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THE CUBAN QUESTION.



SPEECH

OF

HON. JOSEPH B. FORAKER,

OF OHIO,

IN THE

SENATE OF THE UNITED STATES,

Wednesday, April 13, 1893.



WASHINGTON.
1893.

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SPEECH
OF
HON. JOSEPH B. FORAKER.

The joint resolution (S. R. 149) 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 to 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 these resolutions into effect, was read the first time at length, as follows:

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 disgrace to Christian civilization, culminating, as they have, in the destruction of a United States battle ship, with 266 of its officers and crew, while on a friendly visit in the harbor of Havana, and 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, upon which the action of Congress was invited: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, 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.

* * * * *

The SECRETARY. It is proposed to strike out all after the resolving clause and insert:

The President is authorized, directed, and empowered to intervene at once to restore peace on the Island of Cuba, and secure to the people thereof a firm, stable, and independent government of their own, and is authorized to use the Army and naval forces of the United States to secure this end.

* * * * *

Mr. FORAKER. Mr. President, in his message of the 11th instant the President of the United States has very thoroughly and with striking effect and force reviewed the entire Cuban question. After a thorough discussion of it in all its features and aspects, he announces certain conclusions which he has reached. Among these conclusions is the following. I read from the President's message. Speaking of the long-protracted struggle in Cuba, he says:

The long trial has proved that the object for which Spain has waged the war can not be attained.

After stating his conclusions, the President then makes certain recommendations, some in a negative and some in an affirmative form. One of the negative recommendations is that notwith-

standing he finds and states to us that the effort of Spain to subdue and conquer the insurgents in Cuba has been futile, we shall continue to deny to the people of Cuba and also to the government established by the insurgents of Cuba a recognition of independence.

The President then proceeds to make certain affirmative recommendations. One of these affirmative recommendations is that Congress shall invest him with power—

To take measures to secure a full and final termination of hostilities between the Government of Spain and the people of Cuba, and to secure in the island the establishment of a stable government, capable of maintaining order and observing its international obligations.

The President makes other recommendations, but I do not care to refer to them in this connection.

This message, with these recommendations, was referred to the Committee on Foreign Relations. I need not say, after the reading of the very elaborate report of the Foreign Relations Committee, that it has given to this subject the most profound, careful, and exhaustive consideration. That report was prepared by our distinguished chairman [Mr. DAVIS]. I may, therefore, with propriety speak of it in words of compliment. It must be manifest to every Senator that it bears the marks of that ability which characterizes all the productions of that distinguished Senator's pen.

Together with this report, the committee has placed before us, with its favorable recommendation for adoption, a set of resolutions. Those resolutions have just been read. They declare, in the first place, that the people of the Island of Cuba are, and of right ought to be, free and independent. In their second proposition they declare that it is the duty of this Government to demand, and that this Government does hereby—demand by the passage of these resolutions—not by the action of somebody else hereafter to be taken—does hereby demand that Spain shall at once withdraw her land and naval forces from Cuba and Cuban waters.

The resolutions then go on to empower the President to employ the Army and the Navy of the United States to carry them into effect.

It will be observed, if you compare the recommendations of the President with the recommendations of the committee, that there are some differences of opinion as to what should be done, although we are in accord as to the main great purpose that is to be accomplished; for it will be observed, Mr. President, that the committee have differed from the President upon the question of recognizing the independence of the people of Cuba, and as the Senate has been advised by the minority, or rather by the supplemental report just made by the Senator from Indiana [Mr. TURPIE], a minority of that committee, consisting of five members out of eleven, have reported that in their judgment there should be added to the resolutions reported by the committee another resolution recognizing the Republic of Cuba as the true and lawful government of that island.

Mr. FRYE. Were there not 4 out of 11?

Mr. GRAY. Yes; 4 out of 11.

Mr. FORAKER. I thought there were 5. I beg your pardon. The report will show.

Mr. FRYE. There were only 4.

Mr. FORAKER. Four, is it? I thought there were 5.

Mr. CULLOM. No; the minority report is signed by the Senator from Indiana [Mr. TURPUE], the Senator from Texas [Mr. MILLS], the Senator from Virginia [Mr. DANIEL], and the Senator from Ohio [Mr. FORAKER].

Mr. FORAKER. No matter how many signed it, the minority report is there. I signed it, and I stand here to speak in behalf of that resolution so recommended by the minority of that committee, as well as to speak in favor of all the resolutions recommended by the committee unanimously.

The committee, Mr. President, in addition to this provision for recognizing the independence of the people of Cuba, have further declared that the time has come not for further negotiations but for Spain to withdraw her land and naval forces. In other words, they have differed with the President as to the form and character of that intervention.

