange-

ment from time to time. Further, the treaty of Paris deals with geographical subdivisions only. Under Article II Porto Rico and all other islands are ceded to the United States. The rights of the United States under this treaty are governed by geographical subdivisions.

The Isle of Pines is not a physical, geographical, or geological part of the island of Cuba. On the wall is a photographic copy of a War Department map of the Isle of Pines, showing that the Isle of Pines has its own set of keys and that it is a separate geographic structure from the island of Cuba. It is more than 30 miles away from the mainland of Cuba, and is separated from Cuba and its keys by a navigable channel of a depth of 20 feet and upward, has its own harbor, which connects directly with the Yucatan Strait and not with the harbors in Cuba, and from a geological standpoint it is not of the same formation as Cuba and has its own sets of keys. All these facts show that the Isle of Pines is not geographically or geologically an integral part of the island of Cuba.

In the report of the Secretary of the Treasury for 1924, page 54, it is stated that the Government of Cuba has paid its obligations in full, both principal and interest. A similar statement appears in the report of the Secretary of the Treasury for 1923, but it must be noted that this statement appears in connection with the Secretary's report of settlements made with foreign countries of debts growing out of advances made during the World War, and the Secretary's statement does not refer to debts due the United States from Cuba on account of any of the interventions made by the United States in behalf of Cuba.

I ask leave to have printed in the RECORD as part of my remarks a copy of letter that I sent to the Secretary of the Treasury on December 23, 1924, together with the reply thereto by Garrard B. Winston, Undersecretary of the Treasury, dated December 29, 1924.

The PRESIDENT pro tempore. Is there objection?

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DECEMBER 23, 1924.

HON. ANDREW W. MELLON,

Secretary of the Treasury, Washington, D. C.

MY DEAR SECRETARY: I desire to secure some information in regard to repayment to the United States by the Republic of Cuba of the expenses incurred by the United States in the first intervention, 1895-1902, and the second intervention, 1906-1909.

My attention has been called to page 54 of the Annual Report of the Secretary of the Treasury, 1924, where it states that the Government of Cuba has paid in full both principal and interest due on its obligations. I presume this refers only to the advancements made by the United States out of the sale of Liberty bonds during the late war, and does not refer to any other obligations.

Was any payment ever made to the United States by the Republic of Cuba as authorized by the act of March 2, 1907, volume 34, United States Statutes at Large, page 1381?

If you can give me the information as to the amount expended by the United States on account of these interventions and how much still remains unpaid, I shall consider it a great favor.

Very respectfully,

HENRIK SHIPSTEAD.

—  
TREASURY DEPARTMENT,  
Washington, December 29, 1924.

MY DEAR SENATOR: Referring to your letter of December 23, 1924, making inquiry as to whether the United States has ever been paid any part of the debt incurred by the Cuban interventions, you are advised as follows:

The deficiency act of March 4, 1907 (34 Stat., pt. 1, p. 1381), under the caption "Military Establishment," authorized the President "to receive from the Treasury of the Cuban Republic and pay into the Treasury of the United States from time to time such amounts to reimburse the United States for the expenditures from the United States Treasury made necessary on account of the present intervention as he may consider the Cuban Treasury then able to pay without serious embarrassment."

From a careful examination of the records of this department it does not appear that any sum has ever been deposited in the Treasury of the United States on account of the expenditures due to the Cuban interventions.

In this connection, however, it may be stated that the report of the Bureau of Insular Affairs for 1909 to the Secretary of War contains, on page 26, a statement of extraordinary expenditures on account of the army of intervention in Cuba, which shows the amount of such extraordinary expenditures for the fiscal years 1907, 1908, and 1909 to be \$6,509,511.26. The report of the Bureau of Insular Affairs appears to have been contained in the Annual Report of the Secretary of War for the fiscal year ended June 30, 1909, but no copies of this



report are available in the Treasury Department. It is suggested, however, that, if any further detailed information is desired pertaining to this matter, you communicate with the War Department, Bureau of Insular Affairs.

By direction of the Secretary.

Very truly yours,

GARRARD B. WINSTON,  
*Undersecretary of the Treasury.*

Hon. HENRIK SHIPSTEAD,  
*United States Senate.*

Mr. SHIPSTEAD. A great deal had been said to the effect that the United States should be generous in dealing with this small Republic of Cuba. Have we not been generous? I desire, in connection with this, to show the attitude of the Republic of Cuba in regard to fulfilling their obligations under the Platt amendment, and I can best accomplish this by reading the following extracts from the message of President Palma to the Congress of Cuba, dated April 6, 1903, and published in House Documents, Volume I, "President's Message and Foreign Relations," for 1903 (pp. 354 to 359):

It is to our interest to worthily cultivate those sentiments of the American people, and we can do it in no more certain a way than by acting frankly, promptly, and correctly in the fulfillment of our obligations to the Washington Government, be this to grant what we should or refuse what we consider unjust to concede.

The agreement which under article 7 of the constitutional appendix was made with the President of the United States fixing the places we are to lease for naval and coaling stations has already been submitted to the Senate for its approval. I do not hesitate to call the attention of the Congress to the difference between what has been agreed upon and the purpose of the Washington Government to obtain two more places—Nipe and Cienfuegos—in addition to Guantanamo and Bahia Honda for the establishment of such stations.

The constant energy of that Government to secure the first two stations can only be compared with the efforts made by the Cuban Government not to cede more than the two stations previously mentioned. As it is not possible to elude the obligation assumed in consequence of the seventh article of the Platt amendment, accepted by us, the Executive believes that the agreement made, by which there is fixed for naval or coaling stations a part of the Bay of Guantanamo and likewise a part of Bahia Honda, is the most favorable that could have been made. Therefore the Executive did not hesitate to recommend its prompt approval, so that it could proceed immediately to make the additional agreement establishing the consideration of the lease and all other conditions and particulars which should regulate the possession of the areas of land and water designated in Guantanamo and Bahia Honda.

