

# **HAWAIIAN HOMES COMMISSION ACT, 1920**

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## **HEARINGS**

**BEFORE THE**

## **COMMITTEE ON TERRITORIES UNITED STATES SENATE**

**SIXTY-SIXTH CONGRESS**

**THIRD SESSION**

**ON**

## **H. R. 13500**

**A BILL TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE A  
GOVERNMENT FOR THE TERRITORY OF HAWAII," APPROVED  
APRIL 30, 1900, AS AMENDED, TO ESTABLISH AN HAWAIIAN  
HOMES COMMISSION, AND FOR OTHER PURPOSES**

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**Printed for the use of the Committee on Territories**



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# HAWAIIAN HOMES COMMISSION ACT. 1920.

TUESDAY, DECEMBER 14, 1920.

UNITED STATES SENATE,  
COMMITTEE ON THE TERRITORIES,  
*Washington, D. C.*

The committee met pursuant to call at 10.30 o'clock a. m., in room 347, Senate Office Building. Senator Harry S. New presiding.

Present: Senators New (chairman), Smoot, Pittman, Nugent, and Chamberlain.

There appeared before the committee Hon. J. Kuhio Kalaniana'ole, Delegate from the Territory of Hawaii; Mr. A. G. M. Robertson, representing the Parker ranch; Mr. W. B. Pittman, representing the Raymond ranch and others; Mr. B. G. Rivenburgh. Rev. Akaiko Akana, Mr. George M. McClellan, Mr. Waller, and others.

The committee proceeded to consider the bill (H. R. 13500) to amend an act entitled "An act to provide a government for the Territory of Hawaii," approved April 30, 1900, as amended, to establish an Hawaiian Homes Commission, and for other purposes.

The CHAIRMAN. Gentlemen, this is a meeting of the Senate Committee on Territories to consider House bill 13500, which is now before the Senate. I might say that there were very full hearings on this measure when it was before the House, printed copies of which are here on this desk and available for any Senator who wants to consult them as we proceed. Also we have copies of the bill.

This measure was considered by this committee last winter and spring, and was reported out with the recommendation that it pass, but the session ended and the Senate adjourned before any action was taken on it. Since that, with the opening of this session, I was notified that a committee from Hawaii was here and anxious to have a hearing on the bill before any further action was taken. I therefore moved that it be recommitted to this committee, and it is now before us for consideration. The delegation from Hawaii is here, and we would be glad to hear from it. Judge Robertson, I believe, is the spokesman of the delegation. We would be glad to hear from you your views concerning it, and your objections to this bill, if you have any.

## STATEMENT OF MR. A. G. M. ROBERTSON.

The CHAIRMAN. You are a resident of Hawaii?

Mr. ROBERTSON. Yes.

The CHAIRMAN. Just state your status and all, to identify yourself, to the stenographer.

Mr. ROBERTSON. I am from Honolulu. I am representing a client of mine, the Parker ranch, which is interested very substantially in this bill and will be seriously affected by it, or would be if it was passed, and I am here to ask the committee to hear me in opposition to the bill.

Senator SMOOT. How many acres does the Parker ranch consist of?

Mr. ROBERTSON. Do you mean the entire ranch, Senator?

Senator SMOOT. Yes.

Mr. ROBERTSON. Something over 500,000 acres in leasehold and fee simple, and all qualities of land. Large quantities of that are waste land, like lava flow, and large portions of it are of very inferior quality.

Senator SMOOT. I have been all over the ranch, so that I know what the land is. I wanted to know what the area of it was.

Mr. ROBERTSON. One-third of it is first-class grazing land.

The CHAIRMAN. Will you please tell the committee just what the Parker ranch is, and how did it become the Parker ranch? How long have the present holders had it and upon what terms did they come into possession of it?

Mr. ROBERTSON. Well, the Parker ranch, as I understand it, was originally owned by one John Parker and his nephew, the late Samuel Parker, whom some of you gentlemen probably knew. John Parker's interests, as I understand it, then went to one of the sons of Samuel Parker, John Parker, jr. Then John Parker, jr., and his father, Sam Parker, were the owners of the ranch. John Parker, jr., died rather young, leaving his daughter as his sole heir, a minor child. Her guardian acquired the interest of the grandfather, Sam Parker, in the ranch, and thereby became the owner of the entire ranch. That young lady married and had one child, and then she died and then the father died, so that the present owner of the ranch is a young boy by the name of Richard Smart, who is an orphan, living in California with his grandmother, who is bringing him up. I would not venture to say exactly his age now, but he is about 7 years old. So that the ranch is being managed by a trustee for this minor child.

The CHAIRMAN. Of course, the present interests came into possession of this tract long before the United States had any particular interest in Hawaii?

Mr. ROBERTSON. Yes. When I began this outline of the history I should have said that I would go back 50 years or more, probably.

The CHAIRMAN. Fifty years?

Mr. ROBERTSON. Yes; when the original Parker owned that land. I think now that it was all of 50 years ago. This brief synopsis I have given covered a long period of time, and it has gone from one to another.

The CHAIRMAN. And they got it from the old native Hawaiian Government?

Mr. ROBERTSON. Yes.

The CHAIRMAN. Was it in the form of a grant?

Mr. ROBERTSON. Some by grant and some of the lands were acquired since in fee simple.

The CHAIRMAN. By purchase?

**Mr. ROBERTSON.** By purchase from private parties. Possibly some was purchased from the Government from time to time in small pieces.

**Senator NUGENT.** From what Government?

**Mr. ROBERTSON.** From the monarchy, prior to annexation.

**The CHAIRMAN.** Yes.

**Mr. ROBERTSON.** And a large portion of it is now under leasehold from the Government.

**Senator NUGENT.** From what Government; the United States Government or the Hawaiian Government?

**Mr. ROBERTSON.** First, from the Hawaiian Government, and to-day under the Territorial Government. A large portion of it is held under leasehold from the Government.

**Senator SMOOR.** Will you state how many acres is under leasehold to-day?

**Mr. ROBERTSON.** I can not tell you exactly, but under this bill 90,000 acres of Government leasehold land would be taken; that is, the leases would be terminated and the lands turned over to homestead entry under this bill.

**Senator SMOOR.** Just let me see that statement.

**Mr. KALANIANA'OLE.** One hundred and forty-four thousand acres are leased to the Parker estate.

**Senator SMOOR.** One hundred and forty-four thousand three hundred and one acres.

**Mr. ROBERTSON.** That is all the land—good, bad, and indifferent—I would like to remind the Senator.

**Senator NUGENT.** Did I understand you to say that the total held by that estate is 500,000 acres?

**Mr. ROBERTSON.** Yes; including everything, land in fee simple and what is leased from the Government; about 500,000 acres. About one-third of that is lava flow. That is waste land that a jack rabbit could not raise a family on.

**The CHAIRMAN.** About one-third of it, you say?

**Mr. ROBERTSON.** About one-third. Another third is a very inferior quality of pasture land, arid and rocky. That would leave remaining about one-third of that area of good pasture land.

**Senator NUGENT.** That would leave 170,000 acres of good land?

**Mr. ROBERTSON.** I should say so.

**Senator NUGENT.** Where is this land located?

**Mr. ROBERTSON.** It is on the island of Hawaii, the largest island in the group.

**Senator NUGENT.** What portion of that island is available for pasture purposes and agricultural purposes?

**Mr. ROBERTSON.** I could not say offhand.

**Senator NUGENT.** Approximately?

**Mr. RIVENBURGH.** The area of the island is 900 square miles.

**Senator NUGENT.** That includes mountains and everything else?

**Mr. RIVENBURGH.** Yes.

**Senator NUGENT.** Can you give us any idea of the acreage in that island that is available for grazing and agricultural purposes?

**Mr. RIVENBURGH.** I would not say more than one-third, I think.

**Mr. KALANIANA'OLE.** I would say all of that island is available for agricultural and grazing purposes, with the exception of a few recent lava flows.

**Senator SMOOT.** This does not affect anything on the land we are speaking of. This ranch has 144,000 acres under lease.

**Senator NUGENT.** Yes. What I had in mind was this: It was stated here at the last hearing that there were thousands of natives there that had no roof over their heads and no way of making a living except by hiring out to other people. It would seem to be a rather serious situation of affairs if one company could acquire 500,000 acres of land under those conditions.

**Mr. ROBERTSON.** As I say, it must always be borne in mind that a large portion of it is absolutely worthless land, worthless to anybody for any purpose.

**Senator SMOOT.** Then we are not taking anything away from the Parker estate, if that is the case, by this bill if it goes into effect.

**Mr. ROBERTSON.** I am not speaking of the 99,000 acres that this bill proposes to take away from this Parker ranch. Those are good pasturage ranges. When I say that a large portion of it is waste land, I am speaking simply of the fee-simple land.

**Senator SMOOT.** That may be true.

**The CHAIRMAN.** You may proceed, Judge.

**Senator CHAMBERLAIN.** Before you proceed let me ask this: Does this bill as it is written affect any more than 99,000 acres of the land within the Parker ranch?

**Mr. ROBERTSON.** No; not of land that is within the Parker ranch. The rest of the 200,000 acres that this bill proposes to dispose of is situated on other islands.

**Senator CHAMBERLAIN.** And not in the Parker claim?

**Mr. ROBERTSON.** Not in the Parker claim.

**Senator SMOOT.** Nearly all of them are in the same condition, only not as large.

**Senator CHAMBERLAIN.** I wanted to know whether you represented any other than the Parker interests.

**Mr. ROBERTSON.** No.

**Senator CHAMBERLAIN.** So that this bill affects only 99,000 of the 500,000 acres that the Parker people have?

**Mr. ROBERTSON.** So far as I am speaking for them in that connection; yes.

**Senator CHAMBERLAIN.** Is there anybody else here representing the balance of the land that is affected by the bill?

**Mr. ROBERTSON.** Mr. Pittman, I understand, speaks for the Raymond ranch.

**Senator CHAMBERLAIN.** That is on the same island?

**Mr. ROBERTSON.** No; it is on the island of Maui, a different island. This bill proposes to take 25,000 acres from that ranch.

**Senator CHAMBERLAIN.** Are there any other lands affected, now, besides these two ranches you speak of?

**Mr. ROBERTSON.** Yes, senator; this is a bill which also relates to land on other islands—Molokai and Kauai, and on the island of Oahu.

**Senator CHAMBERLAIN.** Does anyone here represent those lands, so far as you know?

**Mr. ROBERTSON.** Not so far as I know. I represent only the Parker estate.



Senator CHAMBERLAIN. Now you may proceed.

Mr. ROBERTSON. This bill has come to be called the Hawaiian homes commission act. As a matter of fact, it amends the Hawaiian organic act in many particulars disconnected from that, matters that are not concerned in our opposition to the bill. For instance, it has a much-needed increase of salary of the governor and officials out there, and it has another clause in which it is proposed to reduce the Federal court from two justices to one. It has another clause that would prohibit the employment of alien labor on Federal work out there, which I think is desirable. Those matters are disconnected from the rehabilitation plan and we are not opposing any of those disconnected measures.

Senator CHAMBERLAIN. Could you summarize just your particular objections to the bill?

Mr. ROBERTSON. Yes, Senator; if you will permit me, I would like to begin at the beginning.

Senator CHAMBERLAIN. All right.

Mr. ROBERTSON. And lead up to it.

Senator CHAMBERLAIN. All right.

Mr. ROBERTSON. So far as the rehabilitation feature of this bill is concerned, dealing as it does with the disposition of certain public lands out there, the bill provides for the appointment of a commission of five members, called the Hawaiian Homes Commission, which is given sweeping and arbitrary powers under the bill to do almost anything. The bill then goes on to provide for the turning over to this so-called homes commission of about 200,000 acres of public lands, lands which formerly formed part of what was known during the monarchy as the crown lands. Since the annexation the difference between crown land and public land has disappeared, and it has been called public land ever since the annexation of the islands 20 years ago.

The bill then goes on to provide that these lands shall be divided up and leased by this homes commission for terms of 99 years to native Hawaiians. The bill defines "native Hawaiians" as being Polynesians of not less than one thirty-second blood.

The bill also provides for these leases for 99 years at the nominal rental of \$1 a year, which shall be nonassignable.

The bill also provides for the setting aside of a revolving fund in the treasury of the Territory taken out of the revenues of the Territory to be devoted to the financing of these Hawaiian homes. The bill provides that this homes commission may loan and advance to each one of these homesteaders up to the sum of \$3,000 each, which may be repaid in 30 years, bearing interest at 5 per cent.

The bill also provides that this Hawaiian homes commission may acquire water rights, either by purchase or condemnation, for the purpose of bringing water upon such of those lands as are now unwatered. For that purpose the local legislature is authorized to make appropriations of money out of the revenues of the government—out of the treasury—and, if they see fit, to issue bonds, to create bond issues, for the purpose of raising money for the building of water works, irrigation systems, and the purchase and development of water. In other words, the scheme is a very wide one, constituting the disposition of this 200,000-acre area, the advancing of

these moneys out of the revolving fund, which are taken out of the revenues of the Territory, and therefore out of the taxpayers' pockets; with a possibility and probability of the expenditure of millions more of money in the acquisition of water rights, and development of water, and the building of irrigation systems, if necessary, for the bringing of water onto these arid lands.

Senator NUGENT. Do you object to those things?

Mr. ROBERTSON. We certainly do, Senator: absolutely. These moneys, mind you, come out of the pockets of the white taxpayers of the Territory and are handed over to or are used for the benefit of the Hawaiian population—as we find it stated in the bill here—of one thirty-second Polynesian blood.

The CHAIRMAN. Does not the bill include all those who have Hawaiian blood at all, down to the point of one thirty-second?

Mr. ROBERTSON. That is what I say, Senator: any Hawaiian of not less than one thirty-second Polynesian blood is defined as a native Hawaiian, within the definition of the act. That is what I meant to say.

The CHAIRMAN. I did not think you stated it just as the bill provides. That is all right: that is understood.

Mr. KALANIANA'OLE. Mr. Chairman, may I say just a few words right there?

The CHAIRMAN. Yes.

Mr. KALANIANA'OLE. Mr. Robertson says that these moneys are to come out of the white taxpayers' pockets of the Territory. That is not correct. They are to come out of leases of the cane lands—that is, if the land board sees fit to lease them. If they do not, we have to find some other means of raising money to help the Hawaiians.

Mr. ROBERTSON. I was coming to that point further on in my argument. It does not make any difference where this \$1,000,000 that is to be put into this revolving fund for the benefit of these beneficiaries under this act comes from, what pockets it comes out of—whether it comes out of the moneys derived from this, that, or the other source—it is money that comes out of the pockets of the white taxpayers of the Territory. In other words, if these land rentals that the bill provides for the setting aside of into this \$1,000,000 fund were not so set aside they would go into the treasury and be available for the purposes of all the people of the Territory and for the general uses of the Territory, and could be used for the building and construction of roads or public buildings, or for the building of schools or of much needed wharves, or they would be available for any other much needed public purpose. The Territory of Hawaii is chronically hard up, if I may use that term—invariably short of money. Even now the government is renting school buildings for the accommodation of pupils in the public schools because the government is without funds to build enough school buildings for the accommodation of the children.

Senator SMOOR. The governor does not take that position, does he; and he is a white man appointed by the President and confirmed by the Senate?

Mr. ROBERTSON. The governor, as a member of the delegation that came on last February, certainly took that position.

Senator SMOOR. All I know is that he is in favor of this bill, is he not?

The CHAIRMAN. It is so stated here in the House hearings.

Senator SMOOT. He so stated to me when I was in Honolulu a few months ago.

Mr. ROBERTSON. It is so stated.

Senator SMOOT. Mr. Robert Shingle is a business man of Honolulu?

Mr. ROBERTSON. Mr. Robert Shingle is speaking for interests that desire the passage of this bill by reason of purchasing 15-year leases of their cane lands.

Senator SMOOT. Perhaps you had better go on and make your statement.

The CHAIRMAN. Is not Mr. Shingle in some way related to the Parker family?

Mr. ROBERTSON. By marriage; yes. Sam Parker's second wife was Mrs. Shingle's mother.

The CHAIRMAN. I thought there was a relationship. But Mrs. Shingle has no interest in the Parker estate itself?

Mr. ROBERTSON. No; absolutely not.

The CHAIRMAN. Or in the Parker ranch?

Mr. ROBERTSON. Absolutely not. Sam Parker, Mrs. Shingle's step-father, as I say, sold out during his lifetime.

The governor, as I understand, has somewhat altered his position. The Senators will see by reference to the hearings before the House committee that the governor did not support the bill at the hearings before the House committee.

Senator SMOOT. I know the governor supported the bill when I was in Honolulu last July.

Mr. ROBERTSON. I understand he has come around to support it.

The CHAIRMAN. The opening sentence of his testimony before the House Committee on Territories reads: "I think the bill is satisfactory to the delegation."

Senator SMOOT. Is it not true that the legislature is in favor of it—the present one; and the old one was, as well?

Mr. ROBERTSON. Yes, Senator; but the legislature is dominated by the beneficiaries under this act.

The CHAIRMAN. I have a cablegram, under date of December 8, which reads as follows, it being addressed to me as chairman of the Senate Committee on Territories:

Legislature endorse rehabilitation bill, large majority. Resolutions passed. Chillingworth, president. Holstein, speaker.

Mr. ROBERTSON. Yes, Senator; I have a letter stating substantially the same thing, only it stated the majority in the house was a majority of 2, and not a large one; a vote of 13 to 15 on a motion to commit.

Mr. KALANIANA'OLE. I have the house resolution right here. The vote in the house was 24 for and 4 against.

The CHAIRMAN. Was the subject of this bill brought into the campaign that has just been concluded in Hawaii?

Mr. ROBERTSON. The Prince in campaigning in this last campaign spoke very strongly in favor of the bill, especially among the Hawaiian people, who are interested in the passage of the bill. I do not claim to be speaking for a majority of the people; I am speaking for the minority.

The CHAIRMAN. It was made a campaign issue?

**Mr. ROBERTSON.** I would not say that, because neither party platform indorsed the bill. The Democratic platform was against it and the Republican platform was silent on the subject, but indirectly favored homesteading and equal rights for all, which, of course, is inconsistent with this bill.

**Senator NGENT.** So far as the election was concerned, it demonstrated conclusively that the overwhelming majority of the people of Hawaii were in favor of this legislation; is that correct?

**Mr. ROBERTSON.** I think that is rather overstating it, if I may say so. In fact, I myself voted for the Prince. I have got the habit. I have voted for him 10 times—every time that he has been a candidate for Congress here—and pretty nearly everybody votes for the Prince. But the vote received by the Prince does not actually represent the sentiment of the people on this bill. I am absolutely opposed to this bill, and I believe it is un-American and unconstitutional. As individuals we all voted for the Prince as our candidate here. I did so, as I have always done.

**Senator NGENT.** But you state that you represent before this committee no interest except the Parker ranch interest?

**Mr. ROBERTSON.** That may be the only selfish interest I represent. The argument that I present here goes far beyond the mere interest of the Parker ranch; but the other people who are interested are not sufficiently interested, except—

**Mr. RIVENBROUGH.** You mean the Raymond ranch?

**Mr. ROBERTSON.** Yes.

**Senator NGENT.** You mean they are not sufficiently interested to send any representative to appear before this committee and argue their case?

**Mr. ROBERTSON.** You must remember that it is not everybody that can afford to send a representative from Hawaii to Washington to appear before a committee on such a proposition. There are hundreds of white men out there who feel they are absolutely against this bill and that they are being discriminated against by it who can not send representatives to Washington.

**Senator NGENT.** But I apprehend that it was a matter of quite general knowledge that you were coming to Washington to oppose the enactment of this law?

**Mr. ROBERTSON.** I presume that is so, possibly.

**Senator NGENT.** And in view of that fact nobody sought to engage you to represent their interest except the Parker ranch people?

**Mr. ROBERTSON.** No; that is perfectly true.

**The CHAIRMAN.** Well, now, it is true that the Hawaiian Legislature has indorsed this bill?

**Mr. ROBERTSON.** Yes.

**The CHAIRMAN.** Has there been any action by any other body over there, public or civic? For instance, the Honolulu Chamber of Commerce; has it ever acted on this question at all?

**Mr. ROBERTSON.** No; the Honolulu Chamber of Commerce had a committee look at the bill, as I understand it, but they decided to take no action, either favorable or unfavorable, toward it.

**Senator SMOOR.** The civic organizations are in favor of it, are they not?

**Mr. ROBERTSON.** I do not know whether they are or not.

Senator SMOOT. Do you not know that I spoke before the Honolulu civic organizations?

Mr. ROBERTSON. The Honolulu Punhonua Society?

Senator SMOOT. No; the civic organizations.

Mr. ROBERTSON. Yes; but that is a purely Hawaiian society.

Senator SMOOT. Well, I do not know.

Mr. ROBERTSON. The Prince will bear me out in that. Of course, they are in favor of this bill. There is no reason why any Hawaiian or part Hawaiian should not be in favor of the bill, although some have spoken out against it. But if this were a bill for the rehabilitation of the Caucasian race out there, naturally the Caucasians would favor it as a race.

Senator SMOOT. I do know that many of the Caucasian race there are in favor of the bill, and I think the majority of them are.

Mr. ROBERTSON. I can not agree to that.

Senator SMOOT. I think so.

The CHAIRMAN. The question that I had in my mind was whether there was sufficient objection on the part of the Caucasian population to have produced any protest from any such organization as the chamber of commerce, or anything of that kind.

Mr. ROBERTSON. I believe you have among your files, Mr. Chairman, a protest that was sent on some months ago by the Kauai Chamber of Commerce protesting against the passage of the bill. I was informed that they had sent it to you.

Mr. KALANIANA'OLE. There was a protest by the Kauai Chamber of Commerce.

The CHAIRMAN. I have been absent from Washington for some time. I will have that looked up right away.

Mr. ROBERTSON. We have about four chambers of commerce out there, one on each of the large islands.

Senator PITTMAN. I think Judge Robertson has very frankly admitted that he is representing special interests here. There is no doubt about that. Now, as to what the majority of the people of Hawaii want, it is a question that is persuasive, of course; but what I am particularly interested in hearing from the Judge on—it is a subject that I presume he knows more about than any other subject—is the legal phase of this. I understand that the Judge has attacked the constitutionality of this act, and he has the reputation of being an able and prominent lawyer. That is the subject I am particular interested in, whether it is constitutional or not.

Senator SMOOT. Well, then, let us let the Judge proceed on that line. It is ten minutes after eleven o'clock now.

Mr. ROBERTSON. If the committee would permit me, I would like to proceed on my own line here. I have intermediate points I want to state as I go along.

The CHAIRMAN. State your objections in your own way.

Mr. ROBERTSON. I think I have stated the substance of the bill here. The disposition of these lands; the establishment of the revolving fund, which is taken out of the territorial revenues; and the wide powers of the Homes Commission, and the possibility or probability of large additional sums being taken out of the public revenues that are badly needed for important public purposes, and devoted to this experiment of rehabilitation, so-called. A legislative

delegation, headed by the governor, came on here last January or February, and they were given extensive hearings before the House Committee on Territories, as is shown by the printed pamphlet here, in many hearings.

The governor at that time was not favorable to the bill, as is shown by his expressions to the committee. He had another scheme that he desired put into operation that was sidetracked by this scheme, that was finally adopted, and was the scheme proposed and advocated by territorial Senator John Wise, before the House committee. At that time it was not known what this bill was going to be and there was no opportunity for any interests opposing it to be heard. Only the advocates of the bill were heard by the House committee. Now, this is admittedly a flagrant case of class legislation. No one would have the hardihood to deny that it is absolutely class legislation, drawn on what seems to me the viscious line of race. This bill cleaves the Hawaiian community in two, separating the whites from Hawaiians and Part-Hawaiians, taxing one for the benefit of the other, discriminating against the one and favoring the other according to the color of his skin and the kind of blood that God has put in his veins. It is a type of legislation that I do not believe there is precedent for.

Now, it was apparently necessary from the standpoint of the principal advocate of this bill, Senator Wise, to advance before the House committee some reason for this discrimination, some reason for the drawing of this race line, some reason for the apparent unfairness to the one class as against the other. Well, John Wise advanced two or three propositions there in support of his position. In the first place, he said that the Hawaiian race is dying out, and Congress ought to do something to rehabilitate it, to save it from extinction. Everybody agrees that the Hawaiian people are a most lovable, kind, hospitable people. Nobody questions that. That is conceded at the outset. John Wise then says, "Why, this fine people is dying out. Why should not Congress do something before it is too late, to rehabilitate and rejuvenate them?" Let us examine that proposition for a moment. It is true that the aboriginal Hawaiians of the pure blood are dying out; but it is not true that the Hawaiian race as defined in this act is dying out. The law would go so far as to include within the Hawaiian race Polynesians of as little as one thirty-second aboriginal blood. That race is not dying out, as is shown by the census figures; and yet that is the race that is purported to be rehabilitated by this bill.

On page 6 of my printed brief it is stated, according to the census, that in 1900 the pure Hawaiian population was nearly 30,000, while in 1919 it was only 22,600, a decrease of over 7,000; whereas, those who were part Hawaiians in 1900 numbered only 7,835, and in 1919 had increased to 16,600, an increase of about 9,000, more than offsetting the decrease in the aboriginals of the pure blood, and the total increase is substantially just as much. In 1900 the population would have been about 37,000, whereas in 1919 it was about 39,000. So that it can not be said, and it is not true to say, that the Hawaiian race as defined in this bill is a dying race, because the figures show that it is an increasing race.

Senator Moor. I do not see that the figures show that. On page 6 of your brief it says that the Hawaiian population in 1872 was

49,044 of the pure blood, and in 1900 the Hawaiians of unmixed race had decreased to 29,334, while the part Hawaiians had increased only from 1,487 in 1872 to 7,835 in 1900. Instead of 50,000, the total in 1872, in 1900 there is a total of only about 37,000.

Mr. ROBERTSON. Yes, Senator; I say, comparing the 1900 figures with 1919 figures, it shows an increase.

Senator SMOOT. No; even that shows a decrease. In 1872 there were 50,000 Hawaiians and part Hawaiians, while in 1919 there were only 39,000.

Mr. ROBERTSON. I was talking about comparing the figures of 1900 with those of 1919, which show an increase.

Senator SMOOT. Yes; of a very few. But I have no doubt in my own mind but what the Hawaiian race is dying out.

Mr. ROBERTSON. Yes; the pure bloods.

Senator SMOOT. Yes; and the others are not increasing. They have decreased since 1872 about 50 per cent—not quite 50 per cent.

Mr. ROBERTSON. The part Hawaiians have unmistakably increased from 1872 to 1919.

Senator SMOOT. Yes; and the others show an absolute decrease.

Mr. ROBERTSON. Yes; that is admitted. I do not deny that the Hawaiians of the pure blood are decreasing, but I do deny that the Hawaiians as defined in this bill are decreasing.

Senator SMOOT. From 1872 there was an increase. There were not as many Hawaiians and part Hawaiians as there were in 1919 by one-third and more.

Mr. ROBERTSON. As a matter of fact, the part-Hawaiian race must be differentiated from the Hawaiians of the pure blood, and the fact that they are not differentiated in this bill is one of my objections to it, and I believe one of the weaknesses of the bill. The part Hawaiian, the part Caucasian, the part Chinese, the part Portuguese are a virile, prolific, and enterprising lot of people. They have large families and they raise them—they bring them up. These part Hawaiians have had the advantage, since annexation especially, of the American viewpoint and the advantage of a pretty good public school system, and they are an educated people. They are not in the same class with the pure bloods—you know that, Senator, I think, from your observations there—so that it seems to me that we are decidedly confusing the two classes and that there is a vital mistake in the bill. The one kind of people do need something in the way of rehabilitation. Whether it can be accomplished by legislation or not is another thing.

I think that the remedy is psychological rather than legislative. But, be that as it may, the part Hawaiian people, as I say, are virile, prolific, increasing, enterprising, intelligent people, and can not be said to need any rehabilitation, and they are not properly put into the same class with the aboriginals in any statute on the subject.