I shall speak presently with more particularity as to the question of our right at this time to recognize the independence of the people of Cuba and to recognize the independence of that government. I want first to speak briefly of the question of intervention—

Mr. MORGAN. Will the Senator from Ohio allow me?

Mr. FORAKER. Yes.

Mr. MORGAN. I desire to call the attention of the Senator to the fact that the resolution provides that the Government of Spain shall at once relinquish its authority and government in the Island of Cuba and also withdraw its land and naval forces.

Mr. FORAKER. I thank the Senator from Alabama for calling my attention to the text of the resolution. I was not looking at the resolution, although I had it in my hand, and was not endeavoring to quote from it, but only to state the substance of it.

As I was remarking, Mr. President, I desire first to speak of the difference between the Executive and the committee, as shown by these recommendations, as to the form and character of intervention. The committee differed with the President in the first place because, in the judgment of the committee, the time had come when no further negotiations were in order. In the language of the President employed in this message, the time for action, in the judgment of the committee, had come, and the committee felt that while they had the matter under consideration they would provide for action, immediate and specific, and, as they believed, in character and keeping with the desires of the American people in respect to this matter.

In the second place, Mr. President, the committee, or at least some members of the committee, had grave doubts as to the right of Congress to confer upon the Chief Executive of the nation the conditional exercise of the war-making power. Congress alone is invested with the war-making power. The proposition of the President was that he should take effective steps, such of course as he might deem effective, and that if he should fail to secure a cessation of hostilities in Cuba, then and in that event he was authorized to employ the Army and the Navy of the United States. In other words, make war in the condition or contingency that his negotiations should fail. I, for one at least, think the committee generally doubted the legality of that proposition.

Then, Mr. President, as to the establishment of a stable government by the President of the United States in the Island of Cuba, the committee were of the opinion that there might possibly be grave doubt as to the right of Congress to empower the President

of the United States or for the Congress itself to create and establish a stable government in the Island of Cuba for the benefit of the Cuban people.

However that may be, after the committee had declared that the people of the Island of Cuba are and of right ought to be free and independent, the proposition that the President of the United States or the Congress of the United States or any other exterior power should establish for that independent people a government stable or otherwise was inconsistent.

If a people be free and independent, as we have in this first proposition declared that the people of the Island of Cuba are, they, and they alone, have power to establish their government. Independence and sovereignty go hand in hand, and any people who have independence have the capacity and the right to exercise sovereignty, and it is a denial of independence to say in the next breath after you have declared it that we will undertake, or we do hereby reserve the right and power, to establish for that independent people a government such as in our judgment and opinion may be stable.

I mention these points of difference only because it is absolutely essential to an intelligent discussion that we should know what are the issues which have been joined. Without knowing what are the questions of difference we are groping in the dark.

As I said a moment ago, I do not propose, beyond the mere statement of these grounds of differences with the Executive as to intervention, to discuss that proposition. I return therefore at once to a discussion of the question whether or not the committee is justified in recommending the recognition at this time of the independence of the people of Cuba.

Whether or not a people who have revolted and rebelled against a sovereign power and are striving for independence are entitled to be recognized as an independent state is always a question of fact as well as a question of law. Before you can tell what law is applicable to any particular case you must ascertain what the facts are. What are the facts with respect to Cuba? Fortunately in answering that question I need not long or tediously detain the Senate. Not only from the newspapers and other sources of information, but from Presidential messages, from the last one received, and especially and particularly from the very able report of the chairman of the Committee on Foreign Relations, we have been fully advised.

Moreover, the whole country and the whole world are familiar with the Cuban question. All who know the facts know that for more than three years now war has been in progress in that island—bloody, fierce, cruel, destructive war; destructive in an unusual degree both to life and property; and all the world knows, too, that from the very beginning of that struggle down to the present time Spain has been, as to all essential and important matters, uniformly unsuccessful. The President was justified when he said, in the sentence I read from his message a moment ago, that it is now manifest to all the world that the purpose of Spain to recover her lost sovereignty can never be attained.

She started out with the idea that she would crush that rebellion with a blow. In that behalf she concentrated in that devoted island practically the entire military power of the Kingdom. She had there at one time and for months more than 200,000 of her most capable soldiers, commanded by her generals who have been most successful in other fields; but it was all in vain. That tremendous army proved absolutely insufficient to conquer and subdue the

insurgents and restore peace. Finding how unavailing that kind of effort was, she then resorted to persuasion—to diplomacy.

She tendered autonomy, a new scheme of government—home rule—a scheme with respect to which the senior Senator from Maine [Mr. HALE], speaking on this floor a few weeks ago, said it was the broadest, the most liberal, the most generous charter of liberty ever tendered by any sovereignty to a dependency. Whether it was or not is immaterial; it so impressed him. But however it may be, assuming that it was so, the people of Cuba who have risen in rebellion against the sovereign power indignantly spurned and refused it. That effort to conquer them was unavailing.