I also quote from President Palma's message to the Cuban Congress, dated November 2, 1903, published in said House document, pages 361 to 369:

Of two formulas of grant—"sale or lease"—of portions of territory to which the United States had had the right for the establishment of naval and coaling stations, the one that would least wound Cuban sentiment was accepted; of said stations we granted the least number possible, and the conditions inserted in the convention regulating the lease of the same are so many more limitations of that grant, all favorable to the Republic of Cuba.

It has been argued in support of the ratification of the treaty that the leasing by Cuba of naval stations to the United States was a consideration for the cession of the Isle of Pines. Such was apparently not the understanding of President Palma, because in his message to Congress on April 6, 1903, he states, after the paragraph which I have quoted, in which he reports to Congress the leasing of the naval stations, as follows:

We are now busy with the matter of the Island of Pines, and are hopeful that the negotiations will result satisfactorily to us.

This shows that the contract for leasing the naval stations to the United States was completed before the terms of the treaty for ceding the Isle of Pines to Cuba were agreed upon and clearly shows that the lease of naval stations was not a consideration for ceding the Isle of Pines to Cuba, and corroborates the statement that I made at the beginning of my address that the consideration expressed in the pending treaty is mere fiction.

It has been claimed that the \$2,000 annual rental is only a nominal consideration, but when we examine Article I of the lease to the United States of said naval station—Senate Document No. 166, Sixty-eighth Congress, page 310—we find the following provisions which are very advantageous to Cuba:

All private lands and other real property within said areas shall be acquired forthwith by the Republic of Cuba.

The United States of America agrees to furnish to the Republic of Cuba the sums necessary for the purchase of said private lands and properties, and such sums shall be accepted by the Republic of Cuba as advance payment on account of rental due by virtue of said agreement.

It will be seen from the provision quoted that the United States had to advance all the money necessary to pay for the lands occupied by the United States for said coaling stations.

In view of the fact that the Isle of Pines was ceded absolutely to the United States under Article II of the treaty of Paris we must agree fully with the able argument of Senator Morgan, of Alabama, in the minority report on the treaty as set forth in said Senate Document 205, in which he claims that the Senate alone has not the right to cede territory that belongs to the United States, but that the only way that this can be done is by an act of Congress. The Senate should be careful not to exceed its rights in transferring property. During the last session of Congress we heard in this Chamber a large amount of criticism of one executive department transferring its jurisdiction over property to another executive department, and this second department in turn transferring the property to private parties. By this treaty we are called upon to ratify the acts of the War Department in transferring the government of the Isle of Pines from the War Department to the Government of Cuba. We have been charitable toward Governor Wood in saying that he misunderstood the orders of his superior officers, but this mistake of Governor Wood certainly does not give Cuba any more right to the island than it had before. If Cuba has incurred any expenses in governing the island over and above the revenues therefrom, let us pay her dollar for dollar. The United States spent millions of dollars and thousands of lives in setting Cuba free, paid out millions of dollars of pensions to those who fought in said war, and twice intervened to suppress insurrections in Cuba, the second time at Cuba's express request, and spent many millions of dollars in said intervention which Cuba has not repaid us, and, judging by her actions, never intends to pay. The fair thing to do would be to give Cuba credit upon her indebtedness to us for the amount that she has lost during the 20 years that she has unlawfully governed the Isle of Pines.

We can not come to any other conclusion than that the title to the Isle of Pines is vested in the United States. Possession was illegally transferred to Cuba by General Wood when he disobeyed the order of his chief, the Secretary of War. The United States can not lose title by this illegal act of General Wood, and subordinates in the War Department can not transfer title of territory. That can only be done by act of Congress.

Article IV, section 3, of the Constitution says:

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

The Constitution does not say that when United States territory is to be transferred or disposed of to a small nation that the Senate and executive department can do it. It does not differentiate in the matter at all. Territory can only be disposed of by act of Congress. Neither does the Constitution say that the Supreme Court can by a decision transfer territory of the United States to a foreign nation, as has been claimed was done under the Supreme Court decision involving the revenue act of the United States in the case of *Pearcy* against *Stranahan*.

If it was the intention to transfer the Isle of Pines to Cuba it should have been done by the treaty of Paris instead of that treaty passing title to the United States. If the United States wanted to give the Isle of Pines to Cuba it should have been done by an act of Congress before American citizens were allowed and encouraged to settle on the island, acquiring property rights there while the island was American territory, and being led to believe that it was to continue to be American territory.

To transfer title now would be to transfer these American citizens from the protection of the Constitution of the United States to a foreign nation. This is setting a precedent which I would submit to with great reluctance. This is placing upon the American citizens on the Isle of Pines the penalty of paying for illegal acts of Government officials who in the discharge of their duties did not confine their actions within the limits imposed upon them by the Constitution.

Mr. President, I merely want to say in conclusion that when the rights of these American citizens are now jeopardized, their constitutional rights of property and citizenship, their right to remain citizens of the United States, I am wondering what



has become of the constitutional lawyers of the United States who for years have upheld the policy of imperialism on the part of the American Government in Central and South America? Where nothing but the profits of American citizens were at stake the policy of imperialism has been followed and has been supported by the great constitutional lawyers of the Nation, a policy which I regret. But here we have an occasion where the property and rights of a few American citizens residing on American soil under the Constitution of the United States are involved. It is interesting to see with what facility and agility the Constitution of the United States has been made to cover Mexico and Central America and even Europe, but is now becoming so restricted that it can not cover American citizens in the Isle of Pines. I said in the beginning that it seems to me in this treaty we are departing from an old, established policy of the Government of the United States. We are transferring territory of the United States and citizens of the United States to a foreign country. Before we vote upon the treaty I wish to ask what has become of all these valiant defenders of the constitutional rights of American citizens?