Now, these people are not indigent. They are not the proper objects of public charity. The taxpayers can not, as I look at it, be legally taxed for their subsistence, because they are not in the class that need, that require, that are entitled to, any assistance. They are able to stand on their own feet. Here is the Rev. Akaiko Akana—part Hawaiian and part Chinese. Why should I be taxed for his rehabilitation? Yet the bill proposes that. It proposes that

thousands of my class should be taxed for the rehabilitation of thousands of his class; and yet he is as equally able to stand on his own feet and earn his own living and support his own family, as I am. Where is there any justice or sense of justice in that proposition? I submit that there is a vital mistake here in classifying the part-Hawaiians, whether they be part-Caucasian or part-Asiatic, as the reverend gentleman here is. They do not belong in the same class here with these unenterprising, apathetic, thriftless natives of the pure blood.

Senator CHAMBERLAIN. Why do you draw the line at those having one thirty-second of the pure blood in them?

Mr. ROBERTSON. I think that Senator Wise got that from the grandfather's law.

Senator CHAMBERLAIN. You take a man that has one thirty-second of native blood as compared with one who has one thirty-third, and you could not distinguish between them to save your life; and yet one comes within this provision and the other does not.

Mr. ROBERTSON. The Hawaiian blood is so readily absorbed that a person of one-eighth Hawaiian blood can not be distinguished from a white person, in ninety-nine cases out of one hundred.

Senator CHAMBERLAIN. So that it was an arbitrary distinction?

Mr. ROBERTSON. So far as I know, absolutely arbitrary. Where it came from I really do not know. It would be quite a different thing if this bill was limited to the rehabilitation of the aboriginal Hawaiians, who are the only persons who are entitled to any public charity and who require anything in the way of rehabilitation. These part Hawaiians constitute a majority of our legislature and a majority of our officeholders under the Territorial government and under the city and county governments. They dominate the legislature and the electorate. The people I am speaking for I admit are in the minority; but we have the right to be heard and the right to be protected from being overridden by the majority, and it is the majority of the electorate who are the beneficiaries under this bill where it defines the Hawaiian race as persons of one thirty-second of Polynesian blood or more.

Senator CHAMBERLAIN. Are many of these people just as highly educated as any class over there?

Mr. ROBERTSON. Absolutely; men of education; men who have been in college and have traveled; men who are wealthy. There is absolutely nothing in this bill to prevent a person who now owns land—a part Hawaiian who now owns land—in his own right, from taking up land under this bill. Is that fair? And yet there are many white people out there who are landless and may be almost roofless, and who are denied privileges under this bill and are absolutely discriminated against when it comes to taking up public lands, although they are taxed for the beneficiaries under the bill.

Senator SMOOT. The beneficiaries under the bill are not only Hawaiians but, as the judge has said, it takes in all who have Hawaiian blood in their veins; but it does not affect anybody on the Hawaiian Islands with the exception of a very few large holders of land that have had the leases at a price that is perfectly unreasonable in many, many cases. Now the question is as to whether that provision as to one thirty-second Hawaiian blood is right or not, and on that I



believe that the judge has some complaint, and perhaps justly so, although I am not prepared now to say even that; but what we are trying to do is, we are trying to say that these lands that were the King's lands ought to have originally gone to these people that were under, that were the subjects of, that King.

There are a few large holdings in the Territory, and under the bill we do not take all of the holdings by any manner of means; I do not think there are any of them of which we take all. But I do not want to take your time.

**Mr. KALANIANAOLE.** Practically all of the leased lands of the Cooke estate in Molokai are taken under this bill, and they are in favor of this bill.

**Senator PITTMAN.** How many acres are involved?

**Mr. KALANIANAOLE.** About 28,700 acres.

**Senator PITTMAN.** Those people must be very poor or these lands must be very worthless.

**Mr. KALANIANAOLE.** Those lands have been offered \$10 to \$14 an acre for pineapple raising.

**Senator PITTMAN.** There ought to be a monument raised to people who are that unselfish.

**Mr. ROBERTSON.** The prince says that the Cookes, who own the Molokai ranch, are not opposed to the bill. I spoke to a member of the Cooke family before I left Honolulu, and he said he did not take any particular interest in this, because the best piece of land that they have under this lease is about to be taken by the military forces for an aviation station, so that from their point of view they were about to lose the best thing they had in that way not under this bill but by action of the military department, and the other lands they apparently did not consider worth fighting over, and they said they did not take any particular interest in the bill one way or the other.

**Senator SMOOT.** They have land enough outside of this bill, have they not?

**Mr. ROBERTSON.** They have enough money, whether they have any lands or not, so that they do not have to worry. But there are a lot of Caucasians out there who are not Cookes and who would like to homestead Government land if they got the opportunity.

I had got down to the point where I was speaking of the contentions made by Senator Wise before the House committee. The first proposition was that we ought to do something for this dying race; and I tried to show that it is only partly correct to say that the Hawaiian race is a dying race, because while it is true so far as the aboriginals are concerned, it is not true so far as the vigorous, prolific, virile Part-Hawaiians are concerned; and the two are absolutely confused in this bill, and that is one of our objections to it.

**Senator CHAMBERLAIN.** Is it not more properly to be said they are being absorbed rather than dying out?

**Mr. ROBERTSON.** Well, that would be one way of describing it, I should say. For instance, a full-blood Hawaiian woman, say, marries a Part-Hawaiian husband. Of course, their children then are immediately classed as Part-Hawaiians; and in that way the mother's blood is absorbed in the mixed blood of the father, and goes on to the next generation. They are being absorbed in that sense, Senator. Of course, the Hawaiian aboriginals were shaken, absolutely, by the

impact of civilization 100 years ago. The introduction of civilization is accountable for the high mortality rate among the inhabitants of the Hawaiian Islands, just as it is in the South Sea Islands. It is the same race of Polynesians that is spread all around, all the way down to Samoa and the South Sea Islands. The inhabitants of those islands are decreasing in number since civilization came to them, in the same way that the Hawaiians are decreasing.

Senator SMOOR. When I went into the islands in 1879 for the first time, wherever you went you would find large families. You do not find that now anywhere on the islands.

Senator CHAMBERLAIN. Large families of aboriginals?

Senator SMOOR. Yes.

Mr. ROBERTSON. Even the aboriginal Hawaiians have a good many children; but the mortality among Hawaiian children is something tremendous. They do not seem to raise their children, some way or other.

Mr. KALANIANA'OLE. Right there: Do you not think that Hawaii should be included in the benefits of the Sheppard-Towner bill for the care of children.

Senator SMOOR. The Government midwife bill?

Mr. KALANIANA'OLE. Yes. Do you not think that Hawaii should be included at that bill?

Mr. ROBERTSON. I do not know what it is. If it is a bill for saving children, it is as good for natives as for white people, of course.

So much for the dying out of the race, as Senator Wise advanced to the House committee.

The next proposition that Senator Wise advanced to the House committee was that in 1848, at the time of what we call the Mahele—the division of lands out there—the common people of Hawaii were unjustly dealt with and practically done out of a large part of their holdings. That, I claim, is an absolute misrepresentation of the facts; and if the Senators will permit me I can go a little bit into the history of that division.

Prior to 1848 there was an absolute monarchy, without a constitution, and the legal titles, so far as legal titles existed, were all vested in the king. He was the owner of all the lands.

In 1840 the king proclaimed a written constitution, which was the first one proclaimed out there: and in that constitution the king recognized that the chiefs and the common people, as well as himself, had interests in the land. Although technically and theoretically the absolute title was vested in the king, he conceded in that constitution that chiefs and the common people had interests in the land, which interests, however, the constitution did not define.

In 1845 the king was convinced that the welfare of his country and his people required that these rights in the lands should be defined and settled—determined. In 1845, therefore, an act of the legislature was passed creating a board of commissioners to quiet land titles, who were authorized to hear claims of all people—king, chiefs, and common people—for their respective interests in the lands, and it was decided by this commission that, roughly speaking, the three interests, king, chiefs, and common people, were entitled to equal thirds of the lands.

The object, then, of creating this land commission was to separate the interests and to award titles in fee simple. The king was to

surrender all the feudal rights, retaining such lands as came to him absolutely, and, although it was understood that the king, chiefs, and common people would have equal third interests in the lands, when the division came to be made the common people did not get their full share; and Mr. Wise points out that the king received over 1,000,000 acres and the chiefs received over 1,000,000 acres, whereas the common people were given only 28,000 acres.

Senator NUGENT. Were those statements correct?

Mr. ROBERTSON. Those statements were correct in one sense. They were correct so far as figures of areas were concerned, but not so far as quality was concerned. When the land commission in 1845 said that the king was to have one-third, the chiefs one-third, and the common people one-third of the lands, they were not talking about area. The common people did not want any mountain tops or any lava flows. The common people did not want any forests or swamps or waste lands.

What the common people wanted, and what they actually got, were the fertile lands in the valleys, watered lands, on which they could cultivate and raise their taro and raise their food, which would enable them to live. Before the House committee Mr. Wise made the statement that a piece of taro land 40 feet square would raise enough to support a man and his wife and one child throughout the year. Mind you, Senator, he said a piece of land 40 feet square would supply and keep in food three people throughout the year. Now, when the common people received their 28,000 acres of land, as I say, they did not get these rough places, mountain tops, and swamps, that were given to the king and the chiefs; they were given the very cream of the entire group.

Senator NUGENT. Were they given all of that?

Mr. ROBERTSON. Practically; a large part of it.

Senator NUGENT. What proportion of the land that went to the king was susceptible of cultivation?

Mr. ROBERTSON. At that time a very small area. The King had certain taro patches for the cultivation of taro for his own personal use; but the bulk of the lands that the King got were these arid lands and wastes.

Senator NUGENT. How much of this taro land went to the King?

Mr. ROBERTSON. I could not tell you the area.

Senator NUGENT. How much, approximately?

Mr. ROBERTSON. I could not guess.

Senator NUGENT. More than 40 feet square or 40 square feet?

Mr. ROBERTSON. Well, I think so. But, if you will figure it out, you will see that Senator Wise's own arithmetic is against him.

The CHAIRMAN. You do not think the King got any the worst of it?

Mr. ROBERTSON. If you eliminate the arid land, the King certainly got the worst of it, because the common people got the bulk of these watered lands in the valleys. And you will remember this land commission sat for nine whole years hearing claims of the common people as to their taro lands and their house lots from one end of the group to the other.

Senator NUGENT. Now, one moment, Judge. What proportion of these lands went to the chiefs in that division?

Mr. ROBERTSON. Theoretically one-third; that is, one-third in value, as I pointed out.

Senator NUGENT. How many chiefs were there, do you know?

Mr. ROBERTSON. No; I do not; maybe a couple of hundred or so.

Senator NUGENT. Do you know what area of taro land each of them received?

Mr. ROBERTSON. That would require the services of a surveyor. I would hardly be able to say, Senator?

Senator NUGENT. All right.

Mr. ROBERTSON. They got some taro land, of course, just as the king got some taro land; but the bulk of these 28,000 acres that went to the common people were the cream of the lands. I do not want you to take my say so for all of this. It is all of record. It is included in the brief here. I do not want you gentlemen to take a thing that I say on my representation. If I can not back up any of my statements, I do not care if what I say is ignored. For instance, take this statement on page 12 of my brief:

J. F. Brown, agent of public lands, Hawaii, reported that "The area of kuleanas, or ordinary tenants' lands, was comparatively small, but was composed of the very choicest land in the whole country." (See report of Committee on Territories, Report No. 305, 56th Cong., 1st sess., p. 64.)

On the preceding page, page 11, I say:

W. D. Alexander, assistant in United States Coast and Geodetic Survey (formerly surveyor general of Hawaii), reported that "The 11,000 homesteads awarded to the common people were small in extent, averaging about 2½ acres apiece, but they comprised the choicest part of the lands, and with them the common people received rights of fishing under certain restrictions, rights to wood and water." (See report of Senate Subcommittee on Pacific Islands and Porto Rico (1903), pt. 3, p. 150.)

So that you see I am not asking you gentlemen here to take my word for anything. What I am saying here is mostly matter of record. So that when John Wise represented to the House committee that the common people had been unfairly dealt with in 1848 he did not state the whole story. He only stated one part of it; and to say that the chiefs received 1,000,000 acres, while the common people received only 28,000 acres, of course, so far as the figures are concerned, on the face of them it looks as though some injustice was done. But 28,000 acres of valley land is easily worth 1,000,000 acres of lava flow where, as I say, a jack rabbit could not raise a family.

Senator NUGENT. You can not give this committee any estimate as to the proportion of taro land that went to the king or that went to the chiefs?

Mr. ROBERTSON. I would not say. It would be a long, laborious effort to get at that. You can not get those figures offhand from any records. The thing would have to be gone through item by item, and figured out. For instance, here is a piece of land awarded to this chief. We would have to find out what part of that was valley land and how much was taro land.

Senator NUGENT. Would you say that the area that went to the chiefs of that character was as much of the taro land as went to the common people?

Mr. ROBERTSON. I would be unable to say as to that.

Senator CHAMBERLAIN. What became of the land of a chief; did it descend to his children?

Mr. ROBERTSON. Yes.

Senator CHAMBERLAIN. And the land of the king went to the Government?

Mr. ROBERTSON. Yes. Of course, some of the king's own personal lands came down to his descendants as private individuals.

You see, by this transaction in 1848 the king did not take this large area awarded to him in an individual capacity. A large part of it was for Government purposes. Another large part of it was the Government crownland, which was not the property of the king in the sense that it would descend to his heirs, but it was held for his successors on the throne.

These Crown lands were set aside for the support of the monarchy and to uphold the dignity of the throne. Senator Nugent, you have a mistaken impression there, I think. When John Wise said, and when I say, that 1,000,000 acres of land were set aside for the King, I do not mean for the King personally. Only a small fraction of that went to the King personally. The bulk of it went to the Government, and was turned over by the King for Government purposes; and a large part of it—1,000,000 acres, as I say, I expect—was set aside for the support of the monarchy, as Crown land for the support of the dignity of the throne.

Senator NUGENT. For the support of the royal family?

Mr. ROBERTSON. For the support of the monarchy for the time being, and instead of going to the heirs of the King at his death it went to his successors on the throne.

All of that was litigated as far back as 1864 in the local courts out there and was relitigated by the late Queen Liliuokalani in the Federal Court of Claims here in Washington a few years ago; so that here again I am not making any offhand statements, but there are the decisions of the courts that lay that down absolutely.

And, so far as that goes, in 1903 this whole question of Crown lands was investigated by the Senate committee who were out there and investigated this subject on the spot; and the Court of Claims subsequently decided that these Crown lands were not the personal property of the King but were the perquisites of the monarch for the time being. The income of these Crown lands all went into the private pocket of the monarch from time to time, and that is perfectly so. But upon the downfall of the monarchy in 1893 and the subsequent annexation in 1898, as the court decided, these Crown lands became public Government property and did not go to the last monarch and her heirs at all, but became a part of the public domain of the Territory.

So that when it is said that the King received over a million acres of land in 1848 it must be with that understanding that is was not his own personal perquisite, but, as I say, a large portion was Government land and a large portion was Crown land. So that it was largely on Senator Wise's own statement of only one-half of the story that the sympathy of the House committee, as I believe, was obtained for the support of this bill. Why, according to Senator Wise's story to the House committee, there was nothing else to it. Here was a dying people that in 1848 had been swindled out of their lands; and why should not Congress do something for them? When we look at the actual facts, we find that the story is quite different from that represented by Senator Wise to the House committee.

Senator Wise also proceeded to contend that these Crown lands that had been set apart by the King in 1848 were held by the King in trust for the common people; and now there is absolutely nothing in that, either in law, fact, or history. The common people never had any claim in these Crown lands of any character. Their titles were awarded by the land commission during the nine years that they sat hearing these claims. The Crown lands were set apart to maintain the dignity of the throne, a thing that in itself is entirely inconsistent with any claim on the part of the lower strata of population. The income of the Crown lands was for the sustaining of the dignity of the throne; so that Senator Wise is absolutely mistaken in that regard; and the facts here bear me out.

The whole history of the proposition, as set forth in the printed brief in detail, shows that from 1848 to the annexation of the country the common people never had any shadow of a claim in the Crown lands, but, as I say, those lands were for the support of the dignity of the throne as long as the monarchy lasted, and at the termination of the monarchy, because there were no private claims in the land, this title necessarily went to the United States Government, and the United States Government to-day does hold the title to those lands in trust for all the citizens of the Territory. And I say that if it is unfair to divide that community out there in half on race lines according to the kind of blood the Almighty has given you and to say: "Here, you can not homestead these lands any more; this class here is going to have a monopoly on this. But you gentlemen over there will be taxed in order to rehabilitate these gentlemen over here, because their skin is one color and your skin is another color." It is absolutely intolerable, if the Senators will stop and consider that situation on its merits from the ground up. Has any such thing ever been attempted in this country? Not so far as I know.

Senator PITTMAN. Judge, is there any intermixture over there between the Japanese and the Hawaiian people?

Mr. ROBERTSON. There is some; not a great deal. I happen to have a client who owns land, too, whose mother was a full-blooded Hawaiian and whose father was a full-blooded Japanese. But there are not a great many part-Hawaiians and part-Japanese. There are a great many part-Chinese and part-Hawaiians; and authorities on the subject say that they make the best cross of any.

Senator CHAMBERLAIN. What was the name of that very wealthy family over there with a Chinese father and a native mother?

Mr. ROBERTSON. Ah Fong.

Senator CHAMBERLAIN. They were half-bloods?

Mr. ROBERTSON. Yes; but there was a mixture there. Their father was Chinese and their mother part-Hawaiian. They are part Caucasian.

Senator CHAMBERLAIN. They were a very distinguished family.

Mr. ROBERTSON. Yes. One of them married an admiral in the United States Navy. And that is not the only family of great wealth of mixed blood in the islands who are beneficiaries under this act.

Senator CHAMBERLAIN. Would that family come under the benefits of the act now before the committee?

Mr. ROBERTSON. Yes; and there are a number of other families in the same class. Take the Si Brown family there; the two sons are

pretty nearly millionaires in their own rights. They are 50 per cent Hawaiian and Anglo-Saxon, and yet they could take up land under this act as it stands, although white men who have not got a square inch of land would be debarred.

Senator CHAMBERLAIN. Could the bill be drawn so as to permit only the aborigines of pure blood to benefit under it?

Mr. ROBERTSON. Very easily. An amendment here would limit the operation of this bill to the Hawaiians of the full blood, and that is the full extent to which it should go.

Senator CHAMBERLAIN. That would be called a decreasing race?

Mr. ROBERTSON. That would be a decreasing race.

Senator NUGENT. Are there not a considerable number of part Hawaiians who are also in destitute circumstances?

Mr. ROBERTSON. I do not think so. You see, Senator, the situation is this, that nobody is indigent out there by reason of the lack of opportunity to work.

We are short of labor out there, and have been as long as I can remember, and I have lived there all my life. We are short of labor, both skilled and unskilled, so that no aborigine, and also no part Hawaiian who has in his veins blood that takes him out of the aboriginal rut and gives him some "pep," which the aborigines lack, need be without work, much less those who are part Hawaiian lack any opportunity to work. Wheelbarrow men get 60 cents an hour. Wharfingers get \$4 or \$5 a day.

Mr. KALANIANA'OLE. I think they have been getting \$1.50 for about 25 years until within a few years ago, when this Government took a hand and raised their wages to \$4 a day.

Senator NUGENT. In the cities?

Mr. ROBERTSON. Yes.

Mr. KALANIANA'OLE. And they ought to be getting about \$8 a day.

Mr. ROBERTSON. Yes. They are paid less than the stevedores in San Francisco, for instance. As I say, no Caucasian or aborigine need be indigent because of lack of work. If he does not work it is his own fault, or, at least, if he is able to work.

Senator NUGENT. But most of them have no homes, and it is impossible for them to acquire homes, so far as farm lands are concerned?

Mr. ROBERTSON. That is not so, because under the laws that exist now the Hawaiians and Caucasians stand on an equal footing. Any of them can go in and locate on public lands now. This bill proposes to eliminate 200,000 acres of the remaining public land and give these Hawaiians the monopoly of it, but there is no discrimination against them now, and any Hawaiian who desires to take up a homestead can do it, and they do do it.

Senator NUGENT. Why should not these Hawaiians have the monopoly of their own land in their own country?

Mr. ROBERTSON. It is not their own land.

Senator CHAMBERLAIN. Would it not be as appropriate to say that the Indians should have a monopoly of the land?

Senator NUGENT. I think they should have on these reservations; no question about it. The only thing that the civilization of the white man has brought to any of these aboriginal races is whisky and the diseases of the white man. I think the blackest page of Ameri-

can history is that of the treatment of the Indians by the United States Government.

Senator CHAMBERLAIN. I agree with you.

Mr. ROBERTSON. There was mightily little land in 1848 given to the white man. It was divided between the Hawaiian king, the chiefs, and the common people, and those that have not that land now are landless because they have disposed of their holdings.

Mr. KALANIANA'OLE. Did not the white man get more land than the Hawaiians at that time?

Mr. ROBERTSON. It depends upon what you mean by "more."

Mr. KALANIANA'OLE. They got 54,000 acres.

Mr. ROBERTSON. King Kamehameha set aside, perhaps, 54,000 acres for the establishment of missions and schools; but that was not the taro land. It was mostly the arid land on the upper levels.

There are several points here wherein we contend that this bill is unsound. In the first place, a race of people which is decreasing because it is inherently unenterprising, apathetic, and thriftless, I contend, can not be rehabilitated by merely giving them a piece of land.

Senator NUGENT. Is it or is it not true, Judge, in your opinion, that the Hawaiian race is decreasing very largely because of the fact that large numbers of them have no rural homes and that they are obliged to go into these towns, with which they are unfamiliar, in order to make a living, where they are surrounded by entirely different conditions from those which would be conducive to their welfare?

Mr. ROBERTSON. That is true to a certain extent and it is not true to another extent. As a matter of fact, the sugar plantations, which are scattered throughout the islands—they are a fringe along every coast—afford opportunities for Hawaiians. They are mechanics, teamsters, etc. There is a great deal of employment of Hawaiians in the country districts. It is practically the same, of course, on the mainland. There the bulk of the employment is in the cities. They go into the cities and become carpenters and mechanics, do road work, become stevedores on the wharves—and they are good ones, too—and they can make more money in the cities in those occupations than they can in the country districts; and that is the way it is on the mainland exactly. So that I believe, conceding the earnestness of the prince, here, and his friends, who are supporting the bill, in the idea of rehabilitating the Hawaiians, I think they are going at it in the wrong way.

What is needed there is some sort of a revival, some sort of a psychological influence that will put some pep into the people and make them industrious, enterprising, and thrifty, all of which they now lack; and that would account for their lack of financial well-being at the present time. I do not believe that putting an unfortunate Hawaiian out there on a piece of land, even though he has to pay only a dollar a year for it, is going to have that spiritual effect on him that is necessary to bring them as a race out of the rut that they are in.

Now, then, if you look a little further into this bill here, I think the absurdity of it will appear. Here is a revolving fund established of \$1,000,000, which is to be parceled out to these homesteaders in



sums of \$3,000 each. How far will that go? As I figure it, 300 homesteaders at \$3,000 each will use up \$900,000. In other words, nine-tenths of this \$1,000,000 revolving fund will be used up in putting 300 homesteaders on the ground. Now, is there any possibility that a dying nation or race is going to be rehabilitated or rejuvenated by putting 300 of them as homesteaders on the ground?

The CHAIRMAN. \$3,000 is the upset limit.

Mr. ROBERTSON. Yes.

The CHAIRMAN. They may give them any sum less than \$3,000.

Mr. ROBERTSON. Yes. Please do not have any suspicion that any of them will take any less than the maximum. They will take the \$3,000, and the consensus of opinion in the islands is that \$3,000 is not enough to start these people out on the plan that the advocates of the bill have in mind. The chairman of the public utilities commission, who is perhaps a fair authority on the subject, says that a minimum of \$8,000 will be required to give these fellows any sort of a start on a businesslike farm, and ranchmen tell me that a 2,000-acre cattle ranch would require \$25,000 at least to establish and equip and maintain it as a matter of business, and this bill here provides for the parceling out of these pasture lands in areas as large as 2,000 acres.

Now, suppose these homesteads averaged 500 acres apiece. That, divided into 200,000 acres, would make only 400 homesteads. So that when you look under the surface and look at this thing down on the ground floor you will find that there is no practicality to it. The Hawaiian people as a dying race can not be rehabilitated and rejuvenated by 300 or 400 homesteaders being placed upon the land. You can not rehabilitate a race of people consisting of 30,000 souls on 300 homesteads. The facts speak for themselves. I do not think it needs any argument on my part to show to you honorable Senators the absurdity of this scheme when it is examined on its merits.

Now, under the present law these public lands are homesteadable generally, not only by the Hawaiians but by Anglo-Saxons, by everybody, treated on an equal, fair footing. There is no discrimination under the existing law. Any Hawaiian who wants a homestead can go and take it up, and he can borrow \$3,000 under the farm loan act. It is true he will not get the unbusinesslike condition of having 30 years to repay it. Under the farm loan act he will have to repay his loan within five years, which is a perfectly fair and businesslike proposition. In that respect there is an unbusinesslike element introduced here, by providing that these sums of \$3,000 that are handed out as loans to these people are repayable within 30 years. But, as I say, under the general homesteading law, without any expense, these people can take a homestead.

They can not only take the 200,000 acres mentioned in this bill, but they can take any other public lands that are available, including the cane lands that this bill proposes to withdraw from homesteading, to give that to the corporations, *holus bolus*, for periods of 15 years. So that from the white man's standpoint not only is this 200,000 acres of grazing land taken away from him for homesteading purposes, but many thousand acres of first-class agricultural land upon which sugar cane can be cultivated also is withdrawn

from this homesteading right; so that it leaves the white population out there high and dry, so far as homesteading public lands is concerned; and between the 200,000 acres of grazing land that is given to the Hawaiians—the monopoly of it—and I do not know how many thousand acres of cane land that were to be turned over to the sugar corporations for I do not know how many years, the white man is being ground between the two stones.

**Senator PITTMAN.** What is the present homestead law?

**Mr. ROBERTSON.** It is a rather complicated law, enacted in 1895, taken from the law of New Zealand. It provides for several kinds of ways of taking up public lands. The lands can not be sold except in very small pieces for home sites. But we have there what we call a right-of-purchase lease. For instance, a would-be homesteader takes up a piece of land under a right-of-purchase lease. He pays a fair rental for that as long as it is under the status of a lease, and he has a right to buy it, at an appraised value, in fee simple. That is one right.

We have what is called an inalienable homestead; small areas, for 99 years; leases inalienable and not assignable. The white man and the Hawaiian may take those, equally.

The difference between the homestead law and the proposed rehabilitation law consists in the fact that the areas provided in this rehabilitation bill are far in excess of the areas allowed for those inalienable homesteads under the present law. I think the areas are not more than 16 acres of agricultural land and not more than either 40 or 80 acres of grazing land; I do not know which, under the present existing law.

Under this rehabilitation bill the amount of the agricultural land may go up to 80 acres, and the amount of grazing land up to 2,000 acres. I think those are the two main classes. That is the right-of-purchase lease, a very common way of homesteaders taking up land.

**Senator PITTMAN.** Now, these cane lands that have been leased to corporations by the Government—are those subject to homesteading under the present law?

**Mr. ROBERTSON.** Yes; they are homesteadable under the present law. The law provides that upon a petition of 25 citizens any piece of public land may be required to be homesteaded. In other words, a petition signed by 25 petitioners is filed with the commissioner of public lands, and it then becomes his duty to have that land surveyed and subdivided and opened to homesteading.

**Senator PITTMAN.** He can only do that on the expiration of a lease?

**Mr. ROBERTSON.** On the expiration of a lease; except that, so far as the leases made since 1910 are concerned, those provided that at any time the Government requires any such land for homesteading, the Government has a right to terminate those leases.

**Senator PITTMAN.** That is the best land in Hawaii for homesteading—the cane land?

**Mr. ROBERTSON.** Yes; absolutely. The only successful homesteading—I will not say the only, because there are exceptions, but generally speaking, the successful homesteading—has been done on these sugar cane lands and not on the second quality agricultural lands or grazing lands. For instance, take the land of Kekaha, that is the

most fruitful cane land on the islands. The cane ratoons for 20 years there. Just think of it! That is, after you harvest it first, it keeps on coming up from the original roots for 20 years.