Another policy has been resorted to of which I should speak—the policy of extermination, extermination by starvation, a policy so cruel, so unmerciful, so barbarous in its practices and in its results as absolutely to shock and horrify all Christendom. More than 200,000 lives have perished in Cuba as victims of that policy alone. While we sit here this afternoon deliberating, 200,000 other lives are perishing from it.

Mr. President, notwithstanding the hurling of all this great force against the insurgents in Cuba, notwithstanding this effort of diplomacy and statecraft, this promise of reforms in government, notwithstanding the murder, for it is nothing else, of hundreds of thousands of men, women, and children in that island, to which I have referred, the insurgents stand to-day more defiant, more powerful, more assured of ultimate success and more determined to do, and dare, and die, if need be, in behalf of independence than ever before since this struggle commenced. They were never so strong as now. They control absolutely more than one-half of that territory. More than 400,000 of the population of the island recognize no government except only their civil government. They have an army in the field, trained veterans they have become, numbering thirty-five or forty thousand men, well armed and well equipped, more invincible than at any time heretofore; and as an offset to that success on the part of the Cubans that which the President indicates has been occurring with respect to Spain.

Her army of more than 200,000 men has dwindled to from fifty to sixty thousand effectives, poorly disciplined and poorly drilled, and that army of aggression and offensive operations has ceased to be an offensive and aggressive army. For months it has been only an army of occupation, holding on to the fortified cities, controlling nothing in the island beyond the range of their guns, not daring to venture out beyond the walls of those cities and remain there over night for fear old Gomez would capture them and take them off into his camp.

Mr. President, in other words it is now plain to all the world, plain to Spain herself, for she has been for months, and is now by every steamer, recalling her troops from there, that she is no longer attended in her efforts to subdue that island by any reasonable expectation or hope of ultimate success. That being the case, such being the facts, what is the law of the case? I read from Hall on International Law. It is a standard and a modern authority. It has been written in the light not only of ancient but of modern precedents. I shall not stop to read all of the text.

Mr. STEWART. From what page does the Senator from Ohio intend to read?

Mr. FORAKER. Page 92. He tells us that whenever the

struggle on the part of the former sovereign becomes "so inadequate as to offer no reasonable ground for supposing that success may ultimately be obtained, it is not enough to keep alive the rights of the state, and so to prevent foreign countries from falling under an obligation to recognize as a state the community claiming to have become one."

I need not read other authorities, but I challenge any Senator who may enter into this discussion to find an authority inconsistent with the declaration which I have read, who is accepted as a standard authority among those who are competent to judge of international-law writers.

That is the rule: whenever the struggle on the part of the sovereign to recover lost authority, lost sovereignty, has ceased to be attended with a reasonable hope or expectation of success, then other countries have a right to recognize the independence of the opposing people. If I have been talking to any purpose, I have made it plain by the statement of facts I have given that no longer are the struggles of Spain in the Island of Cuba attended with any reasonable hope or expectation of success. That being true, Mr. President, according to the principles of international law we have a right, as the committee have reported, and it is our duty to recognize the independence of the people of Cuba.

But suppose something is lacking in the Cuban case to justify us in claiming that they are absolutely free and independent, will not that which may be lacking, whatever it may be, be supplied when the United States of America intervenes, as we propose to do by this same resolution? Intervention goes here, according to this resolution, as it does naturally, hand in hand with independence. When this demand which we all agree is to be made, that Spain shall withdraw, is made upon her, that minute she must either abdicate, which would leave the island free and independent to the satisfaction, I imagine, of the most hostile mind to the recognition of independence, or else, if she does not abdicate, she must then give battle—declare war; and what American can doubt, or does doubt, the ultimate result of war, if we are so unfortunate as to have war?

Will it not result in the absolute freedom and independence of the people of the Island of Cuba? Unquestionably so; for we expect to prosecute a war to triumphant success, if we are driven into one.

So, therefore, I say, upon authority, in strict consonance with the rules and principles of international law, it is the duty of the Government of the United States, as well as the right and privilege of this Government, now, at this very moment, when we pass a resolution to intervene, to recognize the independence of the people of that island.

Mr. President, I now wish to speak of the resolution which the minority of the committee favor. The minority of the committee are not satisfied simply to recognize the independence of the people of that island. We want to recognize also, and we appeal to Senators in this Chamber to stand by us in that proposition, the government set up by the insurgents, referred to by the President in his message as the "so-called" Cuban Republic.

We think this government ought to be recognized in the first place because if the people of Cuba are free and independent, as we have agreed unanimously in the committee they are, who made them free and independent? Did they become free and independent acting as a mob? exerting themselves in a state of anarchy?

without any political organization? No! Such wonderful achievements as stand to their credit we all know could not have been accomplished without concert of action, without political organization, and they had it in the Republic of Cuba. That was their civil government, to which the military force commanded by Gomez is subordinate.