Mr. PEPPER. Mr. President, I desire to submit a request for unanimous consent, as follows:

It is agreed by unanimous consent that when the Senate concludes its business to-day it take a recess until 12 o'clock noon to-morrow, and that at not later than 3 o'clock p. m. on said day it will proceed, without further debate, to vote upon any and all amendments to the treaty and upon the resolution of ratification and upon any reservations that may be offered thereto.

I submit that request for unanimous consent, Mr. President.

Mr. BLEASE. Mr. President, I suggest that before the word "treaty" the words "Isle of Pines" should be inserted.

The PRESIDENT pro tempore. The Chair will state to the Senator from South Carolina that there is but one treaty pending at the minute before the Senate.

Mr. BLEASE. The Chair holds that the unanimous-consent agreement will restrict it to the Isle of Pines treaty?

The PRESIDENT pro tempore. The Chair so holds.

Mr. BLEASE. I do not want to get mixed up on it, because there are some other treaties on which I am not ready to vote.

The PRESIDENT pro tempore. The words "Executive J" might be inserted if the Senator from Pennsylvania would consent.

Mr. ROBINSON. Or the words "pending treaty."

Mr. PEPPER. Let it read "the pending treaty."

The PRESIDENT pro tempore. The Chair, however, would be of the opinion, there being but one treaty before the Senate at the minute, that the unanimous-consent agreement could apply only to it; but in order to make the unanimous-consent agreement entirely clear the word "pending" will be inserted before "treaty."

Mr. ROBINSON. There can be no objection to that.

The PRESIDENT pro tempore. Is there objection to the unanimous-consent agreement as modified?

Mr. BLEASE. I object, unless the words "Isle of Pines" appear in the agreement.

The PRESIDENT pro tempore. Does the Senator from South Carolina object with the words "the pending treaty" included?

Mr. BLEASE. If the present occupant of the chair were going to stay in the chair, I would not object.

Mr. ROBINSON. There can be no objection to describing the treaty by name as the Isle of Pines treaty.

The PRESIDENT pro tempore. Does the Senator from Pennsylvania accept the modification?

Mr. BLEASE. There are some treaties here that I shall object to, and I do not propose to be caught asleep.

Mr. PEPPER. I think the Senator is entirely right, and I suggest that we designate it by its official number and title.

Mr. BLEASE. That is all right. Then I shall have no objection to the proposal.

The PRESIDENT pro tempore. The Secretary will read for information the proposed unanimous-consent agreement as now modified.

The Chief Clerk read as follows:

It is agreed by unanimous consent that when the Senate concludes its business to-day it takes a recess until 12 o'clock meridian to-morrow, and that at not later than 3 o'clock p. m. on said day it will proceed without further debate to vote upon any and all amendments to the treaty between the United States and Cuba, signed on March 2, 1904, for the adjustment of title to the ownership of the Isle of Pines, being "Executive J," Fifty-eighth Congress, second session, and upon the resolution of ratification and upon any reservations that may be offered thereto.

The PRESIDENT pro tempore. Is there objection to the unanimous-consent agreement?

Mr. BRUCE. Mr. President, I did not hear anything about a limitation of the time that may be taken in the discussion of the treaty to-morrow.

The PRESIDENT pro tempore. There is none, except that without further debate a vote shall be taken at 3 o'clock.

Mr. BRUCE. If the question had come up before to-night I would have been very glad to waive any objection, but there are one or two other Senators I know of in addition to myself who would like to have an opportunity to express their views.

Mr. CURTIS. Debate runs from 12 until 3 o'clock. There are three hours for debate to-morrow.

Mr. BRUCE. I did not understand that part of it. It is all right.

Mr. PEPPER. The unanimous-consent request was offered by me with the understanding on my part, which I think is borne out by the language, that there will be three hours for debate in the interval between 12 and 3 o'clock.

Mr. BRUCE. Suppose some one Senator takes up the entire three hours?

Mr. PEPPER. I am entirely willing to insert in the unanimous-consent agreement a provision that no Senator shall speak more than once or for longer time than 15 minutes on the treaty or any amendment or upon the resolution of ratification.

Mr. BRUCE. That is satisfactory.

Mr. SHORTRIDGE. Mr. President, we entered into a unanimous-consent agreement the other day to take up and vote upon a certain proposition at a certain hour, and a certain Senator obtained the floor and consumed the whole period of time up to the hour of voting, thereby depriving other Senators of an opportunity to say a word. If we meet at 12 o'clock to-morrow, and are to vote at 3 o'clock, the question is, What shall be the limit of time as to a particular Senator?

Mr. ROBINSON. Let me ask the Senator from California if he objects to the modification suggested by the Senator from Pennsylvania [Mr. PEPPER] to limit the length of time that any one Senator may speak upon the resolution of ratification or upon any amendment or reservation to 15 minutes?

Mr. SHORTRIDGE. I was about to suggest a shorter time.

Mr. ROBINSON. I do not believe that is necessary.

Mr. SHORTRIDGE. I was about to suggest 10 minutes. There may be many Senators who desire to briefly express their views upon this important matter.

The PRESIDENT pro tempore. May the Chair suggest that fixing the hour of meeting at 11 o'clock might obviate the objection?

Mr. ROBINSON. It is not desired that that be done. May I suggest to the Chair and to the Senator from California that after great difficulty and much consultation this arrangement has been effected, and, unless the Senator is prepared to disturb it and upset it, I think he ought to consent to the modification suggested by the Senator from Pennsylvania.

Mr. SHORTRIDGE. I very cheerfully shall do so if the hour of meeting shall be fixed at 11 o'clock, which would give ample time.

Mr. ROBINSON. I shall object to the Senate meeting at 11 o'clock. Meeting at 12 o'clock will give three hours.

Mr. SHORTRIDGE. I shall not urge my objection.