Senator PITTMAN. The passage of this bill would repeal the old homestead act?

Mr. ROBERTSON. Absolutely; and it would take that land out of the possibility of homesteading by white people and Hawaiians, by continuing its use in the possession of the corporation that has had it; as Senator Smoot correctly said, at a low, a very nominal, consideration, for 30 years. That Kekaha company has been paying immense dividends for 30 years on its capital stock, and they have been getting millions of dollars out of that crown land. That lease had 30 years to run; and now they want 15 years more on top of that; and they want to say to the white man out there "You can not homestead that. We are going to lease that for 15 years longer to the corporation in order to finance these men that have taken up this 200,000 acres of grazing land." That is the proposition; and as I say, the white man there is being ground up between the two grindstones.

Senator PITTMAN. How long have you lived in Hawaii?

Mr. ROBERTSON. All my life; 53 years. I was born there.

Senator PITTMAN. What positions have you occupied in the Territory?

Mr. ROBERTSON. I was admitted to the bar in 1893 after graduating from Yale law school. I served 13 months as Federal judge out there and then was transferred to the supreme court as chief justice, of the Territorial supreme court, and served there seven years. I resigned and am practicing law again.

The CHAIRMAN. Now, judge, I understand that one of your objections to this bill is the reduction of the district court of the Territory from two members to one?

Mr. ROBERTSON. I said that I was not objecting to that.

The CHAIRMAN. I misunderstood you, then.

Mr. ROBERTSON. No; I said we are not objecting to any of those disconnected provisions on other matters that this bill contains. Of course, as to the increase of salary of the judges and the clause that gives employment on Federal work, personally I may say that I favor all those amendments.

Senator PITTMAN. Just one other question: Is the leased land of the Parker ranch subject to the existing homestead act?

Mr. ROBERTSON. Yes; those leases are terminable on notice from the commissioner of public lands that the lands, or any part of them, are required for homesteading purposes.

The CHAIRMAN. Is that all, Judge?

Mr. ROBERTSON. No, Senator; I am just getting my second wind.

Now, as I say, the conditions as I have described them here, seem to me to make against the Americanization of the Territory. President Roosevelt said that the Territory of Hawaii ought to be developed along traditional American lines. It seems to me that that general principle, which is absolutely desirable and sound, is being forsaken by the advocates of this bill; that the discrimination and the injustice that this bill works on one class of people for the benefit of another is absolutely un-American and is utterly at variance with that principle stated by President Roosevelt—that the Territory should be developed along traditional American lines.

I have also pointed out that this would be a costly experiment. This \$1,000,000 revolving fund that would be set aside the first clutter out of the box, if this bill was passed, would be only a part of the expense of this experiment. If they go to acquiring water rights and constructing irrigation systems it will cost anything running up into the millions of dollars. And it all comes out of the white taxpayers' pockets.

I will ask you, Senators, would you consider this bill for a minute if this money was going to come out of the Federal Treasury? I do not believe this bill would be considered for five minutes by this committee if this money was going to come out of the Federal Treasury. And why should Senators be any more liberal with the money of the taxpayers of this little Territory out there than they would be with the general funds of this Nation?

In fact, if this race is going to be rehabilitated at this expense, it ought to be considered a Federal, national affair. It is no local business of ours out there. If, by virtue of civilization, these people are being crowded to the wall so that something ought to be done for them, it ought to be done by the Federal Government, and it is unfair to load that immense expense on the taxpayers of that little Territory.

Touching on the Parker ranch again, the Parker ranch is regarded by the military department as practically an adjunct of the Military Establishment. It is from the Parker ranch that they get their everyday beef supply. It comes from the Parker ranch, and has done so for many years, outside of a little portion of it that is imported. Over 90 per cent of the beef consumed by the Army there comes from the Parker ranch. The horses and mules for the Cavalry and Field Artillery come from the Parker ranch; they do not come from the mainland; they are not imported from the Middle West at enormous expense, but they are bred right there on the Parker ranch and according to the requirements of the Army, for Army purposes. In other words, the Parker ranch is the great source of supply of the military outfit in the islands; and in time of war and emergency it does not require any stretch of imagination to see how highly important and how very vital to the Military Establishment out there is something in the nature of the Parker ranch, that they can rely on in bad weather as well as fair for their necessary supplies to maintain the Army forces in the Territory.

Now, this is no mere local affair; it has a national aspect. The Parker ranch does not say, "Protect us from the operation of this bill," merely because they are selling their beef to the Army. They can sell it elsewhere. They do not have to raise horses and mules for the Army for the profit of it. So far as the Parker ranch is concerned there is no profit in raising horses or mules for the Army. But they do it; and during the war the Parker ranch sold beef to the military forces out there for a less rate than the Army bought beef supplies for in any part of the American Nation. So that the Parker ranch is entitled to fair play. We are not to be looked upon as a monopoly, as it has been referred to here, as a great concern with 500,000 acres of land. It is not a great concern with 500,000 acres of land. One-third of that area is waste, and one-third of it is land of inferior quality; and on the other third, which is of excellent qual-

ity, the Parker ranch is supporting the military forces of the Hawaiian Islands to-day, and has been doing so for many years.

The CHAIRMAN. What is the size of the United States military forces in the islands now, do you know?

Mr. ROBERTSON. I do not know. It has been varying. They have been increasing it lately.

Mr. PITTMAN. They expect to have 20,000 there eventually.

The CHAIRMAN. That is very easily ascertainable, of course.

Mr. ROBERTSON. In that connection I would like to know if you would not call upon the War Department to supply this committee with such information as it has at its disposal. I believe my statements here can be absolutely verified by records in the War Department, and I think it is only proper that this committee should have the benefit of that information, which I believe can be had if the chairman will request it.

The CHAIRMAN. I will see that that request is made.

(A letter from the War Department in regard to the above matter is here printed, as follows:)

WAR DEPARTMENT,  
OFFICE OF THE QUARTERMASTER GENERAL OF THE ARMY,  
Washington, December 25, 1920.

Hon. HARRY S. NEW,  
*United States Senate.*

MY DEAR SIR: In reply to your letter of December 15, requesting statement setting forth to what extent the Quartermaster Corps obtains animals and feed or other supplies from the Parker ranch, Hawaii, you are advised that fresh beef and mutton can be supplied locally cheaper than when shipped from the United States. If these commodities were shipped from the United States, they would be procured by the depot quartermaster, Fort Mason, San Francisco, Calif. The prices the Government is paying for fresh beef and mutton are as follows: Fresh beef, \$0.1000; mutton, \$0.1825.

While the Hawaiian Islands are apparently not self-sustaining as to these two commodities, it is believed that in an emergency production can be sufficiently developed to meet military requirements.

It is in the best interests of the Government to buy as many public animals as possible, considering the cost of transportation, from the Parker ranch, although it is not known whether a sufficient number of animals is available at that ranch to supply whatever replacements might be necessary in Hawaii. However, the records of this office show that during the years 1917, 1919, and 1920 authority was granted for the purchase of 25 Artillery horses, 275 Cavalry horses, 14 pack mules, and 40 draft mules from the Parker ranch.

It is therefore, in view of the foregoing, believed that every facility should be offered toward the upkeep of the Parker ranch.

Very truly, yours,

H. L. ROGERS,  
*Quartermaster General.*

Mr. ROBERTSON. Now, the Territory is not self-supporting in the matter of beef and mutton supplies. Some of it is being imported now from Australia, and any further reduction in our beef and mutton supply is going to require increased importation from the opposite side of the world. It is a long haul and an expensive proposition, and it seems to me that from an economic standpoint as well as from a military standpoint nothing ought to be done to decrease the Territorial supply of food. In other words, on the contrary, I submit that anything that can be done or may properly be done by way of fostering and increasing the supply of the necessities of life out there ought to be done; that they should be fostered and increased, and not discriminated against and decreased by any such

provisions as this bill contains. And the ranching business out there, Senators, is such that it can only be carried on efficiently and economically in large areas. We do not have general rains there as you have on the mainland.

The rains are mostly local. It will rain for a few days and then stop, and perhaps on the other side of the hill it will rain a few days and stop and then not rain there again for months, or for a year or a year and a half. Consequently the grazing business out there necessitates, by virtue of this fact, a large tract of land, so that the managers may move their herds according as the rain shifts from one part of the holdings to the other. If you should fence in a portion of the Parker ranch of 2,000 or 5,000 acres, say, and say to the manager, "You have got to raise your herd on that particular fenced-in area there," he would be out of business before very long, because it would not be very long before a spell of dry weather would dry up every blade of grass on that section, and unless he had another section where it had been recently raining where the could transfer his herds to, his herds would die-off. Hence the necessity of large areas, by reason of climatic conditions. A ranch can not be efficiently and economically maintained except with a large area, where the management, as I say, can shift their herds from one place to another, following the rain, and depending upon the climatic conditions.

That is the situation there with the Parker ranch, as with any other large ranch on the islands. They all follow the same method of shifting their herds, following the rains; and to subdivide those ranches into 2,000-acre grazing tracts, as contemplated by this bill, would not get anybody anywhere. If a man started on a 2,000-acre grazing section of the Parker ranch, he might flourish for a little while, but the first drought that came along would put him out of business, and droughts come with disagreeable frequency.

Now, I come to the constitutional question here. I would like all the legal members of this committee, particularly, to give attention to that. There were two opinions given to the House committee when this bill was before the committee. Some member of the committee suggested the question of the constitutionality of a discriminating law of this kind, and two opinions were asked for—one from the attorney general of Hawaii, who was a member of the delegation that came on here at the time, and the other from a solicitor in the Interior Department.

The solicitor said he thought that the bill was constitutional because it was comparable to the setting aside of reservations for the Indians; and he also likened it to preference rights given to ex-soldiers—veterans.

Now, a moment's reflection will show that neither of those matters has the slightest bearing on this rehabilitation bill from a legal standpoint. The Hawaiians are not Indians. The status of the Hawaiians is diametrically opposed to that of the Indians on the mainland. The Indians have been regarded as aliens. They get their rights, such as they have, by treaties between them and the Federal Government. They have no right to vote, unless under subsequent circumstances they become naturalized. As I understand it, they are aliens and not citizens; and their inherent character is by

no means that of the Hawaiians. The Indians were a roving, nomadic race of people. They did not take to civilization the way the Hawaiians did.

The Hawaiians took to civilized customs there like a trout to a fly. They were right in line for it. They listened to the gospel from the first landing of the missionaries there. They were so eager to learn that even adults were crowding on the missionaries to be taught the rudiments of an education. For 50 years prior to annexation the Hawaiians maintained a civilized Government under a written constitution. There is no likeness between their situation and that of the Indians. The Hawaiians were one of the world's family of nations. The Hawaiian Nation—a small one, of course—was recognized by all the great powers as one of the world's independent nations; and when the islands were annexed the Hawaiians were at once made citizens of the United States by the organic act, and they are citizens to-day. They vote and hold office and do everything. They get their rights under the United States Constitution. The Indians get their rights under their treaties. So that the Solicitor for the Interior Department was away wide of the mark when he tried to compare the Hawaiian situation with the reservation Indian situation. The two do not trot in the same class for a moment.

Neither was he happy in his reference to the custom of giving bonuses or preference rights to war veterans. There is no doubt about that, but that is an old system. That is as old, I believe, as organized government, this custom of giving war veterans, after a war is over, scrip or other preference rights to take up lands. But there is a clear moral obligation on the part of the Government to help the ex-soldiers, men who have gone at the common enemy at the risk of their lives, and for practically no compensation. When the war is over those who have not been killed off are properly regarded as having some moral claim to something by way of preference or pensions or bonus rights, or whatever it may be, from the Government. But I do not see that there is the slightest analogy between that situation and the situation of the Hawaiian people. And even these preference rights to soldiers are not without limit.

I have referred in my printed brief, here, to a Connecticut case—a decision of the Connecticut Supreme Court—where the statute there had provided for the giving of State aid to soldiers and sailors who had served during the Civil War, irrespective of whether they were indigent or disabled. That has a direct bearing on this rehabilitation plan. This preference right, this monopoly, this financial assistance, and everything, is given by this bill irrespective of the situation in life of the beneficiaries under the bill; and as the Connecticut court said:

State support furnished us State aid indiscriminately to all of these classes, to the needy, and to the well-to-do, is beyond the power of legitimate legislation. We know of no State legislation where State aid has been granted without reference to disability, necessity, age, or exceptional service. No public purpose is subserved by taking by taxation the property of the many and giving it, under the guise of State support, to those who are out of reach of its need.

And they held that that law was invalid.

Senator NUGENT. Let me call your attention, judge, to the fact that under the laws for the relief of soldiers, in the way of pension bills, those pensions go to rich and poor regardless of their needs.

Mr. ROBERTSON. Yes; I understand that. I say that those pension bills are supportable on the ground of a moral obligation to these veterans by reason of their war service.

Senator NUGENT. Is not that the point in the interpretation of the State law? Was it not for soldiers and sailors?

Mr. ROBERTSON. Yes.

Senator NUGENT. I remember we had a Member in Congress not long ago who was not only drawing his salary as a Senator, but a pension, the same as any other man.

Mr. ROBERTSON. Well, that is going pretty far, I admit. But the law does authorize the expenditure of public moneys where there is a moral obligation to support the expenditure. The pension, I understand, goes on that ground. So much for the opinion of the solicitor.

The attorney general of the Territory had this to say. He started in by exposing the fallacy of Senator Wise's position that there was a moral obligation to these Hawaiian people as growing out of a supposed injustice to them as far back as 1848. The attorney general discountenanced that absolutely. The attorney general said as follows:

There can be no doubt, therefore, that when these Crown lands were ceded to and accepted by the United States they were ceded and accepted free and clear of any trust whatever. In my opinion, therefore, this proposed legislation can be sustained, if at all, not upon the theory that the Hawaiian people ever had any equitable right or title to these lands.

John Wise was claiming that they had—

but only upon the theory suggested in the fifth subdivision as hereinabove set forth, namely, for the purpose of rehabilitating a race of people who, through circumstances perhaps beyond their control, are in danger of extermination.

Senator NUGENT. Let me interrupt you there.

Mr. ROBERTSON. Yes.

Senator NUGENT. I infer from the first sentence you read that he took the position that so far as the Crown land was concerned, the Hawaiian people had not any right in that?

Mr. ROBERTSON. Yes; that is what he said. Then he goes on:

The proposition briefly stated is that the Federal Government in the exercise of its plenary powers over the Territory of Hawaii, should by apt legislation set apart for the exclusive use of members of the Hawaiian race, certain portions of the public domain of Hawaii for the purpose of rehabilitating the race and preventing its ultimate extinction.

Senator NUGENT. Do you think that when those lands were acquired by the Government of the United States, the common people of Hawaii did have an equitable interest in the Crown lands?

Mr. ROBERTSON. Absolutely not. The common people got their full share of the very cream of the lands in 1848 under the act of 1846; and, as I say, that appears conclusively by public record. It appears in the hearings had by the Senate subcommittee in 1903. It is perfectly understood by the people of the islands. There was no right in law or equity. Those lands were set aside for the support of the dignity of the Crown.

Senator NUGENT. Do you not think that the Hawaiian people had an equitable interest in those lands, the Crown lands, that I referred to a few minutes ago?



Mr. ROBERTSON. Absolutely not. If the monarchy was still in existence out there—

Senator NUGENT. No; I mean at the time they were taken by the Government of the United States. When those so-called Crown lands that went to the King—to the monarchy—in 1848, were acquired by the Government of the United States, do you not think that the common people of Hawaii had an equitable interest in those lands?

Mr. ROBERTSON. I say without any hesitation they had no equitable interest in those lands; that those lands, as decided by the Senate subcommittee in 1903, and as decided by the Court of Claims in 1910, went from the hand of the monarch to the Federal Government, free and clear of any equitable claim by anybody. They were public domain entirely, belonging to all the people, and not to any one class of people. That has been thrashed out on two separate occasions—once, as I say, before the Senate committee very thoroughly, when they were out there on the spot, and on the second occasion in the litigation between the last monarch, Queen Liliuokalani, and the United States, in the Court of Claims, when the whole thing was reviewed again from a legal standpoint; and the Senate committee and the Court of Claims both reached the same conclusion, and that is the conclusion that I am basing my contention on; and there is nothing to the contrary in the whole history of the lands out there—absolutely nothing.

Now, that quotation from the Attorney General speaks of the plenary powers of Congress. I deny absolutely that the plenary power of Congress over the islands out there goes to the extent of authorizing Congress to discriminate between one class and another on race lines. You can classify and discriminate upon logical, reasonable lines, upon lines that have relation to the subject matter of the legislation, but you can not arbitrarily say to a man, "You can have certain preference rights because the color of your skin is so and so," and say to another man, "You over here can not have those rights; they are certain rights that you are absolutely barred from because your skin is of another color." Congress can not go as far as that under the Constitution; and I am borne out by what is said by the Supreme Court of the United States itself. Here is a case in 114 United States, the case of *Murphy v. Ramsey* [reading]:

The personal and civil rights of the inhabitants of the Territories are secured to them, as to other citizens, by the principles of constitutional liberty, which restrain all the agencies of Government, State and National.

And in the case of the *Mormon Church v. The United States*, in 136 U. S., the court said this:

Doubtless Congress, in legislating for the Territories, would be subject to those fundamental limitations in favor of personal rights which are formulated in the Constitution and its amendments; but these limitations would exist rather by inference and the general spirit of the Constitution from which Congress derives all its powers than by any express and direct application of its provisions.

In the later case of *Downes v. Bidwell*, in 182 U. S., the opinion in which was written by Mr. Justice White, the court said:

Even in cases where there is no direct command of the Constitution which applies there may nevertheless be restrictions of so fundamental a nature that they can not be transgressed, though not expressed in so many words in the Constitution.

Now, there is no direct provision in the Constitution that prohibits Congress from discriminating against persons because of their race, color, or previous condition of servitude, except in relation to the right to vote; but there is an implied right not to be discriminated against because of color of one's skin or the kind of blood in your veins.

Senator NUENT. Is not that the exact point now in the State of California in relation to the Japanese, under the law adopted at the last election to prevent any Japanese from holding lands in said State?

Mr. ROBERTSON. Any Japanese?

Senator NUENT. Yes.

Mr. ROBERTSON. No; that is not. California is discriminating against aliens. This bill is discriminating against citizens who have the rights of citizens under the Constitution, a fundamental difference under the Constitution. And I think I am right about this; but you can legislate against aliens and discriminate against one or all, and you can do pretty much as you please in regard to them, but not so as to citizens. And we are dealing here with citizens.

Senator NUENT. You are right.

Mr. ROBERTSON. And so I say, Senator, I think it is fundamentally indisputable that Congress has no more right than a State legislature has to classify and discriminate according to a man's race or color, under the Constitution. The right not to be so discriminated against is one of those implied limitations that the Supreme Court has so often referred to, specifically in at least three decisions, they having clearly recognized those implied limitations which exist in the very nature of all free governments. As the court say, those are rights and obligations that must be recognized and realized and dealt with fairly by every Government worthy of the name; and that is what the Supreme Court say, on such a proposition as this. As I say, Senator, you can not conceive the iniquity of the thing there, splitting our community in half and separating the sheep from the goats, and saying one is privileged in several respects, in taking up lands and getting financial assistance, and the others have got to pay for that financing out of their pockets, as well as being prohibited from taking up these lands equally and in common, as they have a right to under the existing law.

I do not believe, if you look at the thing in the proper light, they will tolerate this thing for a moment. It is absolutely iniquitous to divide our community there on race lines; absolutely intolerable. Instead of doing such a thing, Congress ought to move heaven and earth to prevent such a thing and to make such conditions that the people will live in harmony and peace and live together as brothers, irrespective of color of the skin; but to classify us and to pit one of us against the other would be a crime.

Now, this matter of classification has been frequently passed on by the United States Supreme Court, as well as by the State courts. Take this quotation from the Supreme Court of the United States, which I give on pages 36 to 37 of my brief. This is the case of *Gulf, etc., R. Co. v. Ellis*, in 165 U. S. The Supreme Court there said:

The State may not say that all white men shall be subjected to the payment of the attorney's fees of parties successfully suing them and all black men may not.

In other words, the Supreme Court says that you can not draw the color line by any Federal statute or say that one color is this and the other color is that; that one color is subjected to certain disabilities or discriminations and the other class is given certain favoritisms and advantages. It can not be done, the Supreme Court says [continuing reading]:

It may not say that all men be beyond a certain age shall be alone thus subjected, or all men of a certain wealth. These are distinctions which do not furnish any proper basis for the attempted classification. That must always rest upon some difference which bears a reasonable and just relation to the act in respect to which the classification is proposed, and can never be made arbitrarily and without any such basis.

The court also says:

No duty rests more imperatively upon the courts than the enforcement of those constitutional provisions intended to secure that equality of rights which is the foundation of free government.

And there is no reasonable, logical, tenable basis for a classification as to the taking up of the public lands in Hawaii there. To say that a man with one thirty-second of Polynesian blood in his veins may have this preference right, this monopoly, and this financial assistance, whereas another man without one thirty-second of Polynesian blood in his veins can not take it up, simply because he does not have that qualification, is unjust. I do not believe there is any authority for that. Certainly neither the Hawaiian attorney general nor the solicitor of the Interior Department could point to anything that made any sort of basis of authority for this rehabilitation act, and it bears all the earmarks of unconstitutionality. There is a whole line of Federal authorities on this. It is a familiar principle that the legislature has no power to levy taxes except for public purposes, and that it is beyond the power of the legislature to authorize the expenditure of public money by way of gift, gratuity, or bounty to individuals, in the absence of at least a moral obligation to support the appropriation.

Now, this bill is flying right in the teeth of those various propositions which have been laid down over and over again by the Supreme Court. It is a discrimination based on race and color, absolutely, and can not be regarded as anything else.

One of the gentlemen on the committee of the House, as I notice by the printed record, said in opposition to a suggestion that the bill was probably unconstitutional, or might be. "Most of our recent legislation is class legislation." Granting that for the sake of the argument, I defy you gentlemen or anybody else to point out any piece of class legislation that cleaves any community in half on the color line, and discriminates against half of those in the community because of the kind of blood that God has put in their veins. Irrespective of the constitutionality point and I believe I am right about that, and if I am not, I say that the bill here this morning is absolutely unfair and unjust, even though it might be constitutional, and I appeal to the sense of fair play at the hands of this committee to prevent such a vicious discrimination as this bill contains, against the white man, against the man who has protected the front trenches on the western line against aggression from the other

side, and made it possible for the Stars and Stripes to be hoisted over those lands to remain to the end of time.

Are those people going to be treated in the way this bill undertakes to treat them? Is no recognition of the gratitude that is owing to the men who made such addition to the United States possible, who saved our front line there from another flag, to be shown? Are they to be treated in this way? I submit that whether the bill be constitutional or not, it is unfair and vicious, and such as not to be tolerated at the hands of any fair committee, such as I believe this committee to be, when you have had time, gentlemen, to look into the bill, as perhaps heretofore you have not.

The CHAIRMAN. That is all, is it, Judge?

Mr. ROBERTSON. Yes, sir; I think that is enough.

The CHAIRMAN. It is now 20 minutes of 1 o'clock. Whether the committee shall attempt to conclude at this particular session or not depends on how many others care to be heard on this bill. Mr. Pittman, did you want to be heard?

Mr. PITTMAN. I wanted to say something on the bill.

The CHAIRMAN. You may proceed.

#### STATEMENT OF MR. W. B. PITTMAN.

Mr. PITTMAN. Of course, the statements that have been made by Judge Robertson are all indorsed by me. The suggestions he has made as to the Parker ranch can also be made on behalf of the Raymond ranch.

The CHAIRMAN. The two ranches are not on the same island?

Mr. PITTMAN. No, sir; the Raymond ranch is on Maui.

The CHAIRMAN. What is the size of the Raymond ranch?

Mr. PITTMAN. About 100,000 acres; 25,000 acres of that would be taken by this bill, if this bill passed; and I would like to state that, although I represent Dr. Raymond and the Raymond ranch at this time, for many months prior to the time that I represented Dr. Raymond, I have bitterly opposed this bill in the papers and on the public rostrum; that I am not simply here representing Dr. Raymond, but that I am also here representing some of the citizens of Hawaii who are bitterly opposed to the passage of this bill.

At the time that we first learned that the committee that had been sent here by the Legislature of Hawaii had gone contrary to the instructions of the legislature, a mass meeting was held in Honolulu, and Attorney Andrews, who is a very prominent Republican and a member of the legislature; Mr. Kumalae, who is a Democrat; and a number of other Republicans and Democrats, conducted the meeting, and there were some 2,000 citizens present, including Hawaiians, Portuguese, and other nationalities, and they appointed a committee to go to Washington and oppose the passage of this bill. They were unable, however, to employ anyone to come here, for lack of funds, to represent them. They wanted me to come at that time to represent the people not the owner of the Raymond ranch, and I said: "I can not afford to go to Washington at my own expense." Unfortunately, I had not sufficient money to warrant me in so doing.

Then afterwards I wrote a number of letters to the different Senators here giving my reasons why the bill should be opposed and

why it should not pass. And the reason that I represent Dr. Raymond is that Dr. Raymond said, "I will assist you, Pittman, in paying your expenses to Washington in view of the fact that you have taken a stand against this bill—a public stand, and not a personal one."

The CHAIRMAN. Now, let me ask you this. You are speaking of Dr. Raymond. There was a gentleman here along in last February, I think it was—at least during the last session when this bill was under consideration by this committee—who saw the Prince but who did not see me or, so far as I know, any member of the Senate Committee on Territories, and my recollection is that his name was Raymond. Am I right in that, Prince?

Mr. KALANIANA'OLE. Yes.

The CHAIRMAN. Is he the Dr. Raymond to whom you refer?

Mr. PITTMAN. Yes, sir; and when the report came to Hawaii that Dr. Raymond had withdrawn his opposition to the bill, having discussed the matter with Dr. Raymond before he left, having urged upon him to oppose the passage of this bill because it was vicious, because it would destroy homesteading and because it was discriminatory, I stated in the paper that I did not believe that Dr. Raymond had been quoted correctly, and when Dr. Raymond came back to Honolulu he stated that he had not withdrawn his opposition to the bill, and that he still opposed the bill in its present form.

The CHAIRMAN. Well, as to that I can only say that I learned quite casually of his presence in this city. I tried to get word to him that the committee would be very glad indeed to hear him, and in my search for him I finally discovered that he had been to see the Delegate, the prince, here, and upon inquiry from the prince I found that he had left here for New York, and then I addressed him at New York and gave him to understand that he would be given every opportunity for a hearing if he came back here, but he never came. So I do not know whether his interest in it lapsed or not.

Mr. ROBERTSON. I think his son was ill, was he not?

Mr. PITTMAN. Yes. I would like also to state that Senator Smoot stated in the first part of the hearing that he understood that the election of Prince Kuhio was an indication that showed that a majority of the people in Hawaii favored the bill. It does not show any such thing. In the first place, the platform of the Republican Party, upon which Prince Kuhio ran, favored the homesteading of highly cultivated lands in plain words, and this bill does not favor the homesteading of highly cultivated lands, because it provided for the leasing of all the highly cultivated lands to the highest bidders. The fact that Prince Kuhio was elected Delegate has nothing whatever to do with this bill. It is true that Prince Kuhio made that a part of his fight, and used it to advantage or endeavored to use it to advantage, but we all know, who live in Hawaii, that Prince Kuhio would have been elected Delegate to Congress, no matter what principle he advocated, no matter whether he had come to Hawaii or not. He could not have been defeated. The Democratic candidate could not have defeated him, no matter what Kuhio advocated.

In the Democratic platform they opposed the rehabilitation bill. Now, if there are not a number of Hawaiians that are opposed to the rehabilitation bill, how can you account for the fact that in the fifth

district we elected four Democrats and only two Republicans were elected, and yet they ran in opposition to this bill on a platform opposing it and made speeches against the adoption of this bill? When the Senator says that there are not many Hawaiians who oppose this bill, I want to say that I have talked to many intelligent Hawaiians in Hawaii who bitterly oppose being placed in the category of Indians, who say, "We are capable of taking care of ourselves. We do not need any rehabilitation. We can rehabilitate ourselves."