Mr. President, there are a great many other reasons why we should recognize that government. I hope I shall be able to mention a number of them.

We ought to be willing to recognize it because of its form and character. It is a republican form of government. It is a government based on a written constitution, in which the several departments of the government are established and the powers of the various departments and officials are prescribed. It has a legislative, an executive, and a judicial department. The legislative branch of the government is elected by popular vote. In Cuba, under this constitution, they have universal suffrage. Every man or woman who owes allegiance to the Cuban Government has a right to go to the ballot box and be heard in determining what the government shall be as to the personnel of its officials. The house of representatives, elected by the people in this manner, selects the president and vice-president and the cabinet; and what character of government have they selected? Let me call your attention for a moment to the character of these officials.

I have heard that government referred to here as though it were made up of a lot of inconsequential nobodies. I say, without attempting to disparage anybody, the president and vice-president of the Cuban Republic, for intellectual strength and power and vigor, for high character, for unquestioned ability, for statesmanship, will compare favorably with the President and Vice-President of the United States of America. Than Bartolome Masó there is no more accomplished gentleman, probably, on the Western Hemisphere; a man of large means, a man of large experience in public affairs, a man who—and I mention this to show his character—when the war broke out called in all his creditors and paid every one of them in cash the full sum owing, then turned over the keys to his tenants and departed for the field. He is now president of that republic, after having served two years as vice-president under Cisneros, recently elected as such by the general assembly chosen by popular vote.

With this distinguished president is associated in office as vice-president Dr. Domingo Mendez Capote, who was professor of law in the Havana University for years before called to this position. I have taken pains to find out about these people. They are men of distinguished reputation, men of high character, men of great learning and ability; and the secretaries, if it was worth while to take the time to pass them in review, would be shown to be men of the same general class and reputation and character. So much for the personnel of the Cuban Republic.

Mr. President, what has this Government done? I said a while ago if the people of Cuba are free and independent it is because this Government has acted as their political agency in guiding and directing them to that freedom and independence. It has been stated here that it is a paper government. That is true; but it is a most excellent paper government; it is a most excellent actual government as well. Not only are all the officers elected in the manner I have indicated, but they are all in office and all serving acceptably and efficiently in the discharge of their duties.

We have taken a great deal of testimony before our committee in regard to this matter, but all we have taken in that way has been spread before the public, and it should be known to Senators.

It is shown by that testimony that they have in the Island of Cuba, instituted by this paper government, a postal system which is carrying the mails to-day throughout the island into every fortified city, as well as throughout the territorial parts of the island. You can go to New York and deposit with the junta a letter addressed to anybody, in any place in Cuba, with a Cuban postage stamp attached, and it will find its destination just as surely as a letter deposited in a United States post-office will reach its destination within our territory. They not only have a postal system, but they have a fiscal system—a fiscal system which has provided tax collectors for the government throughout all that island.

The island is divided into districts and subdistricts, with a collector in each, who is authorized to collect not indiscriminately, as the enemies of the Republic of Cuba would have you believe, but according to law duly enacted, in accordance with a uniform system prescribed for all who live in that island. Each and every man is required to pay precisely alike, and when the subtreasurer of that government appointed at New York was before the committee a few days ago he showed us in his books where more than \$170,000 collected by these tax collectors throughout that island had been transmitted to him as revenues of that government, every dollar of which had been collected by the officials of the Republic of Cuba, and for every dollar of which an official receipt had been given.

They have, in addition to their postal and fiscal system, a school system more creditable than any established by Spain in any place in the world. They have a compulsory system of education. Every child between certain ages is required to attend school. They have a public printing press at their capital (of which I will speak in a moment), where, by the government, school books are printed, and by the government distributed to the scholars throughout the island. All are educated according to a system of the government, a system established and conducted by the government and the representatives of the government.

Ah, but, some one says, it has no fixed capital and no seaport. There are a great many countries that have no seaports. That is of no consequence. Switzerland has not any seaport, and one or two of the South American republics, I believe, have no seaports. Other countries have been recognized as independent states when they had no seaports. That is immaterial.

The Cubans do have a fixed capital. It is located at Cubitas. It has to be at times somewhat peripatetic, going from this to that place, but never removing any very great distance. They have stayed all the while within that one territorial subdistrict where the capital is, at Agramonte, in Cubitas, where it is located now and has been for some considerable time. They have public offices, the Presidential office, the office for each of the secretaries of state, as they are called there. Although there is a secretary of the treasury and a secretary of agriculture, etc., they are all called secretaries of state, each for his own particular department.