Mr. REED of Missouri. Mr. President, I am not going to object to this unanimous-consent request, but it is in a form that I have frequently objected to and which I think ought never to be agreed to. It proposes to fix an absolute hour for voting upon the main proposition and upon all amendments. I have often seen a case, as have other Senators, where important amendments were offered and no possible opportunity given even to the proponent of the amendment to explain its import. I thought we had nearly come to a time here when we were going to follow the practice that has been often adopted of fixing an hour when debate would be limited to a certain number of minutes for each Senator. In that way every amendment can be discussed. However, I shall not object to this proposal in its present form, though I think it is not a desirable form to adopt.

Mr. BRUCE. May I invite the attention of the Senator from Missouri to the fact that this is a treaty with which we are dealing and therefore there will be no amendments.

The PRESIDENT pro tempore. The Chair will suggest to the Senator from Maryland that there is now pending an amendment which has been offered by the Senator from Ohio [Mr. WILLIS].



Mr. BRUCE. In most cases what I have stated is true so far as treaties are concerned.

Mr. PEPPER and Mr. ROBINSON. Question!

The PRESIDENT pro tempore. Is there objection to the unanimous-consent agreement?

Mr. SHORTRIDGE. Mr. President, begging the pardon of everybody, for I have just returned to the Chamber, what, in a word, is the substance of the proposed unanimous-consent agreement?

The PRESIDENT pro tempore. The Secretary will state the proposed unanimous-consent agreement as modified.

The Chief Clerk read as follows:

It is agreed by unanimous consent that when the Senate concludes its business to-day it take a recess until 12 o'clock meridian to-morrow, and that at not later than 3 o'clock p. m. on said day it will proceed without further debate to vote upon any and all amendments to the treaty between the United States and Cuba, signed on March 2, 1904, for the adjustment of title to the ownership of the Isle of Pines, being Executive J. Fifty-eighth Congress, second session, and upon the resolution of ratification and upon any reservations that may be offered thereto, and no Senator shall speak more than once or longer than 15 minutes on the treaty or resolution of ratification or any amendment offered to either thereof.

Mr. SHORTRIDGE. Mr. President, would Senators who have devoted earnest thought to the subject agree to this tentative suggestion: That the hour be made 4 o'clock? I know a number of Senators—

Mr. ROBINSON. I shall have to object to the suggestion of the Senator from California.

Mr. SHORTRIDGE. Why does the Senator object?

Mr. ROBINSON. I object to the Senator's suggestion because I will state that after a consultation extending over a period of perhaps an hour or two hours this arrangement has been effected. If the Senator from California now objects to the unanimous-consent agreement, he may do so; he has the power to do it; and we can proceed to-night, if necessary, to take some action.

Mr. SHORTRIDGE. Very well, Mr. President.

The PRESIDENT pro tempore. Is there objection to the unanimous-consent agreement?

Mr. SHORTRIDGE. One moment. I desire to say that I have made my suggestion not for myself but for the reason that I happen to know that there are a number of Senators who desire to say a word on the treaty, and it occurred to me that perhaps my suggestion, if agreed to, would afford them the opportunity to do so.

Mr. ROBINSON. There will be 3 hours for debate to-morrow, and each Senator will be limited to 15 minutes.

Mr. SHORTRIDGE. I do not urge my suggestion, Mr. President.

The PRESIDENT pro tempore. Is there objection to the unanimous-consent agreement proposed by the Senator from Pennsylvania [Mr. PEPPER]? The Chair hears none, and the unanimous-consent agreement is entered into.

#### PRICES OF CRUDE OIL, GASOLINE, ETC.

Mr. CURTIS. Mr. President, I move that the Senate—

Mr. TRAMMELL. Mr. President, will the Senator yield to me for a moment?

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Florida?

Mr. CURTIS. I yield.

Mr. TRAMMELL. As in legislative session I desire to submit a resolution which I ask may go over under the rule.

The PRESIDENT pro tempore. The Senator from Florida asks unanimous consent to submit a resolution which will be read by its title for the information of the Senate.

Mr. TRAMMELL. Mr. President, under the rule, I believe the resolution should be read and then go over under the rule.

The PRESIDENT pro tempore. The resolution will be read.

The Chief Clerk read the resolution (S. Res. 31), as follows:

*Resolved*, That the Federal Trade Commission be, and is hereby, directed to investigate and report to the Senate at the next session of Congress:

First. The very material advances recently made in the price of crude oil, gasoline, kerosene, and other petroleum products and whether or not such price increases were arbitrarily made and unwarranted.

Second. Whether or not there has been any understanding or agreement between various oil companies or manipulations thereby to raise or depress prices, or any conditions of ownership or control of oil properties or of refining and marketing facilities in the industry which prevent effective competition.

Third. The profits of the principal companies engaged in the producing, refining, and marketing of crude oil, gasoline, kerosene, and

other petroleum products during the years 1922, 1923, 1924, and 1925, and also such other matters as may have bearing upon the subjects covered by the provisions of this resolution.

The PRESIDENT pro tempore. The resolution will lie over under the rule.

#### AFFAIRS IN TURKEY

Mr. KING. Mr. President, will the Senator from Kansas yield to me for a moment?

Mr. CURTIS. I yield.

Mr. KING. As in legislative session, I send to the desk a resolution which I ask may lie on the table and be printed in the RECORD. It requests the State Department for certain information relative to conditions in Turkey.