I object to the passage of this bill on broad principles, not simply because I am here representing Dr. Raymond. I object to it because if you pass the bill the lands that will be turned over to the Hawaiians under this bill not over 10 per cent of them can be properly farmed, and the money spent will be completely dissipated.

The only object of this rehabilitation bill—the real reason for this rehabilitation bill—is in order that the present leases of highly cultivated lands may be renewed for another 15 years. Anybody in Hawaii who is familiar with conditions, who is familiar with the Hawaiian race or familiar with the Hawaiian people, and familiar with those lands, knows positively that the money that will be received from the leasing of these highly cultivated lands to the highest bidders will be dissipated; that it will be spent on those lands which can not be made to pay; and that the Hawaiians in a short time will come back to the cities, give up their farms, and say that homesteading is a failure. That is all there is to it.

For instance, take the Raymond lands. I would like to have Mr. Ravenburgh testify as to that. He tells me that the 25,000 acres that they intend to take out of the Raymond ranch, you could not raise anything on it at all, and that you could only use it for grazing purposes, and that then it could only be used by a large ranch to raise cattle on, where the ranch has unlimited cattle; and that anyone who takes any of that land—any Hawaiian who goes upon that land and takes from 400 to 500 acres, or whatever may be given him under the bill—it will simply mean that the money that is given him, the \$3,000 that he can borrow under that bill, will be dissipated, and he will be discouraged and will go back to where he may have lived—and homesteading will have another black eye.

They will tell you that homesteading is a failure in Hawaii. Let them go over on the island of Kauai, and you will see some of the prettiest homesteads you ever laid your eyes on. There is a man there making \$7,000 or \$8,000 a year—a Portuguese. The Portuguese are great farmers. Large numbers of them went to the Hawaiian Islands a number of years ago, and I was told that they were brought there at about the time that Congress was thinking of reducing the tariff on sugar. The plantations said, "We want to Americanize these islands, and we are going to bring in Portuguese, who will make American citizens, who will amalgamate with our people and become American citizens," and they brought in thousands of Portuguese. What has been the result? They then discharged the Portuguese and brought in Japanese labor, and the Portuguese have been unable to obtain homesteads and have been going away onto the mainland, where they could obtain homesteads. Had the homesteads been obtainable, and had they been given an

opportunity to take up homesteads as they should have been, to-day we would have a large Portuguese population.

Mr. KALANIANA'OLE. Who brought in the Japanese, the Hawaiians or the white people?

Mr. PITTMAN. The plantations.

Mr. KALANIANA'OLE. Were they Hawaiians or white people?

Mr. PITTMAN. The white people; yes. Now, it does not only mean that we are going to spend the money that is going to be given for the homesteading by this bill, but it means that the Hawaiian Legislature, dominated and controlled by Hawaiian people, will pass additional legislation bonding the territory and increasing the taxation of the people. We are burdened to death with taxes now. We haven't got any money for our schools and our roads are in bad condition and we need this money for those purposes. But no, this bill is going to simply dissipate the money that we receive as rental for the highly cultivated lands. There will be no land left for homesteading, and those lands which are turned over to the Hawaiians are worthless, because they can not make them pay, and the result will be that you will not only kill homesteading and discourage the Hawaiians, but you will increase the tax burden. That is all it means; and there is not a sensible man down there who is not specially interested who does not know it. Of course, the Hawaiians, as Judge Robertson has said, want it. It is special legislation. It is for them.

As Judge Robertson has said, just imagine rehabilitating anyone with one thirty-second part of Hawaiian blood. Imagine rehabilitating the reverend over there [indicating Mr. Akana]. You had better rehabilitate me. He can take care of himself a whole lot better than I can. Imagine rehabilitating our prince. We have thousands and thousands of Hawaiians there that are capable men. Our mayor is Hawaiian; our former mayor was, I think, full-blooded Hawaiian. We have Hawaiian surveyors and clerks and bookkeepers. In every walk in life we have half Hawaiians, and they are capable men, able fellows, and able to take care of themselves.

Suppose that this land was valuable and that Hawaiians would take \$3,000 each and make a success of it; who do you think is going to get those lands? Do you think for one minute that a full-blooded Hawaiian will ever see an acre of that ground? Do you think that the virile half whites or half Portuguese or half Chinese and half Hawaiians are going to permit those lands to go into the hands of the full-blooded Hawaiian? He will not even see an acre of it.

Senator NU'ENT. Why?

Mr. PITTMAN. Because they are the smart people, and they will do the same thing that they say the white people have done to them; they will do the same thing to the poor Hawaiian that is full blooded that they say the white people did to them. The smart people and part Hawaiians will take the lands in preference to the ignorant. It will not rehabilitate a single Hawaiian that should be rehabilitated, if everything in that bill was absolutely right. If those lands were capable of being farmed by these Hawaiians, if it was not discriminatory, and it was not unconstitutional, we all know, who live in those islands, that you would not rehabilitate a single man that should be rehabilitated. They come there to-day and take up

property. They can take up the land under the present land law. The Government could take the Raymond ranch, if it thought it was valuable for homesteading purposes under the present land laws. But they know that it is absolutely valuable for only one purpose.

Senator NUGENT. How many acres are there of this Raymond ranch?

Mr. PITTMAN. About 90,000 acres.

Senator NUGENT. How many acres of it are cultivated?

Mr. PITTMAN. Nearly all of it, just for ranch purposes. It is a cattle ranch, just the same as the Parker ranch.

Senator NUGENT. Grazing land?

Mr. PITTMAN. Grazing land. He holds the majority of it in fee simple and the balance under lease from the Government.

Senator NUGENT. About how much under lease?

Mr. PITTMAN. About 80,000 acres under lease.

Senator NUGENT. For what length of time does he have that under lease?

Mr. PITTMAN. Ten years.

Senator NUGENT. Ten years from now or 10 years from the time that the lease was executed?

Mr. PITTMAN. I would say 10 years from the time the lease was executed.

Senator NUGENT. When was it executed?

Mr. PITTMAN. About 1905.

Senator NUGENT. Then he still holds that for four or five years more?

Mr. PITTMAN. Yes; for four or five years more.

Senator PITTMAN. Then that is subject to the homesteading law?

Mr. PITTMAN. It is subject to the homesteading law. Why should you take those lands and turn them over to the highest bidders, which means the plantations, who are able to bid more than anybody else? Let us admit that under the present conditions we should not homestead the highly cultivated lands. Why not pass a law that they are to be leased at a higher rate?

Any Hawaiian will tell you that we have thousands of young men, Hawaiian boys, American citizens, Portuguese boys, who have from \$6,000 to \$7,000 or \$8,000 in the bank, who are perfectly capable and able to take up highly cultivated sugar land, paying a good price to the Government for it, and at the same time developing it. The Government would get the benefit of the money in that way, and we would also be creating an American citizenship. What good are our forts down there if they are not backed up by American citizenship? That is the only way to Americanize these islands.

If you pass this bill, according to the men who are better able to judge of conditions there, you will do more to un-Americanize the Hawaiian Islands than by any other thing you could possibly do.

Mr. Rivenburgh is a resident of Hawaii and he knows the Raymond ranch and has been over it dozens of times, and he says that that is utterly worthless for any other purpose than grazing, and for any other purpose than a large cattle farm. What would be the result if you cut 25,000 acres out of the Raymond ranch and turned the land over to the Hawaiians? They will make a failure of it, and Raymond would have to reduce his herds, and reduce the production



of beef, which is badly needed in the Hawaiian Islands. That is all you would do. You can not get around those facts, that they can not make a success on that property. If they can not make a success on it, why turn it over to them.

The constitutional question has been thoroughly gone into by Judge Robertson, and I entirely agree with all that he has said on the constitutionality of the law, and I do not believe that it will be upheld. But, aside from the unconstitutionality of the bill, and aside from the Raymond and Parker interests, I say that if you people knew the conditions as we know them, and if you could only see it as we see it there, or if you had the interests of the Territory of Hawaii at heart, if you had the interests of the people at large at heart, if you wanted to Americanize those islands, you never would pass this bill, and I do not believe that it should be passed. I think that, regardless of all the interests that are represented here, aside from the dissipation of the money, it would be creating a class, a clique, and would create class hatred, which we have been getting away from.

The Portuguese are very bitter against this bill. Hundreds of Portuguese came to me and said, "I want you to fight this bill because it is unfair. We are the real farmers of this country, and why should we be discriminated against."

The CHAIRMAN. Does anybody else want to be heard in opposition to the bill?

Mr. PITTMAN. I would just like Mr. Rivenburgh to testify in regard to the land taken from the Raymond ranch, as to whether it can be profitably farmed by the Hawaiians under this bill.

Mr. KALANIANAOLE. For the purpose of the record, I might add that Mr. Rivenburgh was my secretary and aided me in framing this bill.

#### STATEMENT OF MR. B. G. RIVENBURGH, EX-COMMISSIONER OF PUBLIC LANDS, TERRITORY OF HAWAII.

Mr. RIVENBURGH. The land referred to in the bill and referred to as the 25,000 acres of land taken from the Raymond ranch, is not in any sense agricultural land. It is not, in a broad sense, grazing land. It is totally a lava flow, unwatered. Private water now supplies the cattle when they have any running there. There is a growth of weeds, etc., on this lot during a season of the year. During the wet season it is possible to keep about 1,000 head of cattle on this land from six to eight months. They may have to be shifted to other land of the ranch sooner. It is not cultivable land in any sense; and even under the terms of the bill it would not be suitable for Hawaiians to take as grazing land, because they would have no land to remove their herds to in time of dry weather.

The CHAIRMAN. Mr. McClellan, do you want to be heard?

Mr. McCLELLAN. I do not care to be heard on this bill at the present time, but I would like to register a request with the committee that if any further statements are to be made before this committee on behalf of the bill, I be heard afterwards to answer those statements. My reason for making that request is that in the statements made before the House committee, very reckless and unfounded statements were made, and Mr. Wise is somewhat given to romancing in

his statements, and if he and others are to appear before the committee further in support of the bill, I should like the opportunity to be heard afterwards as to questions of fact.

The CHAIRMAN. That would be a matter for the committee to determine, of course. That would, I suppose, come in the nature of a surrebuttal, if we have any further hearings for the advocates of the bill.

I would like to ask the Delegate from Hawaii if he cares to say anything further in favor of the measure.

Mr. KALANIANA'OLE. Mr. Akaiko Akama is here, who has been sent here by the people in favor of this bill, and I would like to have him heard on this.

The CHAIRMAN. I think it is only fair that he should be heard.

Mr. KALANIANA'OLE. If anyone desires to oppose this bill I think they should be given the opportunity to oppose it now. We had four months' hearing before the House committee and they had all the opportunities to be heard if they cared to, and now to hold this bill back for one or two that want to be heard, I do not think it fair to the people of the Territory. I think now is the time for them to be heard.

The CHAIRMAN. The committee wants to get all the facts in the case, and I do not know that we want to hold anybody to a strict order of presentation of their side of it. I would like to get through, of course, at the very earliest possible moment. This bill has now been in the committee for a good many months, and in order that its opponents might have an opportunity to be heard, of which they did not avail themselves, either by reason of failure or by reason of inability to be present.

Mr. ROBERTSON. And lack of time.

The CHAIRMAN. Or lack of time. For whatever reason, they at least did not avail themselves of their opportunity for a hearing when the bill was up before. Now, in order that an opportunity might be afforded to all, the bill has been resubmitted to this committee upon my motion, and this opportunity is given.

We want to give everybody every opportunity to be heard, but we have got at some time to reach an end to the proceedings, and if it is possible for the committee to conclude the hearings to-day, I think it would be most desirable. It is now 10 minutes to 1 o'clock, and the committee as well as the witnesses would like an opportunity to go to lunch, I suppose. I want to be on the floor of the Senate for a few minutes, and if it suits everybody's convenience, I suggest that we take a recess until half-past 2 o'clock. How does that suit you, Senator Pittman?

Senator PITTMAN. Very well.

The CHAIRMAN. And then we can come back with the understanding that we will push this through this afternoon.

Mr. KALANIANA'OLE. I believe this hearing was for the purpose of giving those in opposition an opportunity to be heard.

The CHAIRMAN. Yes.

Mr. KALANIANA'OLE. And if Mr. McClellan is opposed to the bill, I think he ought to be heard.

The CHAIRMAN. I agree.

Mr. MCCLELLAN. My position is not in the slightest degree one of desiring to delay the bill. My statement stands, that if the pro-

ponents of the bill have statements to make. I want to have an opportunity, if there is an occasion, afterwards to make further statements on the bill.

The CHAIRMAN. I take it for granted you will be present during the remainder of this hearing, and in case any statement is made that you desire to challenge, opportunity will be given you to do that, of course.

Mr. McCLELLAN. As a matter of fact, I did not bring any data with me, of which I have any quantity covering the case, and I am scarcely in a position to speak to-day. I had not understood that the matter was to be closed to-day, and the committee was to take its action. In fact, unfortunately, some members of the committee have not even been able to be present; and I must say, Mr. Chairman, that this bill is of such far-reaching effect on the Territory of Hawaii that it does not seem to me that this committee ought to ever take affirmative action on it without all members of the committee being present.

The CHAIRMAN. The committee has no desire to railroad anything through, that is certain; but every possible opportunity and notice has been given for all parties interested in this measure to be present and to come all the way from Hawaii, and it is inconceivable that you should have come from there and left behind you the data you want to present.

Mr. McCLELLAN. Mine is not in Hawaii. It is down town.

The CHAIRMAN. Can you get that and get it up here this afternoon, Mr. McClellan?

Mr. McCLELLAN. I can.

Mr. KALANIANAOLE. We would like those who are opponents to the bill to have all the opportunity to speak, but we do not think it fair to have the bill delayed unnecessarily. This bill had been in Congress for four months, and if they have not come before the committee in four months—

Senator NUGENT. I know; but the committee has not been here four months.

The CHAIRMAN. What the committee wants is, for its own benefit, to have a full presentation of all the arguments in this case—on both sides of it.

Mr. KALANIANAOLE. Yes. I have not said yet whether I wanted to be heard—unless these gentlemen make some statements that I ought to contradict if possible.

Senator PITTMAN. I would suggest that during most of that four months the chairman has been engaged in another very unpleasant matter.

(Thereupon, at 1 o'clock p. m., the committee took a recess until 2 o'clock p. m.)

#### AFTERNOON SESSION.

At 2 o'clock p. m. the committee reassembled, pursuant to the taking of the recess.

The CHAIRMAN. I think we might as well proceed. Do you wish to make a statement, Mr. Akana?

**STATEMENT OF REV. AKAIKO AKANA.**

Mr. Chairman, honorable Senators, and members of the committee, before I begin, allow me to extend to you my hearty thanks and my deep and warm appreciation for this rare opportunity and special privilege and honor, of appearing before this body to speak on behalf of a bill designed to rehabilitate the Hawaiian race. And, in making this expression of gratitude, Prince Kalaniana'ole, our honorable and beloved Delegate to Congress, is also included; for, it has been through his faithful effort, as well as the sympathetic cooperation of his friends in Congress that I am privileged to be present thus and to receive the time and attention of this committee at this time.

By way of introduction, and as has just been requested by this committee, let me identify myself thus: My name is Rev. Akaiko Akana, a graduate of the Kamehameha School, Hawaii, 1903; of the Territorial Normal School of Hawaii, 1904; of the Hartford Theological Seminary, and of the Hartford School of Religious Pedagogy, Hartford, Conn., 1911. After graduation from Hartford I served as secretary for the young peoples' work under the Board of the Hawaiian Evangelical Association, Territory of Hawaii. I then became the president of the Christian Endeavor Association of the Territory of Hawaii. On September 1, 1918, I became the pastor of the Kawaiahao Church, the first church erected by the missionaries in Honolulu. It is the largest Hawaiian church in the Territory and occupies a central place in the life of the Hawaiian people. I am also the chaplain of the Senate of the Legislature of Hawaii. I was born in Wai'alua, Oahu, Territory of Hawaii, December 24, 1884, and, with the exception of the five years of study I spent in Hartford, Conn., I have always lived in Hawaii and among the Hawaiian people, for whose needs I am here to speak before you.

My coming to Washington has been sudden and unexpected. When the Hawaiian people learned of the fact that there were legal representatives of certain business concerns in Hawaii who were coming to this city to oppose the so-called rehabilitation bill, designated as H. R. 13500 and named the "Hawaiian homes commission act, 1920," and which is now before this committee, a special meeting of the "Ahaui Puhonua o na Hawaii"—Hawaiian Protective Association—an association organized years ago for the sole purpose of protecting the Hawaiian people and of conserving and promoting the best things of their tradition, as well as of representing the race in any issue affecting the welfare of the Hawaiians, was called immediately, and this took place November 15 of this year in the Library of Hawaii, at 7.30 p. m. Having come at the time of the regular annual session of this association, both the regular and special business of the association were included in that meeting. So, after the regular business of the evening was concluded and the special business of the association was in order, the consideration of the bill now before us was taken up; and, right there and then, it was unanimously voted to circulate subscription papers among the Hawaiian people for the purpose of raising sufficient money in order to enable the association to act, on behalf of the Hawaiian race, in the matter of sending a special committee to the Congress of the United States to urge the

passage of the bill as it now stands. Immediately, the special committee was appointed, and I was included in its membership.

The association then authorized this committee to leave for Washington just as soon as the necessary fund was raised. Fortunately, the money was secured within a short time and the committee, in its haste, was enabled to act on the decision of the association and to come to the Capitol. A wireless from San Francisco, from Prince Kalaniana'ole, to the effect that the presence of the entire committee was necessary at Washington for the committee hearing this month before the holidays, made immediate departure from Honolulu imperatively necessary. At that time, however, the other members of the committee were busy with their regular business and could not come. Hence my presence here in Washington and before you by myself.

Furthermore, I am here, not in the capacity of a paid legal representative of a single wealthy child who owns the largest ranch in Hawaii, such as Mr. G. M. Robertson, the former speaker is in, but I am here as an unpaid committee who has voluntarily accepted the task of coming to Washington and of placing before you the earnest wish and prayer of an organization which represents the Hawaiian race, and which is devoting its energy in the direction of saving the remnants of this people who, once upon a time, were the real owners of Hawaii. And also, as a Hawaiian pastor, and as the president of the Christian Endeavor Association of Hawaii, I am here as one who has been intimately in touch with the Hawaiian people and their needs, and, therefore, deeply interested in their welfare. Therefore, aside from the special mission which the "Ahahui Puuhonua ona Hawaii" intrusted to my care, I am personally interested in this new and most helpful project which this bill embodies, and which I believe will be the making of an increasingly strong and progressive American citizenry among the Hawaiian people.

To begin with, and for the sake of information, allow me to make mention of that beginning when the idea of rehabilitating the Hawaiian people was conceived and given the start which materialized in a resolution which the special commission from the Hawaiian legislature brought before Congress in February of this year.

About five or six years ago the Honolulu Ad Club, consisting of a large membership of men of nearly all of the different races represented in Hawaii, but maintaining a large majority of Americans, was agitating against the tenement conditions in Honolulu. Other clubs joined in a similar campaign. Of all the peoples who were much hampered by the ill effects of tenement conditions, the Hawaiians undoubtedly suffered the most. And of all the peoples in Honolulu who endured a most embarrassing circumstance of life the Hawaiians shouldered much, for they were made the target of numerous disheartening criticisms with no vigorous effort made by the critics to help, in a constructive way, the unfortunate ones in distress. The "Ahahui Puuhonua ona Hawaii," therefore, took upon itself the task of relieving the situation as much as possible, and of bringing about a better living condition in the tenements; and, as far as it was practical, it endeavored to get the Hawaiians away from the tenements. Of all the men who entered into such an undertaking, with much expenditure of time and money, the prince himself was the most active.

The task was gigantic in character, and from a financial standpoint it was far beyond the ability of the association to accomplish much. Therefore, each year that came witnessed not only the existence of the same unfortunate conditions, but the increase of more perplexing social and economic problems. Even up to this year these problems have continued to exist and are far from being solved. We only have to look at the findings of benevolent associations, as well as the figures of the board of health reports, to convince ourselves of these facts. The ill effects of such conditions or life may be fully apprehended by the rapid fall in the birth rate of the pure Hawaiians, accompanied by an alarming increase in death rate.

But in spite of the hardship confronted by the association it continued its activity, and with whatever financial aid which could be secured from time to time from its members it continued planning for the Hawaiians' future salvation. Here are some of the main lines of work adopted and executed by the association, namely:

First. An educational propaganda, by preaching from the pulpits of the Hawaiian churches of the Territory; by letter writing; by newspapers, and by direct personal instruction through our special and voluntary workers, teaching the Hawaiians the dangers of the congested and poor living conditions of the city, and pointing out to them the many advantages of the country and of the outdoor life; the benefit of sanitary and hygienic living; the advantage of home economics; the care of maternity and infants; the value of saving money, and many other similar subjects of great and practical value.

Second. A propaganda, through special agencies, to get as many Hawaiian students as possible to take up special training in agriculture, medicine, law, dentistry, and other lines that would help in lifting the race.

Third. A propaganda to encourage the Hawaiians to acquire lands by purchase, lease, or by homestead, not only to live on but from which to get their food and other necessities of life.

Fourth. A propaganda to purchase, own, and not to sell, homes in Honolulu.

Fifth. A continued investigation and study, and, through a special worker, an every-day visit of the different localities of the city of Honolulu, as well as of the other places in the Territory, to find out how the Hawaiians lived; what their economic, social, domestic, educational, and industrial conditions were; and, in case of need, what to render to them in the way of assistance.

These lines of activity have, to a very great extent, borne much fruit worthy of the effect put into them. And, in fact, the favorable results realized from these activities have inspired the leaders of the association with the assurance that the Hawaiian race, in spite of the appalling decrease in number, has as yet much hope left for the recovery of its national strength. The Hawaiians still possess, in the remnant of what was once a great people, enough of the potential elements of life to make of themselves a strong and progressive race. With this conviction, therefore, the association forged ahead with its tasks, many of which were voluntarily and freely; and, up to the present moment, its vigor in pushing ahead constructive measures for the progress of the race, has not abated.

Together with these general activities of the association, there was carried on, from time to time, a special study and investigation ascertaining the chief causes for the increased mortality among the Hawaiian people, especially among the pure Hawaiians. This special study, in time, showed that chief among the many influences, which were affecting the high death rate among the Hawaiians, as well as creating the unfavorable condition of life under which many of them were living, were these:

First. The sudden impact of a new civilization with the awful pressure of its varied conditions of life; secondly, the ravages of such diseases as the venereal diseases, tuberculosis, asthma, smallpox, pneumonia, measles, plagues of various descriptions, and many others; thirdly, the lowering of physical vitality owing to the new custom of life and the getting away from the environment and condition of life natural to the Hawaiians; fourthly, the lack of practical business education, thereby causing many Hawaiians to dispose, by sale, mortgage, etc., of their real property because there was not the real appreciation of the value of the soil. In so doing, therefore, they were compelled to live poorly and to go to the congested parts of the city; fifthly, up to the present time, there has been no real effort to educate the Hawaiians in a business way. Much religion has been given them with no corresponding vigor to make business people of them. In so far as their real practical business education was concerned, they were left to themselves to work out their own salvation. Consequently, in and through all the competitive business life of Hawaii—a life which was entirely foreign to the Hawaiian people, but which has taken centuries and centuries for the Anglo-Saxons to cultivate—the Hawaiians have never had a chance.

What they were accustomed to doing was to give of their best to strangers and to those who needed it, never thinking of their future welfare; and, sixth, in the light of these facts, the association was convinced that a great mistake was made in the great division of land by King Kamehameha III in 1848; that because of the ignorance of the Hawaiians at that time the King should have been advised by those in power to hold the title of all the divided lands until at such time as the people realized the value of the land and were able to use it to advantage before such title be granted to them. Because of this mistake, therefore, a great deal of the land which was given to the Hawaiians passed off by sale, mortgage, etc., into other hands, especially into the hands of the moneyed people. Take the Makapala lands in Kohala, Hawaii, for instance. I was informed by Hon. H. L. Holstein, the speaker of the House of Representatives of the Legislature of Hawaii, that after the title got into the hands of the Hawaiians of that district, the Niulii plantation immediately got the owners of that land to enter into an agreement to cultivate it for sugar cane. The money was advanced by the plantation, and every encouragement necessary for the start was given them. But with each harvest the cane growers found themselves greatly in debt to the Niulii plantation. As a result, they were forced to surrender their holdings to the plantation because of their inability to meet their financial obligations.

Other instances might be cited in this connection, but this is sufficient for illustration. With the passing away of what the Hawaiians

required by the great division, the result has been that as the general life in Hawaii advanced, the majority of Hawaiians found themselves helpless and dependent, especially in the presence of the rising competition with other nationalities represented in their midst. They were, as they have always been, in a condition of life entirely foreign to what they were accustomed to, and they were facing it in a state of absolute unpreparedness in so far as business ability was concerned. Had the lands of the Hawaiian people been conserved as that of the Bernice Pauahi Bishop estate, and had the Hawaiians at the same time acquired by education and by practical training a constructive business experience, conditions such as the association found would never have existed.

These findings of the association naturally aroused its officers and members to more aggressive action. The questions arose: What could the association and what could the Hawaiian people as a whole do to combat the serious condition of life confronting the race under the numerous handicaps which we faced? In what channel should our energy be directed in order to procure substantial and lasting results? Careful consideration and study in the light of the experience of the association and of the race, and in view of the financial weakness of most of the Hawaiians, brought the "Ahaui Puuhonua o na Hawaii" to the conclusion that the only course left for the Hawaiians to take was to appeal for Federal aid.

This aid, however, should not come in the form of charity from the Government. The association had always believed that charity should be gradually abolished from the Hawaiian people. The aid, therefore, should be that of enabling the people to help themselves, and, through patient training and guidance, they should ultimately acquire that business experience leading them to be independent and progressively self-supporting. This idea was finally left in the hands of the legislative committee of the association; and, after having worked on it for some time, it took the form of the resolution which passed the Territorial legislature and which was conveyed to the Congress of the United States by the special commission already referred to. This resolution, as I understand it, has been the basis of the bill now before us; and the plan and condition for the execution of the idea for the rehabilitation of the Hawaiian people, as embodied and set forth in the bill, are, to the belief of the "Ahaui Puuhonua o na Hawaii," more than sufficient to enable the Hawaiians to make a start, and to effectively and helpfully meet, in a large measure, the conditions alluded to and which have confronted them for years.

So much for a brief résumé of the circumstance and experience which have brought about the creation of the basic idea of the bill. Now, I have come to the reasons why the Hawaiian people are favoring the bill and why they are urging its passage, in its present form, by the Senate of the United States.

1. The bill as it stands effectively destroys whatever feeling of bitterness was left in the heart of many Hawaiians, not only by reason of the greedy and selfish exploitation of their ignorance by land speculators, but largely by the passing away of what they, as a nation, possessed by reason of conquest and annexation of the islands to the United States.

2. The bill, containing a plan to lease the selected lands to the Hawaiians instead of giving them in fee simple, provides for a per-



manent security of the land against any disposition by sale and against mortgage, pledge, or otherwise hold for the benefit of any other person except a native Hawaiian. Selling of lands and the mortgaging of the same to land speculators have been a curse in the experience of the Hawaiian people, especially those who inherited large estates. They have also been a curse to those who acquired land in smaller quantities. Through this bill those who are inclined to be reckless can not sell their holdings; and should they be inclined to be too lazy to be of any value to the idea of rehabilitation, the commission has the right to remove them; and, in their stead, worthy Hawaiians could be given a chance to secure lands on which to live and to work, instead of being barred out because the worthless ones had already come before them.