They have these offices, which are occupied only for official purposes. In those offices the business of the Republic is conducted. There, in those offices, the archives of the nation are preserved, and I can say here, in passing, that although they have never been made public, some day when they will be made public, when Cuba

has been made free, you will find in the archives of our country, in the office of our own Secretary of State, are the official communications of the officials of the Republic of Cuba, and they are as creditable as any that have come from any country on the globe—communications of marked ability.

But, Mr. President, there are other reasons why that Government, which I have undertaken to show does in fact exist, should be recognized. We should recognize it, if for nothing else, as a war measure. I do not doubt that intervention by the United States will mean war with Spain. We are bound to assume that it will. That being the case, we should, hand in hand with intervention, adopt this other resolution, recognizing not only the people but the Government also as independent, to the end that we may strengthen those who are our natural allies and who can do more for us than anybody else.

Gomez has now in the field, as I said a while ago, some 35,000 or 40,000 men. He would have many thousands more if he had guns and ammunition for them. The very moment the United States intervenes and recognizes the independence of that republic Gomez can swell that army from 35,000 or 40,000 to 50,000, 60,000, 80,000, 100,000 men, and all we will have to do is to put guns and ammunition in their hands and they will speedily evict the Spanish battalions from the Island of Cuba. If we will only with our Navy blockade the harbors, so that they can take no more provisions in, the Cubans will speedily put an end to the war, and there will be no necessity for this Government to expose our troops to the ravages of yellow fever and the other difficulties and disadvantages that would attend a campaign in that island in the rainy season.

But, Mr. President, there is another reason still why this proposition should be incorporated into these resolutions. It is the reason why, in the original draft of the resolutions, I incorporated it. I put in there, and propose to put it back in there if I can, a declaration that the Republic of Cuba should be at once recognized by the Government of the United States because of the legal effect that would result if we did not do that. I hold that it is well settled as a principle of international law that if one country absorb another it takes not only the legal rights and advantages of that country but it takes also the obligations of that country. We have all been told by the newspapers and otherwise—I have never seen any contradiction of it, and therefore I have assumed that it is true—that the revenues of Cuba have been, by solemn enactment of the Spanish Government, pledged to the payment of the principal and interest of \$400,000,000 of Spanish-Cuban 4 per cent bonds.

Mr. President, what will be the consequence to this Government if we go down into that island treating them as in a state of anarchy, turning our back on Gomez and his government, denying that there is any government, banishing Spain from the island, taking possession of the territory, and appropriating the revenues either to ourselves or to "a stable" government that the United States of America through the President is to establish in that island? What would be the consequence? We would take the rights and privileges and advantages attaching to the territory and we would take the debts fastened on it also, just as if you buy a piece of property that is mortgaged, you take it subject to the mortgage and must pay the mortgage or lose your property. That

is the legal proposition that I assert. I am not going to stop here to read authorities, but I will do so, if it should be challenged.

Mr. ELKINS. Will the Senator from Ohio allow a question?

Mr. FORAKER. Certainly.

Mr. ELKINS. If Gomez takes the island, what will become of the mortgage?

Mr. FORAKER. It does not make any difference to us what happens if Gomez takes it; but I will tell you what will happen. If Gomez takes the island by revolution, the whole obligation is wiped out, for those who successfully revolutionize start anew, as revolutionists have started anew from the beginning of the world, except only as to obligations which they themselves might create.

Mr. ELKINS. Let me ask the Senator one further question. If we should take the island by war, would not those obligations be wiped out as well?

Mr. FORAKER. Do you want to take the island by war?

Mr. ELKINS. That is not the question.

Mr. FORAKER. It is the question that I put. Why do you ask me to discuss propositions not involved in this debate? It is because, in my judgment, this intervention is to be deliberately turned from intervention on the ground of humanity into an aggressive conquest of territory.

Mr. ELKINS. That does not answer the question.

Mr. FORAKER. I do not care. I am not going to answer it now. I am not going to answer it because it does not belong in this case. I can not discuss every kind of a question that a Senator by an interrogatory may seek to put before me, especially not when in the very next breath he will refuse or at least evade to say whether he wants this Government to acquire that island by conquest or not.

I say here as a principle of international law, if the United States Government goes down there and drives Spain out and puts somebody else in, forming "a stable government" of her making, that "stable government" will become responsible, and the United States of America will become responsible. I will answer you further now. You would not answer me. I thought probably if I dallied with you a while you would. If the United States of America takes that island by intermeddling, as writers on international law call it, with the affairs of another, she, too, will become responsible, and what is the consequence? The United States of America steps in behind four hundred million of Spanish-Cuban 4 per cent bonds. You do not admit the proposition. It is possible that it is open to some debate. I will concede for the sake of the argument it is. But who holds these \$400,000,000 of bonds? I understand they are held largely in Germany, largely in France, and largely in the United States.