The resolution (S. Res. 32) was read and ordered to lie on the table, as follows:

Whereas it is incompatible with the dignity and interests of the United States to have diplomatic correspondence or relations with any government which does not discharge its international obligations, and which does not protect the property of the United States and the lives and property of American nationals within the territory subject to its jurisdiction; and

Whereas the so-called Kemalist government, claiming to be the de facto Government of Turkey, is seeking to be recognized by and to enter into diplomatic relations with the Government of the United States; and

Whereas it has been charged that military forces under the command of said Kemalist government in September, 1922, willfully sacked and burned the greater part of the city of Smyrna, including the American consulate and the property of American nationals in said city; and

Whereas the consul general of the United States at Smyrna was an eyewitness to the sack and burning of Smyrna, and thereafter made a report to the State Department respecting the destruction of the American consulate and of other American property in Smyrna; and

Whereas said report of the American consul general fixing the responsibility for the burning of the American consulate and giving specifications as to the outrages suffered by the American colony in Smyrna, and was not made public by the State Department; and

Whereas it has been reported that the State Department has cautioned American officials and private citizens who were residing in Turkey at the time of said outrages and who have since returned to the United States, that they should refrain from making public statements in this country respecting conditions in Turkey, or respecting the question of responsibility for the sack and burning of Smyrna: Now therefore be it

*Resolved*, That the Secretary of State is requested to forward to the Senate said report of the consul general of the United States at Smyrna and any other official reports respecting the sack and burning of Smyrna in September, 1922, and further to report to the Senate whether the State Department has admonished or requested American officials or citizens returning from Turkey that they should refrain from making any public statements respecting conditions in said country or affecting the responsibility of the so-called Kemalist government for outrages which have been committed therein as against American citizens or as against other persons lawfully residing in Turkey.

#### EXECUTIVE SESSION WITH CLOSED DOORS

Mr. CURTIS. I renew my motion that the Senate proceed to the consideration of executive business with closed doors.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 10 minutes spent in secret session the doors were reopened, and (at 9 o'clock and 35 minutes p. m.) the Senate in open executive session took a recess, the recess being under the unanimous-consent agreement until to-morrow, Friday, March 13, 1925, at 12 o'clock meridian.

#### DEFINING BOUNDARY BETWEEN UNITED STATES AND CANADA

During the consideration of executive business with closed doors this day the following treaty was ratified and, on motion of Mr. BORAH, the injunction of secrecy was removed therefrom:

To the Senate:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a treaty signed between the United States and His Britannic Majesty, in respect of Canada, to define more accurately at certain points and to complete the international boundary between the United States and Canada and to maintain the demarcation of that boundary.

CALVIN COOLIDGE.

THE WHITE HOUSE,

Washington, February 26, 1925.



## The PRESIDENT:

The undersigned, the Secretary of State, has the honor to lay before the President, with a view to its transmission to the Senate to receive the advice and consent of that body to ratification, if his judgment approve thereof, a treaty concluded on February 24, 1925, between the United States and His Britannic Majesty, in respect of the Dominion of Canada, to define more accurately at certain points and to complete the international boundary between the United States and Canada and to maintain the demarcation of that boundary.

Respectfully submitted.

CHARLES E. HUGHES.

DEPARTMENT OF STATE,  
Washington, February 24, 1925.

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, in respect of the Dominion of Canada, desiring to define more accurately at certain points and to complete the international boundary between the United States and Canada and to maintain the demarcation of that boundary, have resolved to conclude a treaty for these purposes, and to that end have appointed as their respective plenipotentiaries:

The President of the United States of America: Charles Evans Hughes, Secretary of State of the United States; and

His Britannic Majesty, in respect of the Dominion of Canada: The Honorable Ernest Lapointe, K. C., a member of His Majesty's Privy Council for Canada and Minister of Justice in the Government of that Dominion;

Who, after having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following articles:

## ARTICLE I

Whereas Article V of the Treaty concerning the boundary between the United States and the Dominion of Canada concluded on April 11, 1908, between the United States and Great Britain, provided for the survey and demarcation of the international boundary lines between the United States and the Dominion of Canada from the mouth of Pigeon River, at the western shore of Lake Superior, to the northwesternmost point of Lake of the Woods, as defined by the treaties concluded between the United States and Great Britain on September 3, 1783, and August 9, 1842;

And whereas Article VI of the said Treaty concluded on April 11, 1908, provided for the relocation and repair of lost or damaged monuments and for the establishment of additional monuments and boundary marks along the course of the international boundary between the United States and the Dominion of Canada from the northwesternmost point of Lake of the Woods to the summit of the Rocky Mountains, as established under existing treaties and surveyed, charted, and monumented by the Joint Commission appointed for that purpose by joint action of the Contracting Parties in 1872;

And whereas it has been found by surveys executed under the direction of the Commissioners appointed pursuant to the said Treaty of April 11, 1908, that the boundary line between the United States and the Dominion of Canada from the mouth of Pigeon River, at the western shore of Lake Superior, to the northwesternmost point of Lake of the Woods as defined by the treaties concluded on September 3, 1783, and August 9, 1842, is intersected by the boundary from the northwesternmost point of Lake of the Woods to the summit of the Rocky Mountains as established under existing treaties and surveyed, charted, and monumented by the Joint Commission appointed for that purpose in 1872, at five points in Lake of the Woods adjacent to and directly south of the said northwesternmost point, and that there are two small areas of United States waters in Lake of the Woods, comprising a total area of two and one-half acres, entirely surrounded by Canadian waters;

And whereas no permanent monuments were ever erected on these boundary lines north of the most southerly of these points of intersection;

The Contracting Parties, in order to provide for a more practical definition of the boundary between the United States and the Dominion of Canada in Lake of the Woods, hereby agree that this most southerly point of intersection, being in latitude  $49^{\circ} 23' 04.49''$  north, and longitude  $95^{\circ} 09' 11.61''$  west, shall be the terminus of the boundary line heretofore referred to as the international boundary line between the United States and the Dominion of Canada from the mouth of Pigeon River, at the western shore of Lake Superior, to the northwesternmost point of Lake of the Woods and the initial point of the boundary line heretofore referred to as the inter-

national boundary between the United States and the Dominion of Canada from the northwesternmost point of Lake of the Woods to the summit of the Rocky Mountains, in lieu of the said northwesternmost point.

The aforesaid most southerly point shall be located and monumented by the Commissioners appointed under the said Treaty of April 11, 1908, and shall be marked by them on the chart or charts prepared in accordance with the provisions of Articles V and VI of the said Treaty, and a detailed account of the work done by the Commissioners in locating said point, together with a description of the character and location of the several monuments erected, shall be included in the report or reports prepared pursuant to the said Articles.