3. It is the sincere belief of the "Ahalui Puuhonua o na Hawaii" that the time has come when Government lands should be conserved. Through the present homesteading plan, the Government lands are gradually passing off into the hands of individual owners, who are few in number. The rehabilitation bill puts a barrier on homesteading, insofar as the lands designated in the bill are concerned. These lands are left in the hands of the Government for the use of at least 38,000 of its people, instead of only a few hundred as are found on homestead lands to-day. The saving of the highly cultivated sugarcane lands through the provision of the bill is another act of land conservation which must not be overlooked. Not only will it help to support this most useful project of rehabilitating the Hawaiian people through the 30 per cent of the rental from these cane lands, but it will continue to bring revenues for the use of the Government through the balance of 70 per cent of such rental. Such revenues can not come from homesteaded lands, and such revenues will be lost to the Government should the rehabilitation bill fail, because these cane lands are subject to homesteading. At the same time it must be borne in mind that homesteading is not entirely shut off by the rehabilitation bill, for the lands which are not included in the bill are still subject to the homestead laws of the Territory.

4. The bill provides in a most helpful manner a basis for a real practical business education, which is most imperative for the Hawaiians to-day.

(a) It provides a financial basis of \$3,000 with which to begin should money be needed by those desiring to go back on the land.

Much has been said in regard to the failure of Hawaiians in homesteading. One of the chief reasons for such failure has been the lack of proper financial assistance. For this reason many have sought loans the interest and condition of which have been too burdensome for most of them. Consequently, when their crops failed them they were obliged either to surrender their holdings or sell them at a loss. My intimate knowledge of such conditions has frequently caused me to be very outspoken in my opposition against those who went into homesteading with very limited capital to begin with. The Hawaiians to-day know how much opposition I have raised against such a practice. I repeat, therefore, that the financial assistance provided for by the bill will be a powerful incentive for success among the Hawaiians deciding to go back to the soil.

Then, there is another factor which enters strongly into this consideration which must not be overlooked, namely, the spirit as well as the attitude of mind which such assistance will create. The very consciousness that the Government is interested and is standing back of them, even to the extent of loaning to them money which is most necessary in business, and to those who are inadequately supplied with it, is certainly most helpful and most encouraging, especially when it is loaned on such reasonable and helpful terms as the bill provides will, inevitably establish a morale which will overcome, and, in all probability, will forever destroy the fear and timidity which the ridicule of other nationalities has, from time to time, impressed into the very being of the Hawaiian people. The fear to forge ahead in business and to compete with those of other nationalities, who possess in their make-up the benefit of centuries and centuries of knowledge of the business experience of their race, without having some one to stand back of them, financially and otherwise, has been most detrimental to the material progress of the Hawaiians, especially as they emerge from their own way of living their life, and are forced into a most complicated condition of living such as they have been confronting in the so-called Christian civilization. In the light of present experience, therefore, the time has certainly come for such fear and timidity to be destroyed, and the weapon to do it with is the promulgation of practical business education and training.

(b) It provides for practical instruction by Government experts right on the land on which the people live and in which they are interested.

There is no greater method of rehabilitating a race than that of furnishing its people, through Government experts, that practical business education, training, and experience which will enable them to meet the immediate needs of their lives themselves. Such education and training being imparted and attained and tested right on the fields where the needs of the everyday life lie, is, without question, most stimulating in every way. In other words, the knowledge imparted and the experience gained by the direct and practical application of that knowledge in the very things in which the people are interested will be helpfully constructive to them. Knowledge of agriculture as well as that of stock raising will then be the product of actual experience in the endeavor to meet the needs of life instead of it being largely theoretical as is the case with many students of agriculture to-day.

Then, with such financial assistance and such definite and practical educational training thus provided, and with the Christian influence already gained by the people, the conquest of the evils just mentioned and so often referred to by others will be the logical outcome. For the out-of-door life and the agricultural life are health producing in every way. Experience has proven this in the life of all nations. But such a condition of living is going to mean more than health producing. It is going to mean the creation of a physical constitution that will effectively destroy the diseases of civilization and then revive what was once a strong and stalwart race. It is going to mean the increase in number of the Hawaiian people, for the out-of-door life and the agricultural life are poten-

tial factors in the propagation of mankind. The verdict of experience verifies this statement.

Again, it is going to mean the preservation of a peace-loving and tender-hearted people who, by the training this bill provides, will be industrious and prosperous American citizens and taxpayers. For, in the experience of the great nations of the world, agriculturists and those living an out-of-door life have been the backbone of their national existence. They have furnished not only the food but the health and the vigor of their national life. Then, again, it is going to mean the increase of truly loyal American citizens in Hawaii. I believe that of all the peoples represented in the islands there are no more loyal American citizens than the Hawaiians. Why? Because it is in their training to honor and respect those in authority and because they truly love Hawaii. And, together with this, it is going to mean the preservation of that most important influence in the life of the cosmopolitan population such as we have in Hawaii to-day, namely, peace, which naturally comes from a naturally peace-loving people. I believe there is no other center in the world where peaceful and helpful adjustment of all races is so clearly demonstrated as Hawaii. And I do believe that one of the strongest factors entering into such favorable adjustment has been the peaceful life of the Hawaiian people.

To my judgment, this factor of peace in our national life should be encouraged, for in the light of our Christian principles its worth is, without question, far superior to the material wealth which the whole world is now fighting over. And I am sure that all of us agree that the protection of a race of people in whose life peace is a most natural thing is most imperative at this time. No better producers of love and peace than a loving and peaceful people.

Then, lastly, the measure is going to be the means of preserving those things that are natural to the Hawaiian life and which are of great value educationally, socially, interracially, and ethically. The different peoples represented in Hawaii have brought with them from their homelands the things that are dear to them. Some of these things are good and some are not. Hawaii, therefore, must preserve and promote the best things with which its life is constituted. And, of all the people of Hawaii, the proper agency to do this work should be the natives, who understand the very nature of the spirit which should be in the islands. This being so, the bill should receive the hearty support of the lawmaking body of the Congress of the United States.

Lastly, the bill provides for the securing of water where water might be needed, and that the Government is to assist in such a project.

The value of such a provision is clear, and it needs no further comment than the statement of the fact that this is one of the most encouraging features of the bill from the standpoint of the Hawaiians; and it is among the most important reasons why the "Ahaui Puuhonua o na Hawaii" has sent me here to urge the passage of the bill. To the Hawaiians this provision is most helpful and most encouraging in every way.

So much in the way of setting forth the circumstances under which the idea of the bill originated and the reasons why the Hawaiians

are urging its passage in its present form. A little more time, if I may be permitted, might be employed in answering some of the objections raised by the opponents of the bill who have preceded me.

The claim has been made that the Hawaiians are rich, and are not poor, and, therefore, they do not need rehabilitating.

Let me say that rich Hawaiians are few in number, and the wealth which they have inherited and are possessing is not shared by all the Hawaiians.

Again, many of these wealthy Hawaiians themselves need rehabilitating.

Another claim has been made that the Hawaiians have failed in homesteading. Why grant them a scheme like this?

Does past failure argue against further trial in the future? Have not the nations of the world been benefited by past failures? Are they not progressing because of the rigid lesson of past failures? Expert farmers from the mainland have come to Hawaii to farm and they have failed. They have already left Hawaii. But, have they been stopped from further attempts at farming because they have failed in the past? No. Not by any means. Then, why discourage the Hawaiians from making another attempt?

Bear in mind also that the Hawaiians have been fighting against disadvantages of all kinds. The nature of their life, and their mode of living in Hawaii, were entirely their own when the missionaries came. They were entirely different from the conditions of life of the other nations of the world, which conditions have been imposed upon them by the present civilization. The standard of living to-day is the product of centuries and centuries of experience of the other races. By the pressure of the economic condition to-day, as caused by that standard of living, the Hawaiians have been and are being compelled to measure up to the rigid requirements of that standard. Pedagogically, scientifically, and morally, is it just, and is it fair to expect this people to thoroughly master, and to be able to effectively acquire something which has taken the other races centuries and centuries to shape, and which they themselves have not been able to master completely? Remember, that all through the 100 years of the so-called Christian civilization in Hawaii no adequate preparation in the way of practical business education was given to the Hawaiians in order to prepare themselves against the complex problems of that civilization. The missionaries came to Hawaii with a special and only purpose of propagating the gospel.

They did their work well and in a most wonderful manner, and I acknowledge the Hawaiians' indebtedness to them for the benefit of God's kingdom which they received and have enjoyed to this day. But the business world, a small part of which is doing a lot of "kicking" against the bill now, did not send any missionaries to christianize the Hawaiians industrially, and to prepare them against the intricate ways of their business life. When the Hawaiians were christianized it came and helped itself with the benefits which the faithful efforts of God's people created. In a business way, the Hawaiians had to work out their own salvation, and to get along the best they could. Naturally, therefore, they encountered many failures. But, up to the present moment, some gains have been made industrially; and, the interest caused by such gains has inspired

the creation of this bill now before us. The success of the Hawaiians on the land in spite of the disadvantages they have been confronting, I can point out to you on nearly all of the islands of the group. If necessary I can cite instances.

Another claim has been made that the Hawaiians should fight out their own battle, like the other races, and they should not be allowed Government aid.

I do not deny that this is true in so far as a very limited number of Hawaiians are concerned—the wealthy and the well-to-do Hawaiians. But, as for the rest of the Hawaiians, especially the pure Hawaiians, such aid is imperatively necessary. If the business people of America—those who are considered competent in every way—find it imperatively necessary to seek for Federal aid to abolish or to restrict immigration because of the bitter competition with the Orientals, especially the Japanese, why, in the name of common sense, do the opponents of this bill think that the Hawaiians, who possess but very limited business ability, should not have the same right to appeal to the Federal Government for aid in their struggle? If, as has been claimed, this step of the Hawaiians is un-American, how is it Americanized in the case just cited? How is the same appeal Americanized in the case of the Indians; the soldiers returning from France; the help extended to the Allies and suffering Europe, the Philippine Islands, and Cuba? Are not the Hawaiians real American citizens, and as such, do they not deserve America's material assistance, especially when they have accepted her desire, through the missionaries, to renounce their natural way of living and to live up to her ways for which she, in the past, did not make adequate preparation for them?

Other statements have been made that Hawaiians can not be rehabilitated; that the people who will not help themselves can not be helped by others.

These assertions are absurd in the light of reason and experience. That the Hawaiians can be rehabilitated is already proven in Hawaii. Through careful supervision and patient leadership of the Mormon missionaries, the Hawaiians in Laie Settlement have become prosperous and are increasing in number. Through practical experience and enduring patience and hard work many who have taken homesteads in Kauai, Oahu, Maui, and Hawaii have already attained some degree of financial success. The families of these people, many of whom I have visited, have already shown signs of progress. If necessary, I shall be more than glad to show to the opponents of the bill the cases I am referring to.

The Maoris, who are of the Hawaiian stock, and whose problems are identically the same as those of the Hawaiian people, have prospered and have greatly increased in number because of the rehabilitation scheme. It is totally absurd, therefore, to assert that the Hawaiians can not be rehabilitated.

That the people who will not help themselves can not be helped by others is equally absurd, foolish, and nonsensical.

The opponents of the bill have pointed out that the part Hawaiians are increasing in number; that they are verile and aggressive. This is true, and true because the Hawaiians have always endeavored to help themselves and to take advantage of whatever benefits of our

present civilization that have come within their reach. My being here is an evidence of the Hawaiians endeavoring to help themselves. If, then, this is a requirement for being helped, then let me ask the opponents of the bill to withdraw their statements and help the Hawaiians by supporting this bill.

I have already pointed out that we are not seeking charity aid from the Government. We are only asking for the long-delayed opportunity to train and to help ourselves. The opponents know very well that there is no evidence of the Hawaiians willfully refusing to help themselves. There may have been isolated cases, perhaps, but these were only exceptions and should not be held against the entire race. The fact is that the sudden impact of civilization, ignorance, and business unpreparedness have been the hindrances in the way of the Hawaiians. The bill before us does not ask others to help us. The land involved is our own, by moral equity, and the money with which to finance this project comes from the rental of this land. We do not even get the tax that is paid by the people of Hawaii. It is really surprising, under such conditions, that Mr. Robertson, who himself is married to a Hawaiian girl, who has always been closely identified with the Hawaiians, and I am sure has been greatly benefited by the good will of the Hawaiians, and who is representing a Hawaiian child, should rise up and strenuously oppose a measure designed for the salvation of the race with which he has been living all these years, because he is paid to represent the interest of one Hawaiian child, as against the need of about 38,000 or more Hawaiians.

And, another claim is that the bill is not the wish of the people of Hawaii; that the business community and the newspapers of Hawaii are opposed to it.

Arguments are hardly necessary here. The Legislature of Hawaii represents the people of Hawaii. The Legislature of Hawaii passed the resolution which gave the basis of the bill. At the last and special session of that legislature, it passed another resolution supporting the bill as it stands now without amendment, and in addition, Prince Kulaniana'ole, our delegate to Congress, who made the rehabilitation bill the biggest issue in the last election campaign, has been returned to Washington as delegate by an overwhelming majority. Do not these actions represent the will of the people of Hawaii? The claim that newspapers represent Hawaii is absurd. They represent only a few white men and not the entire population of the Islands. Of course, there are quite a few who are opposed to the bill. This is perfectly natural because, should this bill pass, it will, to a certain extent, affect some of their landholding.

There are other claims which have been made by the opponents of the bill; but, since I have already consumed much time, and since the Prince wishes to speak, therefore I must come to a close.

Again let me express to you my hearty thanks and my warm appreciation for this privilege of speaking on this occasion.

If there are any questions the members of this committee wish to ask in connection with my work, I would be very glad to answer.

The CHAIRMAN. We are very glad to have heard you. Let me ask you a question. Do you think there is a real desire on the part of any number of the native Hawaiians to take advantage of the benefits of this act?

Mr. AKANA. Yes, sir.

The CHAIRMAN. You think that they really desire an opportunity now to take up homesteads and become farmers?

Mr. AKANA. Yes, sir.

The CHAIRMAN. Do you think the effort over there has been rather to educate the Hawaiian for the next life than for this one?

Mr. AKANA. Yes; and may I say further that if our leaders of the past, especially those having business experience, had foresight enough to see the danger of increased immigration, and that adequate practical business training had been given to the natives of the islands at that time, I believe the islands, through its own people, would have been able to solve their own labor problem. Having failed to make such preparation, therefore, Hawaii has frequently been facing much handicap, and the strike by the Japanese only a short time ago is an illustration of this fact. And so long as Hawaii depends solely on immigration for her labor so long will her labor problem continue. I have always contended that Hawaii's people themselves should aim to meet their local problems and that we should have no more immigrants in the islands than we are able to assimilate. This stand, I believe, is a safe one. Now, under the rehabilitation bill the Hawaiians will be able to create out of their own number labor not only for themselves, but for the Territory. How? By training themselves to work and by meeting in a practical way the everyday problems of their life on the field as well as in connection with the activities of other nationalities who are living with them in Hawaii.

The Rapid Transit Co. of Honolulu might be cited as an illustration. I believe that the company finds it most economical and convenient to its business to have employees who live and make their homes in Honolulu, and consequently are interested in the progress of the Rapid Transit's business in Honolulu. This explains why the company has employed a large number of Hawaiian boys. The Ahahui Punhonua saw this advantage and prompted the company to employ Hawaiian boys of ability. These boys are doing well.

Mr. ROBERTSON. Would you let me ask you a question there?

Mr. AKANA. Yes.

Mr. ROBERTSON. Is it a fact that the Hawaiian Rapid Transit Co. employs a large majority of Hawaiian labor to-day?

Mr. AKANA. A large majority.

Mr. ROBERTSON. A large majority of Hawaiian labor?

Mr. AKANA. This is because of the inconvenience experienced in employing transient labor—those whose interest is elsewhere and not in Honolulu.

The CHAIRMAN. Let me ask you a question, which does not particularly appertain to the subject matter of this bill, but I am asking it just for general information: I notice here in the population statistics which are made a part of the hearing before the House committee—these are the 1919 figures—"Hawaiians, 22,000; part Hawaiians, 16,600; Japanese, 110,000," or just exactly five times the number of pure-blood Hawaiians. The question I want to ask is to what is to be attributed the coming to Hawaii of this great number of Japanese?

Mr. AKANA. The labor demand on our plantations.

The CHAIRMAN. That is it; is it to supply the demand for common labor?

Mr. AKANA. Common labor. These immigrants have come in as cheap labor. But our men—and perhaps we all shared in the same shortcoming at that time—did not foresee that in the future these people were going to have the upper hand, because we were furnishing them a system of free education, and, at the same time, we were setting before them, by example, the highest standards of education in our community; and when these people got educated up to that standard of living they began to apply the costly ways of our living. In time, demands for higher pay came to meet the expense of modern ways, and, in time, they brought up and caused big strikes. Now, who were the strike breakers in that strike? A great many were the Hawaiians. When the appeal for plantation help was made I myself went to many homes where Hawaiians lived and persuaded many of them to go to the plantations. I may say that disastrous as that strike may have been to our plantations and to the Japanese, from a Hawaiian standpoint it was almost providential. Why? Because the strenuous out-of-door life removed many bodily ailments and in their stead good health was restored. According to the observation made by our special worker, families who were being helped by charity got well and in addition were having sufficient food and clothing and savings accounts besides.

Senator PITTMAN. Is there cane land that you would like to have for the benefit of the Hawaiians?

Mr. AKANA. Any cane land?

Senator PITTMAN. Yes.

Mr. AKANA. Why, yes; there is.

Senator PITTMAN. Does this bill take in any cane land?

Mr. AKANA. No.

Senator PITTMAN. Do you not want some measure that will take in some cane land?

Mr. AKANA. Well, perhaps, in the future.

Senator PITTMAN. Why not now?

Mr. AKANA. Because the lands asked for at present are sufficient to begin with. And, again, there is the financial assistance that we get from the 30 per cent of the rentals of those lands leased to the sugar plantations, which we can not afford to lose, because there is no other source from which money might be had to finance this project.

Senator PITTMAN. You are asking for \$3,000 for each homesteader to assist them in making remunerative this hill land or grazing land. What would that \$3,000 per homestead do toward making this cane land remunerative for the Hawaiian?

Mr. AKANA. That \$3,000 would certainly help in making the cane land of certain areas remunerative, especially when the land is already planted with cane and is productive. But it would be impossible to homestead the cane land without injuring the source from which our financial assistance comes.

Senator PITTMAN. You mean to say there is no other taxable property in Hawaii except that which is leased to these men?

Mr. AKANA. Yes. There is no other source that we can get any money from to help us in this project except from the 30 per cent of the rentals of the leased cane lands.



Senator PITTMAN. You propose, do you not, for the United States Government to furnish you \$1,000,000? Is that it?

Mr. AKANA. Not the United States Government. We propose to use the 30 per cent of the rentals of the leased cane lands.

Senator PITTMAN. Well, wait a minute. I want to know where you are going to get this \$3,000 per homestead?

Mr. AKANA. From the 30 per cent of the rental of the leased cane lands.

Senator PITTMAN. But you start out with the \$1,000,000. Do you not have any starting point? Where do you get the \$1,000,000?

Mr. KALANIANAOLE. I do not know whether Mr. Akana understands the bill or not.

Senator PITTMAN. Well, if he does not understand the bill I will not go into it any further. What I am getting at is this: That at the present time there is a lot of this fine, highly cultivated land which is leased to corporations, is there not?

Mr. KALANIANAOLE. Yes.

Senator PITTMAN. And a very few acres of that would support a Hawaiian family, would it not?

Mr. AKANA. That depends on the quality of the soil, and the area of the land. What do you mean by "few acres"?

Senator PITTMAN. It was planted years ago, was it not?

Mr. AKANA. Just a minute. You mentioned "few acres." I do not know just how many acres you included in the word "few."

Senator PITTMAN. A very much less quantity than of that grazing land.

Mr. AKANA. How many?

Senator PITTMAN. I do not know, but—

Mr. AKANA. I would say that 15 or 20 acres of land covered with sugar will certainly support a family; and yet that again depends on the fertility of the soil, the size of the family, the price of sugar, and the arrangement with the mill.

Senator PITTMAN. I am only asking these questions because I have in mind to help Hawaiians. I have always had it in mind. But I do not want to take from them the most valuable land they have, not by anything that I do not think is good as an excuse.

How many acres of this cane land is leased to these corporations?

Mr. KALANIANAOLE. About 34,000 acres in the territory. These are the highly cultivated cane land.

Senator PITTMAN. About 34,000 acres. At 20 acres to the individual family that would support 15,000 families, would it not?

Mr. KALANIANAOLE. But the Hawaiians do not want the cane lands.

Senator PITTMAN. I will ask you later on.

Mr. KALANIANAOLE. All right.

Senator PITTMAN. I will take great pleasure in asking you some questions later.

Now, let me ask you this question? You take any Hawaiian family that you want to rehabilitate or rejuvenate. Would you not have an easier time starting that family off on 20 acres of land that is now in cane, producing cane, than you would to start him off on a hillside where there might be drought six months of the year?

Mr. AKANA. Yes.

Senator PITTMAN. Would it not be an easier proposition?

Mr. AKANA. Yes.

Senator PITTMAN. I understand in this hearing here that the objection was that some of you have no mill; that not having any mill, he could not market his crop.

Mr. AKANA. Yes.

Senator PITTMAN. Would it not be a whole lot more practicable business proposition to appropriate this million dollars to make mills than it would be to appropriate a million dollars to bring water to irrigate the land that is questionable?

Mr. AKANA. Well, without these cane lands being leased to the plantations, the million dollars would not be raised; the mills would not be built; the Hawaiians going on the land would be without funds, and much money is needed for sugar raising as well as the raising of stock, pineapples, etc.

Senator PITTMAN. But can you imagine anything that pays any more than the sugar does down there?

Mr. AKANA. I think that cattle raising has immense possibilities.

Senator PITTMAN. I do not doubt that.

Mr. AKANA. And pineapple raising.

Senator PITTMAN. Which would you rather for your people to have, the 35,000 acres now in cane, that they could get, or all the hillsides in Hawaii?

Mr. AKANA. I would not want them to have all the hillsides, and at the same time and under the present condition I think it would not be advisable for them to get all the 30,000 acres of cane lands, for the simple reason that, if they did, then there would not be any source of income by which they could develop their particular industries. And at the same time I do not know of anybody who would profitably run a mill—who has had experience enough to run a mill. Again, sugar producing is not the only industry that the Hawaiians are interested in; there are others.

Senator PITTMAN. Do you not think you can find enough intelligent Hawaiians who are interested in the race of Hawaiian people, like you are, with your intelligence, to run a sugar mill?

Mr. AKANA. Well, perhaps, in time.

Senator PITTMAN. In time?

Mr. AKANA. I believe that in time we will be able to have them, but not at present.

Senator PITTMAN. You could not find enough Hawaiians of one thirty-second Hawaiian blood down there to operate a sugar mill there?

Mr. AKANA. Not at present.

Senator PITTMAN. I see. You think, however, you could find enough of them to put in an irrigating system on those high lands?

Mr. AKANA. We have enough experienced men along that line to carry out a project of that sort to the lands where water might be needed.

Senator PITTMAN. You think it is simpler to put in an irrigation project on high or barren land than it is to put a sugar mill in?

Mr. AKANA. It is easier, of course, to put up a mill. But you must bear in mind that a mill requires experienced workers; these we haven't got at present. At least, I do not know of any. Then, a mill needs plenty of cane and an established market. Should we

take all the cane lands without establishing a working foundation at the start, where are we going to get the money to work with?

Senator PITTMAN. Well, I will leave that. Let me ask you another question: That 35,000 acres of land is the portion of land that is leased, as I understand it?

Mr. AKANA. Yes. To the sugar plantations.

Senator PITTMAN. They own a lot of land besides what is leased to them?

Mr. AKANA. Yes.

Senator PITTMAN. Consequently there would be some taxes come in from that, to help pay the expenses of the government?

Mr. AKANA. Yes. Let me go back to the former statement which you made. Do you mean to say that they have lots of lands outside of the leased lands?

Senator PITTMAN. Yes; sugar lands?

Mr. AKANA. Yes.

Senator PITTMAN. They have bought that land in fee?

Mr. AKANA. Yes.

Senator PITTMAN. Of course, that land we are not talking about. We are talking about the leased lands.

Now, under the present homestead law, this leased land—this cane land—as the leases expire, becomes subject to the present homestead law. This bill repeals that old homestead law, and the passage of this act places that cane land absolutely beyond anything except lease. does it not?

Mr. AKANA. It does not repeal our present homestead law.

Senator PITTMAN. What becomes of it?

Mr. AKANA. It is subject to homestead.

Senator PITTMAN. As I read this act, it repeals that act.

Mr. KALANIANA'OLE. It does not repeal our present homestead law.

Senator PITTMAN. That is something we will have to look up. The reason this act was referred to this committee was because a lot of these leases were going to expire, and the homestead act would take effect on them immediately unless this act was passed.

Mr. KALANIANA'OLE. That is correct, Senator.

Senator PITTMAN. That is the reason of it. As to the legal effect of it, that is a matter for us to look up.

Mr. KALANIANA'OLE. It does not affect the present homestead law. It leaves it as it is.

Senator PITTMAN. You said that the leased cane land would be eliminated from the operation of the present law. The present existing homestead law, then, will not have any effect whatever after this law is passed?

Mr. KALANIANA'OLE. It will have the same effect as now. If this law passes any citizen can apply for any of these highly cultivated lands.

Mr. PITTMAN. It can be homesteaded after 15 years.

Mr. KALANIANA'OLE. They are subject to homesteading now, and after the passage of this bill a corporation, in order to secure a lease on any of these lands, would have to first secure the consent of two-thirds of the land board and the governor, and such lease would not contain the withdrawal clause.

Senator PITTMAN. Very well; I am glad you brought that up. What does the Mr. Cook do who, you testified, wanted this bill passed?

Mr. AKANA. He is the president of the Bank of Hawaii.

Mr. ROBERTSON. He is the president of the Bank of Hawaii and one of our big sugar men.

Senator PITTMAN. Is he one of the big sugar men there?

Mr. AKANA. Yes.

Senator PITTMAN. And one of those interested in cane land?

Mr. AKANA. Yes.

Senator PITTMAN. And he is willing for this bill to pass?

Mr. AKANA. He said to me on the ship on my way over that if the Hawaiians desire to rehabilitate on that basis he would be perfectly willing that it pass.

Senator PITTMAN. Now, Mr. Shingle; is he interested in any cane lands?

Mr. AKANA. Yes.

Mr. ROBERTSON. Absolutely. He is another of our big sugar men.

Senator PITTMAN. Mr. Shingle is also interested in this bill, is he not?

Mr. AKANA. Yes.

Senator PITTMAN. Do you know of any man who has cane land that is opposed to this bill?

Mr. AKANA. Mr. Baldwin, one of the biggest sugar men in the Territory, is opposed to it.

Senator PITTMAN. I have not seen anybody testify here that is opposed to this bill who is interested in cane land.

The CHAIRMAN. Do you know of any of the fellows interested in big ranches who are in favor of it?

Senator PITTMAN. My theory about the proposition is this, that there is no reason why some of these poor people down there should not be interested in both classes of lands, in those big ranches on top of the hills and those great big ranches in the cane valleys. I am simply bringing this out to see that one of them does not play it against the other, and I think it is a very pertinent question to find out why these cane lands there, the leases of which are expiring, should not be split up.

Mr. KALANIANAOLE. Would you like to have that answered?

Senator PITTMAN. Yes.

Mr. KALANIANAOLE. Instead of the Territory losing all of these lands, as possible under the present law or to prohibit the same from being homesteaded, as was favored at first by the House committee, it was provided to leave to our own people the right to say as to what percentage should be homesteaded and what percentage should be leased. This was done in deference to the principle of home rule, as the Territorial administration is in a better position to know what percentage should be leased to derive the necessary revenue which is badly needed to meet the current expenses of the Territory.

Senator PITTMAN. Now, if I was a Hawaiian, you understand, I would not want you to come to me and say that you were going to lease to somebody else land worth \$3,000 an acre so that they could pay a tax of 5 per cent on that, and that the money from that tax was to be used to buy me some other land that was not worth 6 bits an acre.

As a matter of fact, that leased cane land is in such a state of high cultivation that it takes care of itself for any homesteader that gets it—that it takes care of any overhead charges, cane mill, or anything else. You could issue bonds against that 35,000 acres of sugar land, and you would not have to ask the United States Government for one cent.

Mr. KALANIANA'OLE. That is what we are trying to do to-day so that we will not have to ask the United States Government for one cent. But, if these lands are given away, where are we to get the finances for the needs of the Territory besides providing money for the rehabilitation of the Hawaiians?