Does anybody imagine, Mr. President, if we should go into Cuba and there establish a stable government for which we would be responsible, that the present Emperor of Germany would hesitate one moment to say to the people of the United States, "You have taken by conquest the revenues that Spain had a right to pledge and did pledge to pay the principal and interest of bonds due to my subjects, and I will now look to you?" Does anybody doubt that he would do it? No; nobody does who judges without bias, I feel free to assert. And if Spain and France would make such a demand on the United States, the distinguished Senator

from West Virginia, I imagine, would be one of the first to say, "We ought to pay up rather than have any fighting."

Mr. ELKINS. I do not think it is fair to put a question to me and not allow me to answer it.

The PRESIDING OFFICER (Mr. COCKRELL in the chair). Does the Senator from Ohio yield to the Senator from West Virginia?

Mr. FORAKER. Certainly.

Mr. ELKINS. I say to the Senator that I would not. There is no soundness in his proposition. There is no authority in the world, and I challenge the Senator to show anything that gives authority, to support his proposition in law—any legal authority.

Mr. FORAKER. I have a very good one right here.

Mr. ELKINS. Read it.

Mr. FORAKER. And I can give you a great many other authorities as they have been given by writers on the subject of international law, for there is not one, from Grotius down to Lawrence, who does not assert that doctrine. Hall says, at page 105:

When a State ceases to exist by absorption in another State, the latter in the same way is the inheritor of all local rights, obligations, and property.

The whole State is not here absorbed, but that which is to be absorbed is that which is subject to the lien.

I might cite you many more authorities if I had thought it worth while to bring them here and tax the patience of the Senate with them.

Mr. ELKINS. That does not answer the question.

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

Mr. FORAKER. I am always glad to hear from the Senator from West Virginia, for he is so very good-natured. But, Mr. President, to go back to what I was discussing, I was just about saying, suppose, for the sake of the argument, the Senator from West Virginia is right to the extent that it is a debatable proposition, we must consider this as a practical as well as a theoretical question. Treating it as a practical question, do you suppose that the rulers of Germany, France, and other countries whose subjects are interested as holders of these bonds would hesitate to call us to account? I do not hesitate to say they would. I do not hesitate to believe they would; and then we would have other and far more serious complications. I want to avoid them.

If we recognize the independence of the Republic of Cuba, that liability is avoided. We absolutely estop everybody from making such a demand upon us; we take no responsibility. Those people, according to our resolutions, have already accomplished their independence without any help from this country, but rather in spite of all this country has done to patrol our coasts in the interests of Spain. They are already in a situation where they can set up their government, and all we do in going there is to recognize the existence of that government and act with our natural allies.

Ah, but says somebody, when you go there, if you recognize the existence of that government, you are compelled to report to Gomez, and there will be a question at once between General Miles and General Gomez as to who should command. If there be any government in the Island of Cuba to-day, it is either the Spanish Government or it is the Republic of Cuba, and when General Miles goes to Cuba I would rather have him report to General Gomez than to General Blanco.

Mr. President, for all these reasons, which I am conscious I have most imperfectly advanced, I believe that it is the duty of the United States Government this very day, not only to intervene, but at the same time to recognize the independence of the people of that island and the independence of the government which the Cubans have established.

I for one say to you frankly I would be ashamed to see the United States recognizing the independence of the people of Cuba and in the same resolution turning their backs upon heroic, grand old Gomez and his compatriots. For my part my voice is against any such proposition.

Mr. President, I have not at any time had any trouble in my mind about independence and intervention, but I have had this kind of a trouble in my mind: The trouble has been whether it should be independence and intervention or independence and a declaration of war outright. I think, logically speaking, it ought to be a declaration of war, and I would be standing here arguing for such a declaration if I were not of the opinion that armed intervention will give us an opportunity to suitably punish Spain for the destruction of the *Maine* and 266 of our officers and sailors. [Applause in the galleries.]

THE PRESIDING OFFICER. Order must be observed in the galleries or they will be cleared.

Mr. FORAKER. We have been told, Mr. President, that the board of inquiry appointed by our Government by its report has stopped us from such a declaration. I dispute it. It is true that the board of inquiry found that they could not tell what person or persons were responsible for that disaster, but the context shows that in that connection they had reference only to the question what person or persons pressed the button that sent the electric current on its fateful mission; and that, Mr. President, is immaterial in the light of the other facts unequivocally found by that board of inquiry.

That board of inquiry has officially found—and it is a most conservative report throughout; as the President well says in his message, all Americans have absolute confidence in the truthfulness of it—that board of inquiry found that our ship went into that harbor on a friendly mission; that the Spanish authorities were advised in advance of her coming; that she was coming not for warlike purposes, but only on a mission of peace, to cultivate better relations with Spain—a courteous visit in recognition of the friendly relations, of which we have heard so much, between Spain and this country. The court further find that when our ship reached the entrance to the harbor she was taken in charge by a Spanish official—the harbor pilot—and by him towed to buoy No. 4 and there made fast, and there stationed during her stay in that harbor, and that while she was there stationed she was destroyed by a submarine mine. That is the finding.