The point so defined and monumented shall be taken and deemed to be the terminus of the boundary line heretofore referred to as the international boundary line between the United States and the Dominion of Canada, from the mouth of Pigeon River, at the western shore of Lake Superior, to the northwesternmost point of Lake of the Woods and the initial point of the boundary line heretofore referred to as the international boundary between the United States and the Dominion of Canada from the northwesternmost point of Lake of the Woods to the summit of the Rocky Mountains.

## ARTICLE II

Whereas Article VI of the Treaty concerning the boundary between the United States and the Dominion of Canada concluded on April 11, 1908, between the United States and Great Britain, provided for the relocation and repair of lost or damaged monuments and for the establishment of additional monuments and boundary marks along the courses of the international boundary between the United States and the Dominion of Canada from the northwesternmost point of Lake of the Woods south to the 49th parallel of north latitude and thence westward along said parallel of latitude to the summit of the Rocky Mountains, as established under existing treaties and surveyed, charted and monumented by the Joint Commission appointed for that purpose by joint action of the Contracting Parties in 1872;

And whereas Article VI of the said Treaty concluded on April 11, 1908, further provides that in carrying out the provisions of that article the agreement stated in the protocol of the final meeting of the said Joint Commission, dated May 29, 1876, should be observed, by which protocol it was agreed that in the intervals between the monuments along the 49th parallel of north latitude the boundary line has the curvature of a parallel of  $49^{\circ}$  north latitude;

And whereas the Commissioners appointed and acting under the provisions of Article VI of the said Treaty of 1908 have marked the boundary line wherever necessary in the intervals between the original monuments established by the said Joint Commission, appointed in 1872, in accordance with the agreement stated in the protocol of the final meeting, dated May 29, 1876, of the Joint Commission aforesaid, and as set forth in Article VI of the Treaty of 1908, by placing intermediate monuments on lines joining the original monuments, which have in each case the curvature of a parallel of  $49^{\circ}$  north latitude;

And whereas the average distance between adjacent monuments as thus established or reestablished along the 49th parallel of north latitude from Lake of the Woods to the summit of the Rocky Mountains by the Commissioners acting under Article VI of the Treaty of 1908 is one and one-third miles and therefore the deviation of the curve of the 49th parallel from a straight or right line joining adjacent monuments is, for this average distance between monuments, only one-third of a foot, and in no case does the actual deviation exceed one and eight-tenths feet;

And whereas it is impracticable to determine the course of a line having the curvature of a parallel of  $49^{\circ}$  north latitude on the ground between the adjacent monuments which have been established or reestablished by the Commissioners and the demarcation of the boundary would be more thoroughly effective if the line between adjacent monuments be defined as a straight or right line;

And whereas it is desirable that the boundary at any point between adjacent monuments may be conveniently ascertainable on the ground, the Contracting Parties, in order to complete and render thoroughly effective the demarcation of the boundary between the United States and the Dominion of Canada from the northwesternmost point of Lake of the Woods to the summit of the Rocky Mountains, hereby agree that the line heretofore referred to as the international boundary between the United States and the Dominion of Canada from the northwesternmost point of Lake of the Woods to the summit of the Rocky Mountains shall be defined as consisting of a series of right or straight lines joining adjacent monuments



as now established or reestablished and as now laid down on charts by the Commissioners acting under Article VI of the Treaty of 1908, in lieu of the definition set forth in the agreement of the aforesaid Joint Commissioners, dated May 29, 1876, and quoted in Article VI of the said Treaty of 1908, that in the intervals between the monuments the line has the curvature of the parallel of 49° north latitude.

## ARTICLE III

Whereas the Treaty concluded on May 21, 1910, between the United States and Great Britain, defined the international boundary line between the United States and the Dominion of Canada from a point in Passamaquoddy Bay lying between Treat Island and Friar Head to the middle of Grand Manan Channel and provided that the location of the line so defined should be laid down and marked by the Commissioners appointed under the Treaty of April 11, 1908;

And whereas it has been found by the surveys executed pursuant to the said Treaty of May 21, 1910, that the terminus of the boundary line defined by said Treaty at the middle of Grand Manan Channel is less than three nautical miles distant both from the shore line of Grand Manan Island in the Dominion of Canada and from the shore line of the State of Maine in the United States, and that there is a small zone of waters of controvertible jurisdiction in Grand Manan Channel between said terminus and the High Seas;

The Contracting Parties, in order completely to define the boundary line between the United States and the Dominion of Canada in the Grand Manan Channel, hereby agree that an additional course shall be extended from the terminus of the boundary line defined by the said Treaty of May 21, 1910, south 34° 42' west, for a distance of two thousand three hundred eighty-three (2,383) meters, through the middle of Grand Manan Channel, to the High Seas.

The course so defined shall be located and marked by the Commissioners appointed under the Treaty of April 11, 1908, and shall be laid down by them on the chart or charts adopted in accordance with the provisions of Article I of the said Treaty, and a detailed account of the work done by the Commissioners in locating and marking said line, together with a description of the several monuments erected, shall be included in the report or reports prepared pursuant to Article I of the Treaty of April 11, 1908.

The course so defined and laid down shall be taken and deemed to be the boundary line between the United States and the Dominion of Canada in Grand Manan Channel from the terminus of the boundary line as defined by the Treaty of May 21, 1910, to the High Seas.