Senator PITTMAN. The reason you do not give your own people this fine land is because you want to give it to somebody else so that they will give a part of the proceeds of that fine land to your own people.

Mr. KALANIANA'OLE. The leases of these cane lands are soon running out, and it is a question of what is the best policy for the Territory to pursue. It is not fair to ask that these lands be given to the Hawaiians, when we know that the Territory is very much in need of revenues, and, furthermore, the successful farming of these lands call for the expenditure of a considerable sum of money per acre, and for constant industry and diligence in the care and cultivation of the crops. It would take about \$25,000 to \$30,000 to develop 40 acres of cane land, and where is the Hawaiian going to get that money from?

Senator PITTMAN. Do you mean after it is growing?

Mr. KALANIANA'OLE. Yes; after it is growing, besides, where are you going to get your labor to help to keep it up?

Senator PITTMAN. I want to state that it does not cost that much in Louisiana.

Mr. KALANIANA'OLE. No; it costs more to raise cane in Hawaii than in any other country that I know of.

Senator PITTMAN. You do not have to replant your cane there?

Mr. KALANIANA'OLE. Perhaps not on this 3,000 acres of Kekaha which has been mentioned, but on the other lands you have to replant.

Senator PITTMAN. You do not have to replant it at all?

Mr. KALANIANA'OLE. Oh, yes; after the ratoons have ceased to yield; besides you have to fertilize it and otherwise keep it up.

Senator PITTMAN. And you have to cut it.

Mr. KALANIANA'OLE. Yes. No Hawaiian can raise cane without a capital of \$25,000 to \$30,000.

Senator PITTMAN. Could he handle 20 acres of cane land?

Mr. KALANIANA'OLE. Yes.

Senator PITTMAN. How about the homesteaders at Kapaa?

Mr. KALANIANA'OLE. The plantations there did all the financing for the homesteaders. There was not a homesteader to my knowledge who went there and developed his land and paid for it out of his own pocket. You might as well homestead Coney Island as to talk about homesteading those highly developed cane lands.

Senator PITTMAN. If you are only giving portions of Coney Island to the owners of it, why not do it?

Mr. KALANIANA'OLE. According to the statements made before the Committee on Territories of the House, by the Hawaiian legislative

commission, it was stated that the Japanese have been coming into possession of government lands. Under the present law, upon the application of 25 persons, citizens, or those who have declared their intention to become citizens, the land commissioner is compelled to open up the tract applied for, for homesteading purposes. The commissioner of public lands, upon receiving the required number of applicants, advertises that the tract is to be opened, whereupon any citizen can file his application for a homestead. The natural result is that there are many more applicants than there are homesteads. A great many Japanese, who are citizens by virtue of their birth, and citizens of Japan by virtue of their parentage, make application for homesteads. In a recent drawing held in the Territory when homestead lands were opened it was cut into 261 lots. For those lots there were 2,905 applicants, and 25 per cent of the successful applicants were Asiatics, who maintain dual citizenship. These Japanese after being allotted their land place their parents on the land and all the profits from the land go to aliens.

In order to avoid this the legislative commission, in its appearance before the committee of the House, urged upon that committee the necessity of amending the organic act, as recommended by the Territorial legislature, whereby the governor and land commissioner be given the right and authority to select from among the applicants those who in their opinion are bona fide homesteaders and to reject those who were endeavoring to get these lands for the purpose of speculation and those who would not be real citizen homesteaders. The principal purpose of this amendment was to keep these Asiatics of dual citizenship from taking homesteads, but this amendment, although strongly urged by the commission, was rejected by the committee of the House as being un-American.

There is a very limited amount of highly cultivated land left in the Territory. It is the strong desire of the Territorial administration and of the people, as expressed through the legislature, to so handle the remaining portion of the highly cultivated lands as to be productive of the greatest good to the greatest number of the citizens of the Territory.

The present system of allotting these lands is certainly not in accord with the desire of the Territorial administration and of the people in administering these lands as to be productive of the greatest good to the greatest number of the citizens of the Territory. Now, if these lands are leased, as provided in this bill, the Territory would derive an enormous income, and every citizen of the Territory would be benefited, as under this procedure it would not be necessary to increase the taxes to meet the expenses of the Territory.

Senator PITTMAN. Under the homestead law it says this:

I have computed, under the law before it was amended, a list of the homesteaders by nationalities, by area, and by value per acre of those who were successful homesteaders from the passage of the land act in 1895 to this amendment in 1910, and my figures are as follows: Hawaiians number 1,024, 28,858 acres, average value per acre \$4.78; Portuguese 514, acres 18,098, average value \$8.67; Americans 450, acres 26,618, average value per acre \$9.19; others number 242, acreage 15,830, average value per acre \$6.29.

Now, it seems to me from that that no Asiatic got the best of it under that homestead law.

Mr. KALANIANAOLE. You will find that few or perhaps none of those who took homesteads after 1895 are on the homesteads to-day, and almost all of these homesteads have fallen into the hands of corporations and aliens.

Senator PITTMAN (continuing reading):

Since 1910 to June 30, 1919, homesteads have been taken by the nationalities as follows:

Race.	1911	1912	1913	1914	1915	1916	1917	1918
Hawaiian.....	132	212	150	93	90	57	89	106
American.....	16	76	45	61	21	4	8	19
Portuguese.....	17	121	72	47	37	20	24	99
Japanese.....		25	16					

Mr. KALANIANAOLE. The records show that the Japanese are now taking up homesteads.

Mr. ROBERTSON. Very few Japanese have taken up homesteads.

Mr. KALANIANAOLE. It is only lately that the Japanese have taken up homesteads and come into possession of Government land. As I said before, they make their applications, and if successful in securing a lot, instead of cultivating it themselves they place their parents on the land and all of the profits go to aliens. They are not bona fide homesteaders. And that is the danger we are now facing—the fact that these lands will get into the hands of aliens and speculators.

Senator PITTMAN. Suppose we could put in this bill a provision allowing such a homestead as you have on the upper land, and so limiting it that it could not get into the hands of aliens.

Mr. KALANIANAOLE. Aliens can not buy Government land. They can not take title to it, but their children who maintain a dual citizenship can take title to Government land.

Senator PITTMAN. I say if there is any danger of these cane lands getting into the hands of aliens, I would be in favor of stopping it; but what I am getting at is this: In the framing of this bill, I want, if possible, to assist in the working out of some provision by which some land of known value is going to get into the hands of Hawaiians.

Mr. KALANIANAOLE. Under our present conditions, we can not homestead these grazing lands or develop the second-class agricultural lands unless we get the Government to back the people up. But cultivation of those lands is needed; and why is not the opportunity given to the people to develop these holdings that are held by these individuals, like the Parker estate for one? Why should other citizens be withheld from raising stock and developing some of those lands into highly cultivated lands?

Senator PITTMAN. I am saying that they should not. I had left that part of the bill. What I am getting at is this: Why limit it to poor lands?

Mr. KALANIANAOLE. They are not poor lands. If the ranchers can make good on them I see no reason why the smaller fellow can not do the same, if given proper encouragement.

Senator PITTMAN. Do you not think that these corporations that have rented these sugar lands from the Government all these years have made a sufficient profit out of them for all the expense they have been to in fixing them up into fine lands?

Mr. KALANIANAOLE. Oh, I guess they have.

Senator PITTMAN. Then there is nothing morally wrong in taking that land away from them now, is there?

Mr. KALANIANAOLE. It would be morally wrong so far as the Territorial government is concerned, if you take those 34,000 acres of cane land and homestead those lands the Government would get nothing. The Government is not getting much from these highly cultivated lands now. For instance, take the Kekaha plantation of 3,000 acres. To-day they are offering the Government \$5,000,000 to buy 3,000 acres.

Senator PITTMAN. That shows how much they have made out of it.

Mr. KALANIANAOLE. Yes; just think of the rental that would come to the Government. They have already offered \$500,000 a year to the Government as rental for these lands. The governor says that for those lands he can get rentals up to \$700,000, where we are only getting \$1,000 now. Now, that is going to come to the Territory. That is going to help the Territory. But if you cut those lands up into homesteads the Territory would not get it. The speculators will go on these highly cultivated lands, under the provisions of the present law, and get possession of and title to those lands, and then turn around and sell them to the man who has the money.

Senator PITTMAN. You can prevent that, can you not?

Mr. KALANIANAOLE. How can you prevent a man from selling his land?

Senator PITTMAN. You can provide for a 99-year lease.

Mr. KALANIANAOLE. You mean to Hawaiians?

Senator PITTMAN. Yes.

Mr. KALANIANAOLE. I do not believe it just to give these lands to Hawaiians and ignore other citizens.

Senator PITTMAN. I understand; but you are just saying if we would give them to the Hawaiians they would soon get to be speculators and into the hands of the corporations.

Mr. KALANIANAOLE. The Hawaiians can not raise sugar cane unless they have money, as I said before. We want to diversify our industries. You will never develop Hawaii into a large American community unless you settle these people on the lands.

Senator PITTMAN. There is one thing I can not understand. If this land is so absolutely remunerative the Government could fix a rental dealing with the homesteader on it. Instead of leasing to big corporations they could lease it to—

Mr. KALANIANAOLE. You mean lease it to small holders?

Senator PITTMAN. Yes.

Mr. KALANIANAOLE. That might work out; 20 or 30 acres to small holders.

Senator PITTMAN. Would not that be a good thing?

Mr. KALANIANAOLE. I could not say that it would, but that sounds reasonable on the face of it.

Mr. ROBERTSON. They could afford to pay just as big rent as the corporations.

Senator PITTMAN. Even if they did not, it seems to me it would serve a good purpose.

Mr. ROBERTSON. No doubt about that.

Mr. KALANIANAOLE. Oh, that may be.



Senator PITTMAN. It would serve to give an interest in life to these people.

Mr. PITTMAN. You are familiar with the character of the Raymond lands, as referred to in this bill?

Mr. KALANIANAOLE. Yes.

Mr. PITTMAN. Are they fit for cultivation under the provisions of this bill?

Mr. KALANIANAOLE. Not for farm purposes. They can only be utilized for raising cattle.

Mr. PITTMAN. And then on a large scale only?

Mr. KALANIANAOLE. Yes; I suppose so.

Mr. PITTMAN. Do you think anyone with \$3,000 on the Raymond land could make a success of it?

Mr. KALANIANAOLE. Not one Hawaiian. If Raymond could do it on 20,000 acres, I see no reason why 20 Hawaiians could not.

Mr. PITTMAN. If any one Hawaiian dropped out and became discouraged it would become a failure, would it not?

Mr. KALANIANAOLE. No. He would fail, but his place could be filled by another.

Mr. PITTMAN. You would not have put those Raymond lands in the bill if you had drawn it yourself, would you?

Mr. KALANIANAOLE. The commission wanted it to go in.

Mr. PITTMAN. But you do not think it should have gone in at all, do you?

Mr. KALANIANAOLE. I do not think those lands are the best. I think some other lands should have gone in.

Mr. PITTMAN. You do not think that the Raymond lands should have gone in now, do you?

Mr. KALANIANAOLE. I could not say that.

Mr. PITTMAN. You know that they are not fit for agriculture?

Mr. KALANIANAOLE. Not for agriculture, but for raising cattle, yes.

Mr. PITTMAN. On a large scale?

Mr. KALANIANAOLE. Ten or twenty Hawaiians could go in there and make a success in raising cattle.

Mr. PITTMAN. But one Hawaiian could not go in there?

Mr. KALANIANAOLE. No; one Hawaiian could not go in there and make a success with \$3,000.

Mr. PITTMAN. Is it not true that one portion would be dry in one season and then he would have to drive the cattle over into another portion?

Mr. KALANIANAOLE. I do not know anything about that. That is a statement made by Mr. Robertson.

Senator PITTMAN. Did you ever raise any cattle?

Mr. KALANIANAOLE. Yes; in a way.

Senator PITTMAN. I was just interested in the ease with which you raise cattle; that is all. You think that raising cane that is already growing is a hard job, but raising cattle is easy.

Senator NUGENT. I understood you to say a while ago that this Japanese labor was imported into Hawaii by the sugar planters principally for the reason that it was cheap labor; is that correct?

Mr. AKANA. Yes, sir.

Senator NUGENT. You also stated that a strike had occurred among these Japanese on the sugar plantations. About how many Japanese participated in that strike?

Mr. AKANA. I do not know the number exactly, but there were several thousand.

Mr. PITTMAN. Six thousand?

Mr. AKANA. I understand about 6,000.

Senator NUGENT. I understood you to say also that the place of these strikers was taken by the Hawaiians?

Mr. AKANA. There were others, and several Hawaiians went in as strike breakers.

Senator NUGENT. What wages were these Japanese receiving before the strike was declared, per day, on the average?

Mr. AKANA. I think it was 70 cents per day.

Senator NUGENT. What hours were they obliged to work—do you know?

Mr. AKANA. Fourteen hours, I think.

Senator NUGENT. Did the Hawaiians and others who took their places work, or rather, were these Hawaiians and others who took their places obliged to work the same hours at the same wage?

Mr. AKANA. No.

Senator NUGENT. After that strike was settled, were the Hawaiians and others who took the places of the Japanese retained by these sugar companies?

Mr. AKANA. Many of them were released.

Senator NUGENT. They were released?

Mr. AKANA. Yes.

Senator NUGENT. And the Japanese were reemployed?

Mr. AKANA. Yes.

Senator NUGENT. The striking Japanese were reemployed?

Mr. AKANA. Yes.

Senator NUGENT. At the same wage, or higher?

Mr. AKANA. About the same wage. I can not tell you exactly.

Senator NUGENT. That is, 70 cents per day for 12 hours' work?

Mr. AKANA. Yes.

Mr. ROBERTSON. There is one point I would like to mention in connection with that. Seventy cents a day was the basic wage. They got as high as 400 per cent bonus in addition to the 70 cents a day. They got an enormous bonus, based on the price of sugar.

Senator NUGENT. Oh, I see.

Mr. ROBERTSON. And these strike breakers received pay in proportion to what the Japanese would have received, that basic rate plus the bonus, during the period they were employed; and when the strike was over all the strike breakers who desired to continue in the employ of the plantations were continued. Those who were released were those who preferred to be released.

Senator NUGENT. Were these strike breakers who desired to remain in the employment of the companies retained?

Mr. ROBERTSON. Yes, sir.

Senator NUGENT. I understand now. Thank you.

Mr. AKANA. About that bonus—was there not a device by which the bonus was offered after they had done a certain number of days' work?

Mr. ROBERTSON. They had a rather elaborate scheme of figuring this bonus. In order to be entitled to the bonus a man must have worked 20 days in the month; and when he had worked 20 days in the month he would have a bonus based on the market price of sugar during that month or during the year.

Senator JONES of Washington. Is there any intermarriage between the Japanese and the Hawaiians?

Mr. AKANA. Hardly. There are very few cases. There does not seem to be any tendency along that line.

Senator JONES of Washington. Is there intermarriage between the Japanese and whites?

Mr. AKANA. No; I do not think there is any.

Senator JONES of Washington. The Japanese stay to themselves?

Mr. AKANA. Yes.

Senator JONES of Washington. They live to themselves?

Mr. AKANA. They are very exclusive in their social life, and apparently that is one of the reasons why it has been very difficult to assimilate them.

The CHAIRMAN. Has anybody any further questions to ask? Prince, did you care to make any further statement with reference to this bill?

Mr. KALANIANA'OLE. Yes; I would like to answer some of the statements.

The CHAIRMAN. The hour is rather late, and I would suggest, if nobody has any further questions to ask of this witness, that you proceed, then.

Mr. AKANA. I thank you very much.

#### **STATEMENT OF HON. J. KUHIO KALANIANA'OLE, DELEGATE IN CONGRESS FROM THE TERRITORY OF HAWAII.**

Mr. KALANIANA'OLE. Mr. Chairman and gentlemen of the committee, the basis of this bill is a series of concurrent resolutions passed by the Legislature of the Territory of Hawaii during the session of 1919, proposing various amendments to the organic act of the Territory.

At that session of the legislature of the Territory, also by concurrent resolution, the governor was authorized to appoint a legislative commission of the Territory to come to Washington to assist the Territorial Delegate to Congress in the presentation of measures formulated in pursuance of the recommendations contained in the resolutions passed by the legislature.

The legislative commission was composed of the governor, the attorney general of the Territory, two senators, and two representatives from the Legislature of Hawaii.

The legislative commission offered at the hearings held before the Committee on Territories of the House in February of this year their views as to the necessity for the passage by Congress of measures along the lines indicated in the resolutions.

The most important of the propositions discussed related to what is known as the rehabilitation of the Hawaiian race.

The legislative commission expressed itself as unanimously in favor of legislation upon this subject, and subsequently the bill now under

consideration by your committee was considered thoroughly by the committee of the House over a period of nearly four months, after which it was reported unanimously and later passed by the House of Representatives.

The Hon. Franklin K. Lane, at the time Secretary of the Interior, appeared before the committee of the House and urged the passage of legislation seeking to rehabilitate the Hawaiian people. In the course of his testimony he stated:

The project that you are undertaking and that you are considering should not be done in the nature of a largesse or as a grant to those people. It should be done as a matter of justice—belated justice; and I think you will find those people extremely appreciative of it. They went into the Army. They all speak English. They have had the compulsory school system there for over half a century. They are thoroughly good Americans. They are loyal to the Government of the United States in every way. They can be relied upon in time of trouble, and I do not know of any body of men with whom I would rather trust myself or trust property interests with than them, and they are a small minority in the country.

And later, when asked as to the constitutionality of the proposed legislation, he stated:

Well, I have not thought that there was any serious difficulty—a constitutional difficulty—or question. I would to-day vote on a proposition of that kind without any question of doubt in my mind.

I think we have got a situation there that can be distinguished from any other situation. We have got the right to set aside these lands for this particular body of people, because I think the history of the islands will justify that before any tribunal in the world.

I suppose he refers to the division of the lands as mentioned by Mr. Robertson this morning. In the first constitution of Hawaii, promulgated by the King in 1840, it was there said that the common people had a community right, that they had an equal interest in the lands of the Kingdom with the chiefs and the King. In the law of 1845 it was again recognized by the board of royal commissioners that the common people had a one-third interest in the lands of the Kingdom, and in the division of those lands the King and chiefs were given their share.

But so far as the common people were concerned, they did not divide up the lands and say to the common people, "These are your lands," as they did with the King and chiefs. No; they said to the common people, "Now, if you have any right in the lands of the Kingdom, come and make your claim before the board of royal commissioners, and you are allowed two years to do it in, and if you do not make your claim in two years' time you will be barred forever from making any further claim to the lands of the Kingdom." The common people never knew the real value of the lands. All they knew of the value of the lands was in the cultivation of same for their food.

As far as knowing the value of the land was concerned, they were ignorant of their rights. The Hawaiians who had been brought up under a feudal system, where they had absolutely no right in the lands, had had none for generations, were simply forced to fall in with any chief that would take them in in order to be provided with food. And that system continued up to the time of Kamehameha III, when the division was made, and the people who had been brought up under the impression that they had no right and no interest what-

ever, excepting what the chiefs and the King gave them. When the new law came into effect, you can readily understand why the Hawaiians did not take advantage of that which the law recognized as theirs.

Those who made a claim to lands got the title. There were only three original and vested rights in the lands of the Kingdom, and these three rights represented the King, the chiefs, and the common people. But, lo and behold, when the division was made, 980,000 acres were turned over to the Crown, 28,000 acres were given to the common people—and it was not given to them; they had to make claim for it within a specified time.

Senator NUGENT. One moment there, Prince, if you please. The contention has been raised here that the 28,000 acres that went to the common people of Hawaii in that division represented by far the most valuable portion of all of those lands.

Mr. KALANIANA'OLE. I do not see how they can make that statement hold. It is only an opinion. The most valuable lands to-day are the sugar lands, and the natives never got any of that land.

Senator NUGENT. Where did the sugar lands go in the division?

Mr. KALANIANA'OLE. These lands, I suppose, could not be said to be worth as much as they are to-day, because sugar cane was developed later on; still, they were valuable for producing taro and other food products. From the number of acres given the common people one can readily see that they had very little of this character of land.

Senator NUGENT. The fact has been adverted to that those were extremely valuable lands. To whom did they go in this division, to the crown, the Government, or the chiefs?

Mr. KALANIANA'OLE. The Crown, the Government, and the chiefs.

Senator NUGENT. None of those lands went to the so-called common people, to your knowledge?

Mr. KALANIANA'OLE. So far as I know, in the division the common people, out of 3,000 families, received only 28,000 acres. Some got one-eighth of an acre and some one-quarter of an acre, and so on.

Senator NUGENT. Were the lands distributed to the common people at that time, the lands that were then believed to be the most valuable?

Mr. KALANIANA'OLE. I would not say that. They did not give this land to them, as they did with the King and chiefs. The officials did not consult them as they did with the King and chiefs, and say "Mr. Hawaiian, here is your land." The Hawaiian had to go before the board of royal commissioners and first establish his claim before he would be entitled to a patent to the land.

Mr. ROBERTSON. The chiefs had to do the same thing.

Mr. KALANIANA'OLE. Before the division of the lands were made the consent first of the King and the chiefs had to be obtained, although the common people were recognized by law as owning a third interest, still they were not consulted, being ignored altogether as to the disposition of the lands of the Kingdom.

Senator NUGENT. Then there were definite parts of this land given both to the chiefs, the crown, and the King?

Mr. KALANIANA'OLE. Yes.

Mr. Wise stated that the Hawaiians did not get their one-third of the land in the distribution, and the Hawaiians were led to believe

that that 900,000 acres that was turned over to the crown was to be held by the crown in trust for the common people.

Senator JONES of Washington. I got the impression from a hasty reading of this brief, compiled by those opposing the bill, that the 28,000 acres that were gotten by the Hawaiian people were considered of even greater value than the larger tracts of land. Is that true or not?

Mr. KALANIANA'OLE. I do not think anybody could say that.

Senator JONES of Washington. What were the conditions of this 28,000 acres of land that the Hawaiians got?

Mr. KALANIANA'OLE. I do not know; I suppose taro lands.

Senator JONES of Washington. That they were lands especially valuable for raising taro?

Mr. KALANIANA'OLE. Yes; only taro.

Senator JONES of Washington. From which they got their food?

Mr. KALANIANA'OLE. Yes.

Mr. ROBERTSON. The taro lands are in the valleys.

Mr. KALANIANA'OLE. But they are not the only valuable lands. They were at that date only valuable in raising taro.

Senator JONES of Washington. Yes; but they are not now?

Mr. KALANIANA'OLE. They are very valuable now for the raising of taro, rice, and sugar cane. The Hawaiians could do better on other lands for food. The best lands are lands on the slopes of the mountains. Not only the best taro is grown there, but one can also raise hogs, chickens, bananas, potatoes, and other food products, which could not be done on the lands mentioned by Mr. Robertson.

From the report numbered 839 of the House of Representatives you will note that the Hawaiian race is fast becoming a minority element among the races of the islands.

At the time of the discovery of the islands by Capt. James Cook, an English navigator, in 1778, he described them as the Friendly Islands, and spoke of the people as highly civilized; classed them as the most industrious, and labeled them, as few would object to be labeled, as being stalwart, manly, upright, straightforward, fearless, candid, and open-minded. He estimated the population at about 300,000. Fifty years later, when the first census was taken, in the year 1832, it disclosed the number to have decreased to 130,313, and by the recent census they have further dwindled down to 20,000 Hawaiians and 16,000 part Hawaiians.

Many causes have been assigned for the decline in the population, but the principal cause was the coming of the new civilization. The Hawaiians for generations have been an agricultural and seafaring people. With the coming of the foreigner conditions gradually changed, the lands were used in large tracts, and cheap labor had to be used to cultivate them successfully. With the cheap labor came competition in the trades until the Hawaiians were crowded out and forced into the tenements of the cities and towns, becoming susceptible to all of the modern diseases which accompany civilization. If conditions remain as they are to-day it will only be a matter of a short space of time when this race of people, my people, renowned for their physique, their courage, their sense of justice, their straightforwardness, and their hospitality, will be a matter of history.

It is for this reason that a legislative commission of the Territory of Hawaii was sent here to assist me in seeking legislation on behalf

of my people, and that is why I am soliciting the favorable support of this legislation by the United States Congress.

To retard this great decrease of my people, it is provided in this bill that certain lands be set apart for the use of the Hawaiians in order to insure their rehabilitation, that these lands can not be alienated, and that those who take tracts be financed in order that their holdings may be made profitable and in order to insure the proper working of the same.

The lands set apart for the use of the Hawaiians are not highly cultivated sugar lands, but the second-class agricultural and grazing lands, which by proper development, with financial assistance from the Government, could be made to sustain a great many people instead of being held under lease, as at present by a few of the great and wealthy trust estates of the Territory for the purpose of grazing, at rentals which are negligible and from which the Territory derives little, if any, income.

I might say right here that the Parker ranch is paying 11 cents an acre as rental. I know there are some fine pieces of land there. If conditions are such that those lands can be developed in the raising of corn and potatoes and other farm products or stock raising, it would be of great advantage to the people of the Territory. As it is to-day, we have to import almost all our food products that we use into the Territory.

SENATOR NUGENT. What did you say those lands were rented for?

MR. KALANIANA'OLE. About 11 cents an acre.

MR. ROBERTSON. That includes mountain tops and lava flows and everything else?

MR. KALANIANA'OLE. Oh, yes; but the mountain tops are the best grazing lands. We all know that.

THE CHAIRMAN. Eleven cents an acre a year, that is?

MR. KALANIANA'OLE. Yes. These lands are to be placed under the control of a commission composed of five members—the governor of Hawaii and four members to be appointed by him, two of whom, at least, must be native Hawaiians.

In order to provide the necessary funds for the carrying out of the project, the bill provides for the creation of a revolving fund, whose main source of receipts is 30 per cent of the rentals obtained from the leasing of the highly cultivated cane lands and from water licenses.

Under this bill, if the highly cultivated sugar lands were leased to the highest bidder, the Territory will get a large income, from which 30 per cent will go to the rehabilitation and the balance will go to the running of the Territorial government, which will mean \$400,000 to \$750,000 more than we are getting now; but if you homestead these highly cultivated cane lands the Territory will lose every bit of this income. I have always been a firm believer in homesteading, but I believe in honest and sincere homesteading. I do not believe, and I do not think you believe, in homesteading lands worth \$1,000 an acre. You would not call that homesteading. And these are the lands that the speculators are after now.

There are about 800,000 acres left to be homesteaded after we have taken these 200,000 acres of Government land for the Hawaiians.

From the statement made by Judge Robertson you would be led

to believe that in taking these 200,000 acres we are taking all there is. We do not.

Mr. ROBERTSON. What is the rest of it good for?

Mr. KALANIANAOLE. It is good for the same purposes that we have taken this for.

Mr. ROBERTSON. Oh, no.

Mr. KALANIANAOLE. Well, you take, for instance, the balance of the lands leased to Parker ranch, Puuoo ranch, Hind's ranch, Puako ranch, Makua and other lands; they are as good as the lands we are taking for the purpose of this bill.

In the 500,000 acres of the Parker ranch the cattle roam from one range to another. I believe that under this bill the homesteader can raise more cattle to the acre than Parker ranch can.

Senator NUGENT. How many cattle have they?

Mr. ROBERTSON. Thirty thousand.

Senator NUGENT. And how many horses?

Mr. WALLER. About 3,000, and 20,000 head of sheep. I would like to know if the prince knows that during the drought they have not had sufficient water to keep their cattle from dying?

Mr. KALANIANAOLE. So far as that is concerned, the only ranch I know of that suffered from drought is the Hind ranch. He takes his cattle over to your range when that happens.

Mr. ROBERTSON. They have been suffering in the last two months on the Parker range for lack of water.

Mr. KALANIANAOLE. I never heard of it. I suppose those conditions are bound to arise.

Mr. ROBERTSON. That is the fact.

Mr. WALLER. Did you know Mr. Mason lost several thousand head of cattle?

Mr. KALANIANAOLE. Yes; and I know that he made several hundred thousand dollars regardless of the loss.