What, Mr. President, is a submarine mine? Did any Senator ever hear of any private individual having submarine mines on sale, or of any private individual handling submarine mines, especially in a territory where war is present? And does not every Senator know that under the laws then in force in Havana, by the edict of Weyler issued on the 16th day of February, 1896, no private individual could have in his possession any kind of an explosive, not even a pound of gunpowder, without being liable to the death penalty? Do you imagine that any private individuals, with

that kind of a law in force there, were engaged in handling submarine mines?

No, it is an absolute absurdity, it seems to me, for us to imagine that the submarine mine that destroyed the battle ship *Maine* was anything else than a governmental implement and agency of war. Suppose, for illustration, instead of that ship being destroyed by a submarine mine, as she was, she had been sunk by a shot fired from Morro Castle, under the guns of which she was buoyed. Would any Senator in such instance imagine that there could be any question about that piece of artillery being a governmental agency and implement of war? Would anybody stand up and question that it was a governmental agency under the control of government officials, and that the Spanish Government could be held liable by us for the result of the discharge of that gun as a hostile act of war?

Mr. President, the gun was not any more a governmental agency than this mine was. The gun was not any more under the control of the Government than this mine was. The gun was not any more subject to governmental control and to be discharged by governmental agencies than was this mine.

But if it had been the case of a discharge from a gun, what would Spain have done? Why, the whole world would have recognized that we were bound to assume that it was an act of war. Spain would have recognized it. How could she have escaped from the consequences? Only in one way, and then she would have remained liable for all damages that occurred. She could have escaped from the conclusion that it was an act of war by immediately disavowing and immediately establishing by incontrovertible proof that it was an accident, if such a thing were possible.

Mr. President, the same rule that would apply in the case of the gun does apply, and did apply, in this instance. And, Mr. President, the significant thing is that Spain admitted by her conduct that it applied. What did Spain do? Instantly she disavowed, just as she would have done in the case of the gun, and instantly sought to establish her innocence by proving that it was an accident.

No wonder, Mr. President, that she seized upon the theory that it was an accident when our own Government was everywhere proclaiming that it was an accident. She sought to establish that it was an accident; she pitched her defense on that proposition; she took her testimony; she made an official report. It is before the Senate. She finds in that report that the *Maine* was destroyed, not by an external agency, but by an accident, by the explosion of one of her magazines.

Mr. President, that report is a lie to the living and a libel upon the dead. It is on its face absolutely and conclusively false. There is one circumstance that will forever keep it branded as such, as it now is, and that is the fact that the keel plates of that ship after the explosion were found 34 feet above where they should have been found as the ship rests on the bottom of that harbor if there had been no explosion, and the bottom plates of the ship are bent upward like an inverted V, like my hand is [illustrating]. Do you think an explosion from within would have bent the keel plates upward, would have drawn them up through the decks on that ship a distance of 34 feet, and would have bent them in that manner? No; you can not think that until the laws of nature have been changed. They have not been changed yet. They were still in operation then.

Now, what is the effect of this fact? Spain recognized that she must make a defense. She chose to call it an accident; she so reported. This one fact—the present condition of the keel plates—absolutely wrecks and destroys her whole defense as completely as the *Maine* was destroyed by her submarine mine. What is the result? The result of it is that Spain stands to-day convicted by her own effort at defense, convicted in the presence of the nations of the earth, of that hideous and cowardly crime.