## ARTICLE IV

Whereas, pursuant to existing treaties between the United States and Great Britain, a survey and effective demarcation of the boundary line between the United States and the Dominion of Canada through the Great Lakes and the St. Lawrence River and through the Straits of Georgia, Haro, and Juan de Fuca from the 49th Parallel to the Pacific Ocean and between Alaska and the Dominion of Canada from the Arctic Ocean to Mount St. Elias have been made and the signed joint maps and reports in respect thereto have been filed with the two governments;

And whereas a survey and effective demarcation of the boundary line between the United States and the Dominion of Canada from the Gulf of Georgia to Lake Superior and from the St. Lawrence River to the Atlantic Ocean and between Alaska and the Dominion of Canada from Mount St. Elias to Cape Muzon are nearing completion;

And whereas boundary monuments deteriorate and at times are destroyed or damaged; and boundary vistas become closed by the growth of timber;

And whereas changing conditions require from time to time that the boundary be marked more precisely and plainly by the establishment of additional monuments or the relocation of existing monuments;

The Contracting Parties, in order to provide for the maintenance of an effective boundary line between the United States and the Dominion of Canada and between Alaska and the Dominion of Canada, as established or to be established, and for the determination of the location of any point thereof, which may become necessary in the settlement of any question that may arise between the two governments hereby agree that the Commissioners appointed under the provisions of the Treaty of April 11, 1908, are hereby jointly empowered and directed: to inspect the various sections of the boundary line between the United States and the Dominion of Canada and between Alaska and the Dominion of Canada at such times as

they shall deem necessary; to repair all damaged monuments and buoys; to relocate and rebuild monuments which have been destroyed; to keep the boundary vistas open; to move boundary monuments to new sites and establish such additional monuments and buoys as they shall deem desirable; to maintain at all times an effective boundary line between the United States and the Dominion of Canada and between Alaska and the Dominion of Canada, as defined by the present treaty and treaties heretofore concluded, or hereafter to be concluded; and to determine the location of any point of the boundary line which may become necessary in the settlement of any question that may arise between the two governments.

The said Commissioners shall submit to their respective governments from time to time, at least once in every calendar year, a joint report containing a statement of the inspections made, the monuments and buoys repaired, relocated, rebuilt, moved, and established, and the mileage and location of vistas opened, and shall submit with their reports, plats and tables certified and signed by the Commissioners, giving the locations and geodetic positions of all monuments moved and all additional monuments established within the year, and such other information as may be necessary to keep the boundary maps and records accurately revised.

After the completion of the survey and demarcation of the boundary line between the United States and the Dominion of Canada from the Gulf of Georgia to Lake Superior and from the St. Lawrence River to the Atlantic Ocean, as provided for by the Treaty of April 11, 1908, the Commissioners appointed under the provisions of that Treaty shall continue to carry out the provisions of this Article, and, upon the death, resignation, or other disability of either of them, the Party on whose side the vacancy occurs shall appoint an Expert Geographer or Surveyor as Commissioner, who shall have the same powers and duties in respect to carrying out the provisions of this Article, as are conferred by this Article upon the Commissioner appointed under the provisions of the said Treaty of 1908.

The Contracting Parties further agree that each government shall pay the salaries and expenses of its own commissioner and his assistants, and that the expenses jointly incurred by the Commissioners in maintaining the demarcation of the boundary line in accordance with the provisions of this Article shall be borne equally by the two Governments.

## ARTICLE V

This treaty shall be ratified by the Contracting Parties and the ratifications shall be exchanged in Washington or Ottawa as soon as practicable. The treaty shall take effect on the date of the exchange of ratifications.

Upon the expiration of six years from the date of the exchange of ratifications of the present treaty, or any time thereafter, Article IV may be terminated upon twelve months' written notice given by either Contracting Party to the other, and following such termination the Commissioners therein mentioned and their successors shall cease to perform the functions thereby prescribed.

In faith whereof, the respective Plenipotentiaries have signed this treaty in duplicate and have hereunto affixed their seals.

Done at Washington the 24th day of February, A. D. 1925.

[SEAL]

CHARLES EVANS HUGHES.

[SEAL]

ERNEST LAPOINTE.

On request of Mr. BORAH, and by unanimous consent, the following letter from the Secretary of State concerning the foregoing treaty relating to the boundary between the United States and Canada was ordered to be printed in the RECORD:

DEPARTMENT OF STATE,  
Washington, March 12, 1925.

The Hon. WILLIAM E. BORAH,

United States Senate.

MY DEAR SENATOR BORAH: In response to your request by telephone for information concerning the treaty relating to the boundary between the United States and Canada signed on February 24, 1925, by the United States and His Britannic Majesty, I beg to inform you that the points dealt with in the treaty are four in number as follows:

1. The definition and permanent location of the point of the boundary line between the United States and Canada to be known as the northwesternmost point of Lake of the Woods;
2. The definition of the boundary line between the United States and Canada from the northwesternmost point of Lake of the Woods to the summit of the Rocky Mountains along the forty-ninth parallel of north latitude as consisting of a series of straight lines joining adjacent monuments;



3. The extension of an additional course of the boundary line in Grand Manan Channel between the coasts of Maine and Grand Manan Island from the terminus of the present line, as defined by the treaty of May 21, 1910, to the high seas.

4. The maintenance of an effective boundary line throughout the whole course of the boundary between the United States and the Dominion of Canada and between Alaska and the Dominion of Canada by the commissioners appointed under the treaty of 1908 and their successors in office as provided in the treaty under consideration.

I inclose for the information of the Committee on Foreign Relations a copy of the joint report made on April 7, 1924, by the boundary commissioners for the United States and His Britannic Majesty to the Secretary of State of the United States and the Minister of the Interior of Canada recommending the conclusion of such a treaty. This report contains a clear statement of the reasons for each provision. Except for a few minor verbal changes the treaty as signed follows exactly the draft submitted by the two commissioners.

The territorial changes effected by the treaty are as follows:

1. By Article I about two and one-half acres of American waters in Lake of the Woods, entirely surrounded by Canadian waters, are transferred to Canadian territory.

2. By Article II a series of narrow segments of Canadian territory between the monuments along the forty-ninth parallel from Lake of the Woods to the summit of the Rocky Mountains, having a total area of 30 to 35 acres, are transferred to the United States.

3. By Article III a triangular area of approximately 185 acres of water in Grand Manan Channel, which is of controversial jurisdiction because the 3-mile limit measured from the Canadian shore and the 3-mile limit measured from the coast of Maine overlap, is apportioned between the United States and Canada by extending an additional course from the terminus of the present boundary line through the middle of Grand Manan Channel to the high seas. The effect of this additional course is to allot 88 acres of the above-mentioned area of water to the United States and 97 acres to Canada.