Mr. ROBERTSON. Do you not know that the Parker ranch is the most up to date on the islands and has been the leader in efficient ranching.

Mr. KALANIANAOLE. I admit that, but that is no reason why under this bill the Hawaiians with the advice of experts could not do just as well if not better. Take the land of Nienie, the Hawaiians can make good on that land, both in agriculture and in stock raising.

Mr. ROBERTSON. Under the act of 1895 was not a portion of the Parker ranch given to homesteaders at that time?

Mr. KALANIANAOLE. At that time.

Mr. ROBERTSON. Do you not know that in Puncapu there is not a homesteader that is earning his own living?

Mr. KALANIANAOLE. Homesteading has been a failure all through the islands, and you know the reason why.

Mr. ROBERTSON. Because they were trying to make agricultural land out of grazing land.

Mr. KALANIANAOLE. No; that is not it.

Mr. ROBERTSON. That is the reason the Puncapu homesteads have been a failure to-day.

Mr. KALANIANAOLE. There are hundreds of others that never made a success of homesteading. Why? Because the conditions were not the same as prescribed in this bill. If the people of the Territory had had a land law similar to this, with the Government to back



them when they went onto the land, I say that they would have made a success of it. Under the terms of this bill, if the experts thought that you could not make agricultural land out of grazing land, they would, no doubt, cut these lands up for purposes of stock raising, and under our present law a homesteader of pastoral land is only allowed 80 acres, but if this bill passes a homesteader will be allowed up to 1,000 acres. The only reason why homesteaders, as they claim, have succeeded was because of the high price of sugar; but when sugar goes down no small man can continue to raise cane. It takes a big corporation to do it.

It is provided in this bill that, with the consent of two-thirds of the land board of the Territory and the governor, these lands may be re-leased for 15 years by the Territory—that is, if two-thirds of the land board and the governor consent to the leasing of these cane lands to the highest bidder, then, they are taken away from the homesteaders; but, if the same land board homesteads all these lands, the Hawaiians have nothing at all. We are depending upon the receipts of these lands, if they are re-leased, to help the Hawaiians to go on the land.

Mr. RIVENBURGH. Does not this bill provide for 35 per cent of all the leases and water rights?

Mr. KALANIANAOLE. No.

Mr. RIVENBURGH. I mean of all cane land leases and water licenses?

Mr. KALANIANAOLE. Yes; 30 per cent.

Mr. RIVENBURGH. Not this particular piece running out here?

Mr. KALANIANAOLE. No. The board can take that 34,000 acres and say "All right; we will take out say, 10,000 acres and homestead it;" the balance can be leased to the highest bidder without a withdrawal clause. If these lands are leased to a plantation under the present law, and are notified that these lands are to be opened up for homesteads, you can not get sufficient rental for these lands; but if the corporations are sure that they can lease these lands for 15 years without a withdrawal clause the Territory is going to be benefited by it, because they will receive bigger rentals.

Mr. ROBERTSON. You admit that if those cane lands were cut up into 30 or 40 acre homesteads, and the leases were put up at auction, there would be just as much rental come in as from one corporation?

Mr. KALANIANAOLE. I reckon so.

Mr. ROBERTSON. Do you not think that that is better?

Mr. KALANIANAOLE. Yes.

Mr. ROBERTSON. It would tend to bring more small farmers on the land?

Mr. KALANIANAOLE. I believe it would. But if these lands were going to be cut up for homesteading, you know as well as I do that these lands are going into the hands of speculators. If we were sure that these lands were going to American citizens for making a home for them, we would all be in favor of it.

Mr. ROBERTSON. There is no difficulty if these lands are cut up, and instead of being put in the hands of one corporation, the provisions of the lease could be such as to prevent them from getting into the hands of speculators.

Mr. KALANIANAOLE. That may be so. Now, Mr. Robertson represents the Parker ranch. He represents one Hawaiian child. But

from the statement he has been making he is trying to lead you to believe that he is representing the white people. In Hawaii we do not know of such a thing as the white people. All we know is, we are all Americans. My belief is that the majority of the so-called white people are back of this bill. Mr. Robertson made the statement that the last legislature was controlled by the Hawaiians.

It is not a question of the Hawaiians or the white people; it is a question of what is the best policy for the Territory to pursue to save these lands and put them to the best advantage and into the hands of American citizens for the next 15 years. In 15 years' time our condition might be different. It might be such that these lands can then be cut up and homesteaded by real American citizens.

The real issue in the last campaign, and Mr. Robertson and these gentlemen know it, was the rehabilitation bill. That was the only issue. The newspapers were filled with letters, Mr. Robertson, day in and day out, in favor of this bill and in opposition to it.

Mr. ROBERTSON. The newspapers were all against it, as shown by my printed brief.

Mr. KALANIANA'OLE. Yes; and the Democrats were against it and made it an issue. There was no other issue, and I got the biggest majority in my history.

Mr. PITTMAN. Did not the local Democratic platform advocate the homesteading of highly cultivated lands?

Mr. KALANIANA'OLE. Yes.

Mr. PITTMAN. Is that in keeping with this bill?

Mr. KALANIANA'OLE. No.

Mr. PITTMAN. Does it not provide that the highly cultivated lands shall be put up at auction to the highest bidder for a period of 15 years?

Mr. KALANIANA'OLE. No. If any corporation applies for the leasing of any of those lands and two-thirds of the land board consent, they can be leased for 15 years without a withdrawal clause.

Mr. PITTMAN. Then you could not—

Mr. KALANIANA'OLE. The discretionary power is given to the land board and the governor as to the percentage to be leased and to be homesteaded.

Mr. PITTMAN. Do you not believe if this bill is passed that they will be leased to the highest bidders, and then the plantations that hold them will get them?

Mr. KALANIANA'OLE. If we have a good land board and a governor like Gov. McCarthy they will do the right thing; they will homestead some and lease some.

Mr. PITTMAN. Has not Gov. McCarthy, through the papers and otherwise, stated that he did not believe that homesteading was a success in the Territory?

Mr. KALANIANA'OLE. Yes; I believe he stated something to that effect under our present land laws.

Mr. PITTMAN. Do you think that a governor who does not believe that homesteading is a success is going to turn the lands over to homesteaders?

Mr. KALANIANA'OLE. If he had thought that he would not have homesteaded that \$3,000,000 tract of land in Waiakoa.

Mr. PITTMAN. If you are still in favor of homesteading, as you have been ever since I have been in the Islands, the strongest sup-

porter I know of among the officials, why do you not advocate at this time that these highly cultivated lands, the leases of which expire in a short time, be leased to individuals at a higher rental than is paid by the corporations?

Mr. KALANIANAOLE. That is all right as far as it goes.

Mr. PITTMAN. Will you advocate that?

Mr. KALANIANAOLE. I went before the people for two or three months in my campaign; I called upon the people and asked if they desired to make any amendment to this bill. After a six months' stay in Hawaii, not one concrete amendment or proposition was offered.

Mr. ROBERTSON. Did you ever discuss this with Mr. Carter?

Mr. KALANIANAOLE. No. He knew it from my speeches all through the islands. He could have come to my campaign meeting right in his own home and heard my views.

Mr. PITTMAN. Can we not homestead these lands that you expect to take up under this homestead act, under our present law?

Mr. KALANIANAOLE. I amended our homestead laws in 1910 so that they are now subject to homesteading.

Mr. PITTMAN. Yes.

Mr. KALANIANAOLE. All those lands that have been opened have been homesteaded under this law.

Mr. PITTMAN. They can be homesteaded now?

Mr. KALANIANAOLE. They can.

Mr. PITTMAN. All right.

Mr. KALANIANAOLE. Do you suppose that small people without means can homestead those lands?

Mr. PITTMAN. Is not the reason they are not homesteaded that they realize they are not capable of being homesteaded? Is not that the reason?

Mr. KALANIANAOLE. I would not say that. But I do know this, that they tried American homesteaders, supposed to be those who knew about homesteading, and how to get on the land and develop it. Are they any of them there now?

Mr. RIVENBURGH. Who developed and made a success of farming and the raising of pineapples at Wahiawa?

Mr. KALANIANAOLE. I suppose the Americans started it. But can you tell me any original American homesteader who is there to-day on those lands?

Mr. PITTMAN. Mrs. Collins has made a success of homesteading in Maui.

Mr. KALANIANAOLE. She is a wonder; but the original American homesteaders who started Wahiawa have all gone away. The islands are still there.

The CHAIRMAN. We are consuming a lot of time here. I do not want to cut out anything short, but we are spending a lot of time on this.

Mr. McCLELLAN. In reference to a statement made in the Republican national platform, I will ask you if it is not a fact that you placed that there at the request of the national committeeman from Hawaii?

Mr. KALANIANAOLE. No. The District of Columbia, the Philippines, and Alaska urged the national committeemen in Chicago to

have a provision inserted in the national platform for their benefit, and they were refused. Senator Wise, in his appearance before that committee, made his statement and Hawaii was allowed to have a plank in the national platform, and the reason we did not have anything in our Territorial platform was because it was out of the hands of the Territory. This bill had already passed the House of Representatives, and in the discussion at the Republican convention it was thought advisable that as it was out of the hands of the Territory nothing should be mentioned of the bill.

Mr. ROBERTSON. Pardon me; there was no such discussion by the convention. I was a member of that convention myself, and the rehabilitation bill was not mentioned.

Mr. KALANIANAOLE. I know it was not, but it was so decided by the powers that be.

Senators JONES of Washington. It seemed to be urged a while ago as an argument against this bill that all the newspapers were against it. Who was interested in the newspapers, and who owned those newspapers?

Mr. KALANIANAOLE. The Advertiser, which is owned by Mr. Thurston and Mr. Castle, I believe. Their opposition to the bill is "that it is unworkable, and that this was class legislation and the \$3,000 was not sufficient, and that the bill will fail." They did not oppose it because these lands were being taken away but because they were poor lands. This newspaper and the citizens in Hawaii generally believed that something should be done for the Hawaiians, but never suggested anything.

Senator JONES of Washington. They did not oppose it, then, on the merits at all?

Mr. KALANIANAOLE. Not on the merits, but simply, as they claim, it was unworkable.

Senator JONES of Washington. Of course, if it is unworkable, we will have to go back to something else.

Mr. ROBERTSON. Not only unworkable, but unjust.

Mr. KALANIANAOLE. I differ from you in that. It may be unjust so far as the Parker ranch is concerned. I know that a good many acres are being taken out of the Parker ranch. What we are taking is about 90,000 acres out of the 500,000 acres of the ranch.

The CHAIRMAN. The decision of the people was contrary to the newspapers?

Mr. KALANIANAOLE. Yes.

Senator NUGENT. I knew of another decision that was made along the same line over here. Mr. Robertson, I dispute the proposition that the people settled this thing. As I said this morning, I voted for the prince notwithstanding his stand on this bill, and hundreds of other white men did the same thing, and he would have been elected anyway. If it had never entered into the campaign, he would have been elected.

Mr. KALANIANAOLE. That may be so, but never with the biggest majority I ever got in my experience. The people knew it. It was the campaign issue. I want to say in answer to my Democratic friend, Mr. Pittman, when he stated that four Democrats were elected from the fifth district, three men were elected because they spoke on this bill; and of the three men who opposed this bill, two were defeated and one was elected just by a scratch majority.

Mr. PITTMAN. How about a senator from Kauai who opposed it?

Mr. KALANIANA'OLE. A Democrat got in from Kauai because he was in favor of this bill. The Republican senator, I was told, was asked if he was in favor of this bill or not. He would not say one way or the other, and he was defeated by the Democrat who came out and supported this bill.

Mr. PITTMAN. That is not what he told me. He told me he fought the rehabilitation bill all the way through.

Mr. KALANIANA'OLE. Mr. Kealoha?

Mr. PITTMAN. Yes.

Mr. KALANIANA'OLE. No. Did you read his statement in the newspapers favoring this bill and his vote in the senate favoring the passage of this bill? This is the first time in the history of Hawaii where the legislature has sent a commission to Washington on matters of legislation.

The CHAIRMAN. Is it not a fact that the present legislature, elected in November, has indorsed this bill?

Mr. KALANIANA'OLE. The present legislature has indorsed this bill, asking Congress to pass it. The governor of the Territory, in his report to the Secretary of the Interior, which reads, "If the act passes the revenues of the Territory would be greatly increased, but if the act fails it will be necessary to increase the local taxes in order to carry on the Territorial government," shows that he is strongly back of the bill. The people are back of this bill, excepting the Parker ranch, and I am not so sure about Dr. Raymond. Dr. Raymond while in Washington told me he was in favor of this bill, with the exception of a few amendments. The Parker ranch is the only interest that I know of outside of the Advertiser that was opposed to it.

Mr. PITTMAN. Dr. Raymond told me he was opposed to the bill.

Mr. KALANIANA'OLE. In the six months that I was home I gave the people the opportunity of telling me what their position was, and not one of them has done it; and this is the first time I knew there was some opposition.

Mr. PITTMAN. Do you know that they held a mass meeting as soon as they heard of this bill?

Mr. KALANIANA'OLE. They held a mass meeting, but not in opposition to this bill.

Mr. PITTMAN. No; but—

Mr. KALANIANA'OLE. But in opposition to the first committee bill, in which there was provision that no cane land should be homesteaded. But that is eliminated in this bill.

The CHAIRMAN. Now, is there anybody else who has anything to say concerning this measure?

Mr. AKANA. Mr. Chairman, may I say one more word?

The CHAIRMAN. Yes.

Mr. AKANA. I would like to make it plain before this committee that if there was anything which the Hawaiians who sent me here were opposed to it was that idea of trying to make this bill a racial issue. The Hawaiian Protective Association opposed this spirit most strenuously. It must be thoroughly understood that the primary motive which actuated us in this movement was not any racial discrimination whatever; it was the earnest desire to meet in a constructive manner the desperate need which we had confronted for a long time

and which we are still facing. Let me remind the opponents of the bill that the Hawaiian race has no race discrimination in its make-up. It welcomed all who came to Hawaii and gave the so-called whites more than an equal opportunity in land possession, in society, and especially in the government and legislature of Hawaii, even to to-day. The record, history, and experience of Hawaii prove this to be true.

Mr. PITTMAN. And I would like it also thoroughly understood that just before I left Honolulu I had a conference with Dr. Raymond, and he is utterly opposed to the passage of the bill, not only on account of his personal interest but on account of the interest of the Territory at large.

The CHAIRMAN. All right; that is understood, and it will go into the record.

Mr. ROBERTSON. Mr. Chairman, I understand there is in the mail and on its way here a statement of his views on this bill by the agricultural expert, Mr. Robert Horner. I would like permission to file it with the committee if it arrives within a few days.

The CHAIRMAN. That permission will be granted. Is that all, gentlemen?

Mr. McCLELLAN. I would like an opportunity to be heard by the committee before you get through.

The CHAIRMAN. All right. Mr. McClellan. We want to give all the time necessary, but I suggest that you make it just as concise as you can.

Mr. McCLELLAN. I am glad always if I can deserve the reputation of making a clear statement before a committee; but I must say that this is too large a subject to be treated briefly. The parties supporting the bill have had several days in presenting their case. Up to this time there have been, at the most, three hours consumed by those who oppose it.

The CHAIRMAN. Let me say this right here: Of course, we want you to have opportunity to say everything you want to say concerning this subject. I said what I did merely in the hope that we might be able to conclude the hearing this afternoon, but I have another engagement which I am compelled to keep, and if your statement is going to occupy any considerable time, then it will be absolutely necessary that we have another hearing. Let me ask you this—and it depends, of course, entirely on your answer to it—would it suit you to submit your statement in writing, to be printed in the record along with the others, or would you rather have an oral hearing?

Mr. McCLELLAN. Mr. Chairman, my observation in committee matters is this, that because of absence and continuous pressure on Senators for their time, not 1 Senator in 50 is ever able to read a hearing.

The CHAIRMAN. You notice that the committee has pretty largely disappeared now, because of the length of time that this hearing has taken.

Mr. McCLELLAN. The thing I have in mind, Mr. Chairman, is this: This is the most important bill that has been before Congress since the days of annexation, and it ought not to be acted on either favorably or unfavorably until the members of this committee have actually had it before them.

The CHAIRMAN. You need give yourself no apprehension on that subject. It will not be. But if you desire a further opportunity

you shall, of course, have it. All that I am trying to do is to meet the convenience of the Senators comprising the committee, as well as the witnesses and all. We will have to adjourn, then, for the present, and I will fix another date. You are here in town right along?

Mr. McCLELLAN. I will be able to come here on 24 hours' notice. The CHAIRMAN. The committee will stand adjourned for to-day and I will give notice of any further day.

(A letter submitted by Mr. Robertson is here printed, as follows:)

HAWAIIAN CANNERIES CO. (LTD.),  
Honolulu, Hawaii, November 18, 1920.

HON. MILES POINDEXTER,  
United States Senate, Washington, D. C.

MY DEAR SENATOR: I can not refrain from writing you my views in relation to H. R. 13500, a bill which according to its sponsors is for the purpose of rehabilitating the native Hawaiians. While there is to be found no one in this Territory more in favor of the rehabilitation of the Hawaiians than I, this bill was not conceived for that purpose, but rather for the purpose of rehabilitating a few sugar companies and Hawaiian politicians. If this bill was conceived in honesty of thought and purpose, those behind it would have selected lands better adapted for the purpose than are those named in the bill.

I am quite familiar with all of these lands and I have no hesitancy in stating that they are wholly unsuited for the purpose. These lands have for years been available to the capitalistic element of the Territory but who have passed them by for the very good reason that those parts having fertile soil but no water would require such a large expenditure to bring water to them that compensating returns would not follow. How public officials can so far forget their obligation and duty to their Hawaiian constituents as to try and put through such a measure is beyond my ken.

These lands are classified as follows:

#### ISLAND OF HAWAII.

*Kamaoa-puoco (11,000 acres, Kau).*—This land is located on the wind-swept point known as Ku Lae. For many years for a few months in the winter it has been used for grazing, but during the summer the stock, to save them, must be taken elsewhere. For months on months at a time no rain falls on these lands. There is no water for domestic purposes.

*Puukapu (1,200 acres).*—This tract is located adjacent to lands of like character upon which rehabilitation of the Hawaiians has already been tried along lines similar to those contemplated by the bill and proved a dismal failure. Strange as it may seem, the promoter of the present rehabilitation project is the same person who was the resident director of the former rehabilitation project, Mr. John H. Wise. In his first attempt I believe he was sincere, but in the latter the view is generally held that there is some ulterior purpose.

The first attempt to rehabilitate the Hawaiians, after the lands had been set aside by the Government, was financed to the extent of \$25,000 by the late Mrs. Samuel Allen, a wealthy Hawaiian lady, and, as stated, Mr. John H. Wise was the resident director and was in complete charge. To-day this rehabilitation experiment is only a bitter memory. The settlers are gone while the few fences and old stumps remaining are but sad and lonely monuments to a mistaken policy.

Of all of the lands mentioned in the bill, Puukapu lands are in my opinion better adapted for the purpose of rehabilitation than any of the others.

*Kawaha I (10,000 acres).*—This land for the most part is similar in every respect to the Kamaoa-Puoco lands in Kau except that there is less soil covering the rocks and is entirely unsuited for the purpose named.

*Puuhi (750 acres).*—Same as above.

*Kumoku-Kapulenu-Nienuie (12,350 acres).*—Part of these lands are third-class agricultural lands and the balance second-class grazing. No permanent water supply for domestic purposes within many miles. Water for domestic purposes might be piped to these lands from the Kohala Mountain, some miles distant.

*Humuula (53,000 acres, Humuula Mauka).*—This land lies above the 6,000-foot contour line and takes in about one-half of Mauna Kea, the highest moun-

tahu in the Territory, and then crosses over the valley between this and Mauna Loa, the second highest mountain, and to the top of the latter. This tract is almost entirely lava waste with no agricultural lands within its boundaries. It is fourth-class grazing lands only. There is no water supply for animals or for humans, nor is it possible to bring water onto it, the only source of supply being from roofs and this is very unsatisfactory as well as unreliable. It would take 4,000 acres to graze 50 head of cattle.

*Pihonua (2,000 acres).*—This is second-class agricultural lands and has an annual rainfall of about 250 inches. Because of this heavy rainfall only by constant and unremitting labor can the crops be saved from the luxuriant weed growth. This tract is better suited to the plodding oriental than the indolent Hawaiian.

*Kaohi-Makuu (2,000 acres).*—These lands are very rocky, in fact almost solid lava, although the soil when any can be found is fertile. In relation to the ocean it is well located. For fishing it is splendidly situated and fish caught off this coast are famous.

#### ISLAND OF MAUI.

*Kahikiini (25,000 acres).*—This is a steep rocky tract and is third-class grazing land only when held in large tracts so the stock can be moved from place to place during the frequent dry spells from which it suffers. A large portion of this tract can be grazed during only a few months each year and it could not be used at all for grazing purposes without other land to carry the stock a part of each year.

*Kula (6,000 acres).*—A part is second-class agricultural land, but owing to climatic conditions a crop may be expected but one year out of three.

#### ISLAND OF MOLOKAI.

*Palaau (11,500 acres).*—Is a beautifully lying, fertile tract of land, which with water for irrigation would produce abundant crops. Without water it is very poor and undesirable grazing lands. It is estimated that to bring the privately owned water now going to waste on the mountainous part of this island to this land would cost over \$2,000,000, in addition to the sum that would have to be paid for the water itself. This excludes it from consideration for rehabilitation purposes.

*Kupaakea (2,000 acres); Kamitoloa I and II (3,600 acres); Makakupuia (2,200 acres).*—These lands are located on a very steep part of the mountain. On the lower levels there is a good growth of the algeroba tree, which is an asset. For agricultural purposes this tract is worthless.

*Kalamaula (6,000 acres).*—Lower half is in the same category as Palaau. Upper half, second-class agricultural lands. Corn, perhaps pineapples, might be grown with some success.

#### ISLAND OF OAHU.

*Nanakuli (3,000 acres) and Lualualei (2,000 acres).*—These lands are rough, rocky, and dry. Ruins occur only during southerly weather. Except for their proximity to the sea and fishing rights which may go with them, they have no value in connection with the rehabilitation scheme.

*Waianalo (4,000 acres).*—Second-class agricultural or cane land. With sufficient water for irrigation purposes, which can only be obtained from private sources, might be put in the first class.

#### ISLAND OF KAUAI.

*Upper lands of Waimea (15,000 acres).*—These lands are rough, rocky, and very dry. No chance to grow crops of any kind. Would produce crops if irrigated. To bring water onto them would cost over \$1,000,000. Are third-class grazing lands at present, and without fattening lands would be valueless for grazing purposes.

*Moloaa (2,500 acres).*—No agricultural or grazing lands within the Government-owned portion of the Moloaa lands.

*Anahola and Kamalomalo (5,000 acres).*—These lands are second-class agricultural. All, to produce a crop, must be irrigated. Large part now planted to cane and is irrigated.



I notice on page 2 of the bill, section 203, a provision as follows:

"All public lands of the description and acreage as follows, excluding (a) all lands within any forest reservation; (b) all cultivated sugar-cane lands; and (c) all public lands held under a certificate of occupation, homestead lease, right of purchase lease, or special homestead agreement, are hereby designated and hereafter referred to as 'available.'"

You will note that all "cultivated sugar-cane lands" are excluded from "available lands," thereby eliminating both Waimanalo and Anaholu-Kamalo, the only really desirable lands mentioned in the bill, thus confining the lands available for the rehabilitation project to those upon which it is not possible for the Hawaiian or anyone else to make good. In short, it gives the plantations all arable and the Hawaiians all arid lands.

I have discussed this bill with very many citizens of the Territory from all walks of life and including a large number of native Hawaiians, and with all except a few who expect to profit politically thereby, the absolute failure of the project should the bill become law is a foregone conclusion.

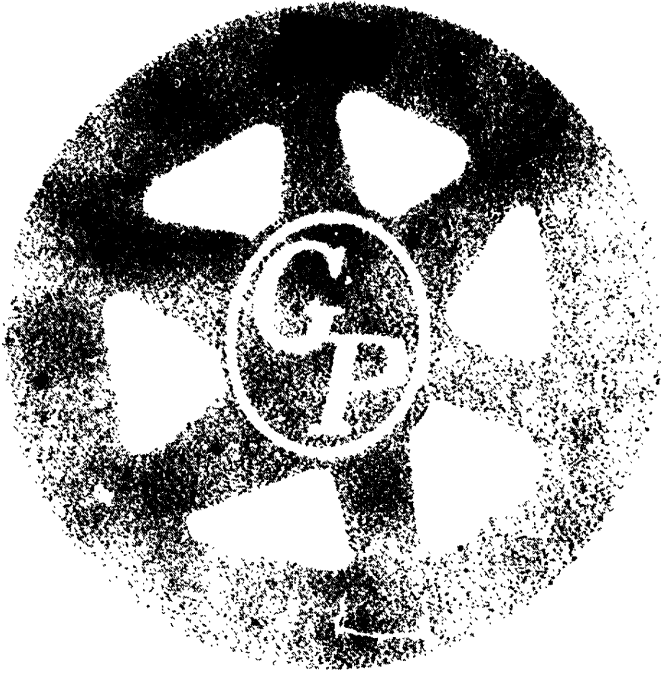
That portion of the bill dealing with amendments to the Hawaiian organic act is worthy of support, but the portions dealing with the Hawaiian Homes Commission or rehabilitation project should by all means be stricken out.

Most sincerely, yours,

A. HORNER.

P. S.—I am inclosing an editorial comment on the rehabilitation bill taken from the Pacific Commercial Advertiser of recent date. Each comment is well taken, and I commend them to you for further information—the origin of the bill and what may be expected from it if it should become law.

(Thereupon, at 4.30 o'clock p. m., the committee adjourned, to meet at the call of the chairman.)



# HAWAIIAN HOMES COMMISSION ACT, 1920.

THURSDAY, DECEMBER 23, 1920.

UNITED STATES SENATE,  
COMMITTEE ON THE TERRITORIES,  
*Washington, D. C.*

The committee met pursuant to call at 10.30 a. m., in room 347, Senate Office Building, Senator Harry S. New presiding.

Present: Senators New (chairman), McLean, Jones of Washington, Hale, Smoot, Nugent, and Chamberlain.

The CHAIRMAN. Now, Mr. McClellan wants to be heard this morning. This meeting has been called really to hear him. Will you proceed, Mr. McClellan?

## STATEMENT OF MR. GEORGE M. McCLELLAN.

Mr. McCLELLAN. For the purposes of the record, I will say that for more than 10 years I have represented in Washington the Chamber of Commerce of Honolulu. On June 1, last, I resigned that position, to take effect at the expiration of my engagement, on December 1 of this year.

In the hearing and consideration of this bill I represent no interests whatever, and have been retained by no one interested in the financial aspect of the bill; I speak solely as a resident of Hawaii, who for many years have been closely identified with its public affairs.

I regret, Mr. Chairman, that it was not possible for a quorum of the committee to be present, to really go into the measure, because, as I remarked here in the former hearing, this is the most important measure affecting Hawaii that has been before Congress since annexation.

Unfortunately, when the bill was before the House committee, the citizens who objected to the passage of the bill were not present to be heard. So far as I know, I am the only person who asked to be heard, outside of the members of the commission who were here, and the record of the House hearings will show that I was denied a hearing before the House committee.

The CHAIRMAN. What was the ground on which a hearing was denied you?

Mr. McCLELLAN. Well, I would have to refer you to the chairman of the committee on that. I think the ground that he took at that time was that this commission was here as an official commission and that the House had heard from them a statement of what the people of Hawaii wanted, and did not care to hear what the representative of the chamber of commerce said.

The CHAIRMAN. You were then appearing, as I understand you now, as a representative of the chamber of commerce?

Mr. McCLELLAN. Yes; at that time.

The CHAIRMAN. Of the Chamber of Commerce of Honolulu?

Mr. McCLELLAN. Of Honolulu; yes, sir.

The CHAIRMAN. But you are not appearing in that capacity now?

Mr. McCLELLAN. I am not appearing in that capacity now. I am appearing now as a resident of Hawaii, upon my own responsibility, and not representing any private clients or any special interests at all.