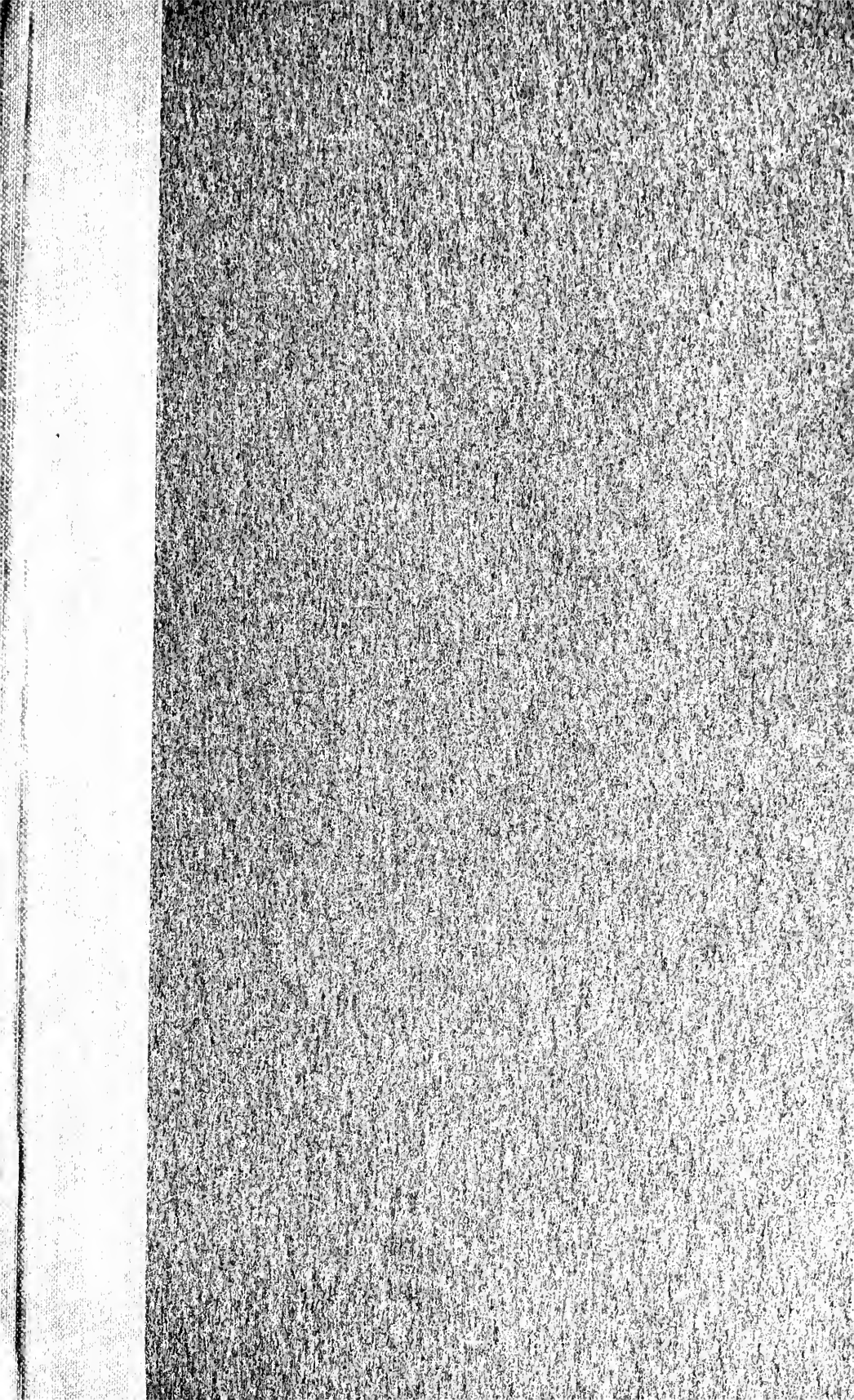
What is our duty in view of it? Mr. President, we owe it to the brave men dead to vindicate their reputations from the brutal charge that they died of their own negligence. We owe it, Mr. President, to the splendid record of the American Navy to preserve it from the tarnish that is sought to be put upon it. We owe it, Mr. President, to our own good name among the nations of the earth that the perpetrators of such a cruel outrage shall not go unwhipped of justice.

No nation can afford to pass by such an affront as that in silence. This is not a case for the application of the Scriptural injunction about the turning of the other cheek, but it is a case, Mr. President, for the application of that other Scriptural injunction, "An eye for an eye, and a tooth for a tooth."

It is not morality, it is not Christianity, it is not religion, it is not common decency, it is not common sense, but only a maudlin sentimentality to talk in the presence of such circumstances and facts about the horrors of war. War is horrible, always to be deplored, and ever to be avoided if it can be avoided consistently with the dignity and the honor and the good name of the nation. But, Mr. President, much as war is to be deplored, it is a thousand times better to have it in a case like this than to be written down before all the nations of the earth as pusillanimous—as wanting in pluck and courage.

Yes, Mr. President, business interests may be interfered with, loss of life may occur, all apprehended evils may result, but no matter what the cost, in the presence of this great commanding duty we must go forward. The time, I repeat, for diplomacy has passed. The time for action has come. Let the doubting, the hesitating, the opposing, go to the rear, while the virile, strong-minded, patriotic, liberty-loving masses of the American people, coming from all the sections and all pursuits and avocations of life, rally as one man around our gallant Army and Navy, and taking the flag of our country carry it on to triumphant victory. [Applause in the galleries.]

A victory, Mr. President, for civilization over barbarism; a victory for the right and capacity of man to govern himself; a victory for the Western Hemisphere; a victory for Cuba; a victory for freedom and liberty and independence; a victory worthy of the descendants of the heroic men who achieved our own independence, and worthy of the successors of those heroic men who have since preserved and perpetuated our priceless heritage. [Applause in the galleries.]



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