It will be observed from the foregoing three paragraphs that by the treaty the United States will surrender to Canada about 2½ acres of water in Lake of the Woods and 97 acres of water of controversial jurisdiction in Grand Manan Channel, and that the United States will acquire from Canada 30 to 35 acres of land along the forty-ninth parallel and 88 acres of water of controversial jurisdiction in Grand Manan Channel.

The engraving of plates for the final maps of the boundary between the United States and Canada, which the commissioners are required to prepare under the boundary treaty of April 11, 1908, is being rapidly completed. The plates which include the line through the Lake of the Woods dealt with in Articles V and VI of the treaty of 1908 and in Article I of the treaty now under consideration by the Senate, and the plates which include the line through Grand Manan Channel, dealt with in Article I of the treaty of 1908 and Article III of the treaty now under consideration by the Senate can not be completed by the commissioners in a manner which will completely define those sections of the boundary until authority for so doing shall have been given to them by treaty between their governments, nor can the commissioners make all the final reports which they are required to make under the treaty of 1908 until the definition of those two sections of the boundary shall have been agreed upon by the two governments. The section of the boundary along the forty-ninth parallel defined in Article VI of the treaty of 1908 and in Article II of the treaty now before the Senate is also involved in the final report on the boundary along the forty-ninth parallel which the commissioners are preparing.

I am, my dear Senator BORAH, sincerely yours,

FRANK B. KELLOGG.

#### NOMINATIONS

*Executive nominations received by the Senate March 12 (legislative day of March 10), 1925*

ATTORNEY GENERAL OF THE UNITED STATES

Charles Beecher Warren, of Michigan, to be Attorney General.

APPOINTMENT IN THE NAVY

NAVAL RESERVE FORCE

George A. Berry, ex-lieutenant commander, United States Naval Reserve Force, to be a lieutenant commander, United States Naval Reserve Force, from the 29th day of January, 1925, in accordance with a provision contained in an act of Congress approved January 29, 1925, to correct an error appearing in the prior nomination.

#### CONFIRMATIONS

*Executive nominations confirmed by the Senate March 12 (legislative day of March 10), 1925*

ENVOYS EXTRAORDINARY AND MINISTERS PLENIPOTENTIARY

Charles C. Eberhardt to be envoy extraordinary and minister plenipotentiary to Nicaragua.

George T. Summerlin to be envoy extraordinary and minister plenipotentiary to Honduras.

DIRECTOR OF THE WAR FINANCE CORPORATION

Eugene Meyer to be a director of the War Finance Corporation for a term of four years.

#### SENATE

FRIDAY, March 13, 1925

(Legislative day of Tuesday, March 10, 1925)

The Senate met in open executive session at 12 o'clock meridian, on the expiration of the recess.

The VICE PRESIDENT. The Chair lays before the Senate the treaty with Cuba relative to the Isle of Pines.

#### ISLE OF PINES TREATY

The Senate, in open executive session and as in Committee of the Whole, resumed the consideration of the treaty between the United States and Cuba, signed March 2, 1904, for the adjustment of title to the ownership of the Isle of Pines.

The VICE PRESIDENT. The Chair lays before the Senate a communication embodying a resolution adopted by the Council of the Pan American Society of the United States upon the subject of the pending treaty, which will be printed in the Record and ordered to lie on the table.

The communication is as follows:

THE PAN AMERICAN SOCIETY OF THE UNITED STATES (INC.),

New York, March 12, 1925.

To the Senate of the United States of America,

Washington, D. C.

GENTLEMEN: The Council of the Pan American Society of the United States on March 5, 1925, unanimously passed the following resolution, which is respectfully called to your attention for thoughtful consideration at this time, pending the decision on that important question, the ratification of the Isle of Pines treaty:

"Whereas a treaty between the United States and Cuba definitely fixing the status of the Isle of Pines was negotiated in 1904, pursuant to an act of the Congress of the United States, and the said treaty has had the approval of every administration in authority at Washington in the intervening time, and has been three times favorably reported to the Senate by its Committee on Foreign Relations, but has not been acted upon by the Senate; and

"Whereas an indefinite period of uncertainty as to the status of the Isle of Pines is a continuing source of controversy and irritation, and the object for which this society exists is the promotion of good will and good relations between the United States and the countries of Latin America: Therefore be it

"Resolved, That in the interest of justice and as an act consistent with the high purpose of the United States to establish the sovereignty of the Cuban peoples over all the territory historically identified with Cuba, we respectfully urge the ratification of the pending treaty.

"Dated: New York, March 5, 1925."

M. CARRYL OTTMER, Secretary.

Mr. McKELLAR. Mr. President, I am going to occupy just a few moments of the time of the Senate on the Isle of Pines treaty. Article I of the protocol between Spain and the United States provides as follows:

Spain will relinquish all claim of sovereignty over and title to Cuba.

Article II provides:

Spain will cede the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies, and also an island in the Ladrone to be selected by the United States.

Article I of the treaty of Paris, afterwards entered into between Spain and the United States, provides as follows:

Spain relinquishes all claim of sovereignty over and title to Cuba.

It then proceeds with other matters which I need not quote.

Article II of the treaty of Paris is substantially the same as Article II of the protocol, and I need not read that.

As I view the matter, it is perfectly clear that the Cuban Government received the title to Cuba through the United States. It could not have obtained it in any other way. There was not any real existing government at the time in Cuba, and the title thereto was put by Spain in the United States and afterwards transferred by the United States to the Government of Cuba. The Isle of Pines was specifically excepted from that transfer and from that treaty. It was specifically excepted by the action of Congress in what is known as the Platt amendment. It was specifically excepted in the treaty. It was specifically excepted in the constitution of Cuba, so that the constitution of the present Government of Cuba does not apply to the Isle of Pines at all and never has.