The CHAIRMAN. On your own authority and in your own proper person, to quote a certain distinguished gentleman on another occasion?

Mr. McCLELLAN [laughing]. Yes; Senator.

The CHAIRMAN. Looking at the House hearings, I see that the chairman asked you if you wanted to discuss the bill, to which you replied that you did not want to discuss it. His reply to that was that if you did not want to discuss the bill they did not care to hear you.

Mr. McCLELLAN. I want to have this record bear the fact that I was never given opportunity to correct or revise that record, and it does not represent the colloquy that occurred between the chairman and myself. I wish to state that in the most emphatic terms, that that official record does not conform to all that occurred. I sought to ask for a hearing at some time before the House committee should report the bill, and I was not even permitted to state that request.

The CHAIRMAN. Then, as I understand you now, you are appearing merely to express your view as an individual resident of Hawaii?

Mr. McCLELLAN. Yes.

The CHAIRMAN. Concerning the character of and the consequences of the passage of this act?

Mr. McCLELLAN. Yes; and to show to the committee what the problems are which are involved in any good-faith effort to rehabilitate the Hawaiian race.

The CHAIRMAN. I want to say right here that I am going to make an exception, Mr. McClellan, as chairman of the committee, and hear you; but I can readily see that it was impossible for a committee to open its doors and just permit everybody who appears before it in their individual capacity to express individuals opinions. Now, I am going to make an exception here in your case and permit you to proceed.

Mr. KALANIANAOLE. May I ask you, Mr. McClellan, if you do not mind—

Mr. McCLELLAN. Well, go ahead, sir.

Mr. KALANIANAOLE. What I wanted to ask, for the benefit of the record, is whether you are a citizen of Hawaii?

Mr. McCLELLAN. From 1899 to 1912 my residence was in Hawaii. My only interests during the past three years have been in Hawaii, and I have been working continuously and solely for Hawaii.

Mr. KALANIANAOLE. All right; that is what I wanted to get.

Mr. McCLELLAN. I want to thank the chairman for giving me this opportunity to be heard and to say in that connection that the testimony and statements here of one who is not interested financially, one way or the other, and of one who has had opportunity to be familiar with the public affairs of the Territory, ought to have some value

to the committee in arriving at an unprejudiced decision on what is proper legislation for Hawaii. By that I do not mean to discredit Judge Robertson, who appears as attorney for particular parties, in the slightest degree; but I want to point out that Mr. Wise, who originated this proposition, has commonly been understood in Hawaii to be in line for an official position under it, so that he has not at any time been disinterested; and it is perfectly well known that there are business connections of some others who are interested in pressing this legislation which made them distinctly interested in securing its passage in a very substantial way.

So that the testimony of an individual who is not retained to represent any special interests ought to be of at least equal value to this committee, or any committee of Congress, with that of those who do come here with special interests to represent.

The CHAIRMAN. Well, we have settled that point, and you may proceed.

Mr. McCLELLAN. Mr. Chairman, I have only one main proposition to lay down before this committee, and that is that this committee, or any committee of Congress legislating for Hawaii, ought to proceed on the basis and principle of America first; that any legislation carried out for that Territory or any other ought to have first in view its effect on the United States as a whole, and should at least coordinate that with its effect on the Territory; and I believe that it can be shown that the interests of the United States would be distinctly injured by the passage of this legislation.

Now, so far as friendly attitude toward the Hawaiians is concerned, I want to say, Mr. Chairman, that there is not one person in Hawaii in a hundred who has not a friendly feeling for the Hawaiians. Go through the population and you will find in general a friendly attitude toward the Hawaiians. So that, so far as any question of a friendly attitude is concerned, that is not the issue here. The issue is, What is it possible to do in a practical way for the Hawaiian people?

This measure purports to be an attempt to do a thing which has never been accomplished in the history of the world, viz, to materially reconstruct and reinstate a primitive people who are dying out as a separate people. It never has been achieved; and if Congress expects that they can reverse the whole course of history throughout the centuries they certainly have a large proposition on their hands, and ought to consider the means by which they will bring it about pretty carefully.

I started to say a moment ago—because this is frankly class and race legislation, it becomes necessary to frankly speak of race conditions which are related to the subject in question. It is a matter of fact and of record that the native Hawaiians and part-Hawaiians not only control the electorate in Hawaii, but that they have continuously exercised that control along race lines ever since the Territory was organized. The legislature which has sat within the past two months is composed of 45 members. Of those 45 members, I think only 14 were of Caucasian blood, including the Portuguese members; in other words, more than two-thirds of the membership of the legislature were either native Hawaiians or part-Hawaiians. The electorate has consistently insisted from the time of annexation

that no one but a man of Hawaiian blood should represent them in Congress, and that has been the case throughout.

Hawaii is the only place on earth where a civilization contributed and established by white men submits to the political domination of a race other than white. I do not say that by way of complaint; I state it as a matter of fact, a fact to be reckoned with as to the inception and the support of this bill. It carries no reflection on the Hawaiian race, whom I admire for certain very fine traits. However, it is a statement of fact which I think no man can challenge, that if the Hawaiian race had not controlled the electorate and the Legislature of Hawaii, no such legislation as this would ever have been submitted to Congress, nor would it have come here as it did, somewhat surreptitiously, as the wish, the expression, of the citizenship of Hawaii. A commission came here designated by the Legislature and the governor of Hawaii to present certain legislation for the Territory of Hawaii. It was the general understanding of that commission when they came here that other issues were to be their main work.

When they arrived here it was claimed by the Hawaiian members of that commission that this measure for the rehabilitation of the Hawaiian race had precedence of all the rest, and they succeeded in convincing the commission after some weeks of argument—I think it was more than a month after they arrived before this bill was finally introduced into Congress, because they could not agree on what should be done—they finally convinced the commission that technically, under the order in which certain resolutions were adopted by the legislature, that this resolution had the first call. And so the bill was presented, and it passed through the House with nobody opposing it there openly. It came to the Senate, and nothing that I state here in opposition to the bill should be considered as in any fashion a criticism of this committee for promptly reporting it to the Senate, because, Mr. Chairman, at that time nobody had appeared before your committee to oppose this bill, and there was very earnest pressure put upon you to report the bill, and you finally did so.

But when the opposition was stated, you equally consistently had the bill recommitted for hearing.

The CHAIRMAN. Well, of course you, Mr. McClellan, know, as well as you know anything, that this committee not only wanted to give opportunity for complete hearing of both sides on this bill but that I even went to the extent of writing out of town to bring here witnesses who had expressed a desire to be heard—

Mr. McCLELLAN (interposing). Yes; that is perfectly true.

The CHAIRMAN (continuing). But who had come to Washington and again left Washington without coming near the committee.

Mr. McCLELLAN. That is true, Mr. Chairman.

The CHAIRMAN. You know that I sought by every means in my power not only to give them an opportunity but to compel their presence here; and there was no other side of it presented. I merely seek to make it plain, inasmuch as you said what you did, that this committee has sought, by every means in its power, to insure an opportunity for a full hearing of both sides to the controversy over this bill.

Mr. McCLELLAN. Yes.

Mr. KALANIANA'OLE. That would have been a good chance for Mr. McClellan to have been heard after the House committee had refused him, as he claimed.

The CHAIRMAN. And we are giving it now.

Mr. McCLELLAN. Let it be fully understood that if the 39,000 or 40,000 Hawaiians and part-Hawaiians, forming less than 15 per cent of the population of Hawaii, did not control the legislature, this bill would never have been brought before Congress. I have already referred to the make-up of the present legislature, and I wish to add the statement that in no legislature since the Territory was organized has there been anything other than a minority of Caucasians in the legislature. Each one has been controlled by the Hawaiian and part-Hawaiian members, and I would think that the average has been very nearly two-thirds Hawaiian to one-third Caucasians in the legislature.

Mr. KALANIANA'OLE. Senator, may I ask a question there?

The CHAIRMAN. You may.

Mr. KALANIANA'OLE. I would like to ask Mr. McClellan, who was in control of the senate in the 1919 legislature, and who is in control in the present senate to-day. You said that the Hawaiians controlled it. Do you not know, as a matter of fact, that the whites controlled the senate now; that they have controlled it, both in 1919 and the present session?

Mr. McCLELLAN. The whites have a majority of one vote in the present Territorial senate.

Mr. KALANIANA'OLE. The legislature in the special session that was called passed a resolution again indorsing this bill. The senate was controlled by whites.

Mr. McCLELLAN. The legislature is not controlled by the whites when they have a majority of one in one house; and anyone familiar with the operations of the Hawaiian Legislature knows that in order to secure legislation which is important and necessary for the Territory, it has been necessary in practically every session to make certain concessions to Hawaiian views. Therefore to say, because there was a majority of one vote of white men in the senate, that they controlled the legislature, would be far from stating the situation.

Mr. KALANIANA'OLE. If one body of the legislature is controlled by races other than Hawaiian, how can it be said that the Hawaiians have the control of the legislature?

Mr. McCLELLAN. In regard to the indorsement which has been stated to have been made of this bill by the recent session of the legislature, I am informed that the count of the votes in the house, which was regarded as being 15 in favor and 13 against, is questioned by those who are opposed to the bill.

The CHAIRMAN. I do not want to shut off debate here, but I am anxious to proceed. Let us get down to a discussion of the merits of this bill.

Mr. McCLELLAN. Recognizing this as racial legislation, it would seem to be the duty of Congress to consider it with reference to, first, the welfare of the United States, and second, the welfare of Hawaii as a whole. The arguments to Congress for this bill have been lacking in essential frankness and are misleading in the following respects: First, the claim of a dying race.

The bill as drawn represents a group actually increasing in numbers. Second, the claim of John Wise that King Kamehameha III cheated the Hawaiian people and that Hawaiians have an equitable right to the Crown lands. Third, the claim that this bill represents the real wish of the citizenship of Hawaii as a whole. Fourth, the claim that it will in any effective degree help to sustain the Hawaiian race.

Now, Mr. Chairman, examination of the claim of a dying race shows that, so far as this bill is concerned, that claim is untrue. It is fraudulent, so far as it claims to be a bill to reestablish a dying race, because it is made to apply, as Judge Robertson has shown, to a group who are actually increasing in numbers, viz, the part Hawaiians. The only possible defense of this bill would be to strike out its application to all part Hawaiians and limit it strictly to those of pure Hawaiian blood. And certainly, if this bill is to be reported, such an amendment as that should be made.

I believe that the 1920 census will show that there has been a greater percentage of increase of part Hawaiians in the Territory than there has been in those of pure Caucasian blood.

There are grave reasons why Congress should provide for the rehabilitation of the Caucasian race in Hawaii. This country is deeply interested in the maintaining of a real American community in the Hawaiian Islands. They are interested in that because the maintenance of an American population is absolutely essential to the holding of Hawaii as a strategic military and naval base. Without a population which is reasonably American, it will be impossible to maintain Hawaii as a real American outpost.

I want to point out that the preservation of a small and primitive race group has never been achieved in all history, and that if Congress is to attempt what has been heretofore an impossible task, it should at least first find out what the problem is. In that connection I want to read from Prof. Blackman's work, *The Making of Hawaii*, something of what this problem is as to the decay of the native population. This phenomenon of a decreasing population of a primitive people is not a new phenomenon at all. It is as old as history. Prof. Blackman quotes here from Topinard's *Anthropology*, at page 416, as follows:

In Africa at the present time, where the influence of the European has not yet been felt, there are Negro tribes which are becoming extinct without any apparent reason, without any change in their external condition, and almost without having become reduced in number by war.

Now, as to the native population in Hawaii, it has been said that Cook estimated the population of the islands in 1778 at 400,000. Nobody knows whether that is accurate or not. But it is to be noted that when Vancouver returned there only 14 years later he describes the change which had taken place between his first visit with Cook in 1778 and the year 1792 as amounting to an apparent depopulation, and it must be remembered, Mr. Chairman, that this was entirely before there was any contact with the white race at all. The race was diminishing at an astounding rate before there was any contact with the white race at all. Vancouver says that a certain village had been reduced at least two-thirds of its size in those 14 years. He could not find that any of the chiefs, whom he had known, save one, still lived.



In 1823, which was only two years after the missionaries went there, which was the real beginning of the more extensive contact with the white race, and with civilization, the missionaries estimated the number of natives at 142,000. This, Mr. Chairman, means that up to this period, where the race was really just beginning to come into a broad contact with the white race, there had already been a decrease of five-eighths of the population in a period of only 31 years.

Now, Mr. Chairman, when you face facts of that sort you must see that there are conditions in the race which are very deep, and that the problem of reconstructing a race of that sort is not so simple as setting aside some raw land and handing them out a little money to go out there with the hope that they will become farmers.

Let us examine what some of these reasons are. Blackman recites here repeatedly that one of the fundamental reasons—perhaps the most fundamental—is the very low birth rate among the Hawaiians; not merely that there was a tremendous mortality among the children, as there unquestionably was, but that the birth rate was, and always has been since the time of the first white men in the islands, exceptionally low. He says (p. 211):

It is a striking fact, indeed, that most of the genealogies given by Fornander seem to indicate small families as the early and continuing rule. \* \* \*

In 1838 the Rev. W. P. Alexander computed that only 3,335 births had occurred on the island during the preceding year as against 6,838 deaths. In 1840 Mr. Whitney told Commodore Wilkes that for several years he had kept a register of births and deaths on the island of Kauai, and that the latter were to the former as three to one.

So that you have a fundamental reason why the race is disappearing, a condition which no outside application will meet.

Now, there is a rather striking fact in connection with that. It is well known that in Hawaii the chiefs were of a special class. They were the finest physical specimens of the race. I think that was generally true, was it not, Prince?

They were the feudal lords under the feudal system; they had the wealth; they had an unlimited supply of food and the best of living conditions that could be had; so that the environment for the continuation of their phase of the race was as perfect as their conditions could make it; and yet what are the facts that we find? I read again, from page 213 of Blackman:

About a score of years after the landing of the first missionary families, the contrast in fecundity and viability between them and the natives was pointed out—the missionary families averaging six and five-ninths children each, while 20 chiefs had only 19 children among them.

Here was a class that had the most favorable physical environment, who were the finest physical specimens of the race, and yet 20 of those chiefs had only 19 children. Now, I submit, Mr. Chairman, that the question of the maintenance of that race could not possibly be affected, in that case, by adding any other resources to these men. They had thousands of acres of land at their disposition; they had hundreds and sometimes thousands of retainers to work for them; and yet they were not reproducing and maintaining their race, and the percentage was even smaller than that of the entire people, who had to struggle and to live the lives of serfs, at that stage of the Hawaiian development, because up to the early

thirties there was a system of absolute serfdom in the Hawaiian Islands.

Now I submit, Mr. Chairman, that any serious question of the rehabilitation of the Hawaiian race must go into an examination of what means would actually achieve the result. I undertake to say that a modest appropriation of \$100,000 applied to the teaching of social hygiene, the work of visiting nurses, and of counselling and instructing in the rearing and nourishing of children, would go further to reestablish the Hawaiian race than the seven to ten millions that are authorized by this bill which is pending before your committee. If Congress is to act in this matter, it ought to act with real consideration to achieve the results which are sought to be obtained.

Mr. KALANIANA'OLE. The Hawaiian Protective Association has its visiting nurses which counsels and instructs the Hawaiians in social hygiene and in the rearing and nourishing of children.

Coming to the second claim of John Wise, that King Kamahameha III cheated the Hawaiians out of their portion of the land, the historical facts show that this claim is not true. Next to Kamahameha I, the great King Kamahameha III may well be said to be the greatest Hawaiian who ever affected the destiny of that people.

It was Kamahameha III who, in 1839, gave the first bill of rights to the Hawaiian people, which is the Magna Charta of the Hawaiian race. It was Kamahameha III who gave the first constitution, in 1840, and gave the liberalized constitution of 1852. It was Kamahameha III, Mr. Chairman, who gave not only property rights but, more important, personal rights, to the people.

Gentlemen, it is commonly recognized that it does not take a very high order of courage to bark at a dead lion, but I want to say that when this committee is asked to discredit the great constitution-giving King of Hawaii on the word of a man who has never done anything comparable to Kamahameha's record, for the Hawaiian people, they are asked to do a thing which is not in keeping with the facts and records of history, or the rules of credence. So far as the comparison of King Kamahameha III and the man who has discredited him here, it would be just the same as comparing George Washington with Gen. Coxy.

Now, what are the facts in regard to this matter? Judge Robertson has gone into this subject in part, but I want to point out, quoting from Blackman's History, page 158, that the alodial rights of ownership of land in Hawaii were based on occupation and use. In other words, Mr. Chairman, when the time came that Kamahameha III expressed his willingness to abolish the system of serfdom and to give ownership in land, they sought to work it out on the basis of the possession which men actually had of land, and after those assignments were made what was left became crown and government lands, whatever those remainders were.

The very name, the title, of this board which has been referred to was "A board of commissioners to quiet land titles." It was not a board of commissioners to divide the realm into three parts. And I wish in that connection to call your attention to the fact that this statement which has been made, that one-third of the lands were to go to the common people, is based, so far as I can find, solely on a statement made by the land commission, after they had been appointed, to this effect.

**The land commission decided that—**

If the king should allow his chiefs one-third, allow the tenants, or common people, one-third, and keep one-third, he would injure no one but himself.

That is quoted from Alexander's History of Hawaii, pages 256 and 257.

In other words, Mr. Chairman, this commission on the abolishing of feudal rights was empowered to establish in these individuals, whether chiefs or common people, the right which they had to this land because of their feudal connection with it as occupants and users of the land, and I find no historical basis for any constitutional provision or proclamation that one-third of the lands were to go to the common people; and if there is anyone present who has any historical basis for such statement, I would be very glad to have him cite it, because I have been unable to find it, myself.

Do you know, Judge Robertson, of any historical basis for the supposition that one-third of the land should go to the common people?

Mr. ROBERTSON. No. You are perfectly correct in saying that this theory that the chiefs, the king, and the common people were each to have one-third of the lands is based on that statement of the principles adopted by the Commission to Quiet Titles in 1846. But it did not mean a third in area necessarily.

Mr. KALANIANA'OLE. It is a fact, though, that the constitution granted by Kamehameha III recognized that the common people had the same interest in the lands of the kingdom as the king and the chiefs. In 1845 it was not only again recognized, but recognized to the extent of owing a third interest in these lands.

Mr. ROBERTSON. The constitution did not say that.

Mr. KALANIANA'OLE. It recognized that the common people had the same right as these other classes of people.

Mr. McCLELLAN. I think that is true, if you take it in its connection and context; but that same right was the right of possession and ownership of the lands which they had in possession. In order to understand that, you must always keep in mind, Mr. Chairman, that up to this time the common people of Hawaii had no ownership in land. In fact, the chiefs themselves had no ownership in land. The chief was a holder under the crown, as a feudal chief of the king.

But when the Magna Charta was issued and was granted by Kamehameha III, rights of ownership were conferred upon all alike in the sense that all owned what they had in possession and use; just the same as the rights of property in this country are the same to all men, which by no manner of means indicates that they own the same areas, but it means that they have the same right to what they have in possession.

I want also to call attention to this fact, which has a very direct bearing on the issue we have here; that when this land commission was established with power to confirm in these individual owners their house lots, their taro patches, their homesteads, they had the utmost difficulty in getting those Hawaiians to claim those lands and to take ownership in them. I read from page 158 of Blackman's History, again:

Partly on their own motion, but largely through the urgency of the missionaries and others, the natives in considerable numbers—some 11,000 in the course of time—put in claims and secured awards to the lands they occupied, in areas averaging from 2 to 4 acres.

And let it be understood always that the basis of assignment was lands occupied by those who claimed them.

Now, quoting from Coan's "Life," page 124, Blackman gives this statement regarding the difficulties that they had in persuading these Hawaiians to take title to these lands:

Many thought it to be a ruse to tempt them to build better houses, fence the lands, plant trees, and make such improvements in cultivation as should enrich the chiefs, who are the hereditary owners of the soil, while to the old tenants no profit would accrue.

They had been there as serfs, without any rights, and they were suspicious of this proposition that the lands would be theirs, and thought that it would not be safe to go on and improve the lands; and they had to be persuaded by the missionaries, and others who had influence with them, to come in and claim these lands that were offered to them.

In addition to that, following this division of land, there were large quantities of land sold. Alexander's history says:

I have known thousands of acres sold for 25 cents, other thousands sold for 12½ cents, and still others for 6½ cents an acre. These lands were, of course, at considerable distances from towns and harbors. But even rich lands near Hilo and other ports sold \$1, \$2, or \$3 per acre.

So that the natives all had opportunity to acquire lands if they chose.

As a matter of fact, many of them did; but those lands have been sold and have passed into other hands since; because, unfortunately, the Hawaiians have not retained the lands which they did have.

Mr. Chairman, there is another and a compelling fact to show that the Hawaiians did not, as a race, claim any equity in the Crown lands, a claim which is asserted here by Mr. Wise.

It is a well-known fact that through many years the late Queen Liliuokalani claimed reparation from this Government for the Crown lands as her own property. The records of both House and Senate show the hearings that have been had on that subject. A committee of the Senate was sent to Hawaii and investigated that entire subject, as Judge Robertson has pointed out.

But the point I want to make clear to you at this time, Mr. Chairman, is this, that during all that time when the former Queen was claiming the Crown lands as her own, no Hawaiian ever rose up to say that those lands were not the Queen's, but that they belonged to the common people of Hawaii. Mr. Wise never made such a claim, nor did the Delegate to Congress ever make such a claim. On the contrary, the Delegate to Congress exercised all of the means at his disposal to further the claim of Queen Liliuokalani. He did that conscientiously, I believe, and I think consistently from his point of view; but it must be apparent, Mr. Chairman, that in working for years to have those lands awarded to the former Queen as her private property, the claim that they belonged to the Hawaiian people as a mass is utterly discredited by such action; and I can not see that the attitude of the Delegate in coming in now and supporting Mr. Wise's contention that these lands belong to the common people of Hawaii can be very impressive to the Congress when it is known that he worked for years to have those lands regarded and treated as the private property of the former Queen.

Mr. KALANIANA'OLE. I suppose you remember when you were formerly my secretary?

Mr. McCLELLAN. Yes; your secretary; at the same time representative of the chamber of commerce.

Mr. KALANIANA'OLE. And as my secretary you remember the great number of claims that came through my office and were presented to the Senate?

Mr. McCLELLAN. I recall a few.

Mr. KALANIANA'OLE. You stated a while ago that there were no claims made by the Hawaiians.

Mr. ROBERTSON. If you will allow me to interrupt there a minute—

Mr. McCLELLAN. Just a moment. Did you at that time sustain the claims of these Hawaiians?

Mr. KALANIANA'OLE. Not before Congress, because I did not know much about them.

Mr. McCLELLAN. Did you sustain them before the departments?

Mr. KALANIANA'OLE. I never did it for those people, nor did I exercise all the means at my disposal, as you claim, to further the claim of Queen Liliuokalani. I had nothing whatever to do with the Queen's crown-land claim. She asked me, after she had failed in her claim, if I would not ask Congress, in their magnanimity, to allow her \$200,000, not as a claim but purely as a matter of justice to one whose rights in these crown lands had been taken away, not by the people of Hawaii but by the United States Government.

If it is true that the missionaries had a great deal to do in granting the people the lands, it is also true that after the bill of rights was promulgated they demanded and obtained from the King a franchise giving them the privilege of leasing any unoccupied land for 100 years at a low rental. The white people demanded to buy and hold lands, and caused the King many difficulties and endangered the autonomy of the Kingdom. Other claims were made by an English company, which was regarded by the King as illegal, which caused the captain of a British frigate to make harsh demands. To forestall them and to avoid any further difficulties the islands were conditionally ceded to Great Britain. These troubles naturally developed among the Hawaiians a policy in opposition to the allowing of foreigners to acquire land, which in 1845 reached the definite stage of political agitation and petitions to the Government.

Mr. McCLELLAN. You will remember when I was acting as joint secretary to you and to the chamber of commerce at the same time, when the Queen came here, and at her request and on your behalf I appeared before the committee on claims.

Mr. KALANIANA'OLE. I do. But that was not on a claim to the crown lands. She failed in her claim entirely. The record will show. My recollection is that she claimed she had an equitable title in those lands, which she afterwards attempted to affirm in a legal way; but the court of claims, as has been pointed out, ruled against her.

Mr. McCLELLAN. Judge Robertson, did you want to say something?

**Mr. ROBERTSON.** What I wanted to say was that these private persons who have been referred to as making some claims to the Crown lands after the islands were annexed to the United States were not persons who were claiming any equitable interests as of the common people, and as included within the class referred to by Mr. John Wise. Those claimants were persons who claimed by virtue of having royal blood in their veins, and as legal heirs and descendants of the royal Kamehameha line. That is pointed out in my printed brief on page 14.

**Mr. McCLELLAN.** Their claims were in direct contravention of any idea that the common people had equitable rights in the Crown lands.

**Mr. KALANIANAOLE.** Mr. Chairman, Mr. McClellan's statement that Mr. Wise and myself had made claims that the common people owned the Crown lands is nothing nor or less than a dream of his. What we contend is that in the first constitution given by Kamehameha III, the rights of the common people in the lands of the Kingdom were recognized and that later—in—1845—it was again recognized not only as an ownership but a third interest in the lands of the Kingdom. In the division, we claim that the common people did not get their share, and Mr. Wise stated that at that time the Hawaiians believed that the lands which were turned over to the crown were held by the monarch for the benefit of the common people.

**Mr. McCLELLAN.** Well, Mr. Chairman, the record shows that the Hawaiians were not only given all of the lands that they claimed at the time, but that much pressure was placed upon them by the missionaries and other white men to take lands which they otherwise would not have taken, that large quantities of other Government land were sold to them at low prices in the succeeding years, which they have since parted with.

The bent of the Hawaiians for selling their lands is very unfortunate for the Territory, because it would have been to the interests of Hawaii, as it is of any Territory, to keep the land in the hands of citizens; but unfortunately, as it happened, the Hawaiians let the land slip away from them.

**Mr. KALANIANAOLE.** Do you not think that the missionaries, knowing that the Hawaiians were ignorant and did not know the value of the land, should have seen to it that they were protected in their holdings from the grasping whites, who were then very active in demanding rights to lands as soon as the bill of rights was promulgated?

**Mr. McCLELLAN.** I do, Mr. Delegate, but whether the people could have foreseen that, and whether or not the Hawaiians would not have resented such a policy, I am unable to say. But, at any rate, their own people, their own King, who I am bound to say I think was interested in his people, their chiefs who were in the position, as feudal lords, to act as advisors to them, did not bring that pressure to bear, and I think it is of course futile to discuss now who was responsible for the fact that these Hawaiians would part with their fee simple lands. I quite agree with the Delegate that if the lands of the natives had been made nonalienable, it probably would have been better for the country; and, personally, I regret, and I think

most of the white people in Hawaii regret, that some such thing was not done at that time; but that, of course, is all past.

Mr. KALANIANA'OLE. Do you not think that the advice that was given to the King in the division of these lands was given to him by white men who had in mind the acquiring of these lands later.

Mr. McCLELLAN. I do not. Unquestionably, the persuasion to the King to grant the people lands at all was very largely the work of the missionaries. The whole abolition of the feudal system was, I take it, unquestionably the work of the missionaries, who persuaded the King to give up these feudal rights, and to grant these lands.

Mr. KALANIANA'OLE. If King Kanahameha could have done that, do you not think these same missionaries could have advised the King then, knowing the ignorance of the Hawaiian people and the ignorance of the Hawaiian people as to the value of lands; and if they could have gone and gotten the King to divide the lands do you not think they could have gotten the King to have a law so that the Hawaiians could not have sold their lands?

The CHAIRMAN. Just permit me, gentlemen; we are degenerating here into an argument on this question between you and the witness, Prince, before this committee, and that is just consuming the time to no real purpose. I want to give you all the time necessary, Mr. McClellan, for the presentation of your facts.

Mr. ROBERTSON. You are right, Mr. Chairman, but I would like very much to say a word right in that immediate connection, if I may. It will only take a minute.

The CHAIRMAN. Go on.

Mr. ROBERTSON. This question whether the people should be given fee simple titles under the law of 1845 was thrashed out by the King, and the chiefs, and the missionaries prior to 1845. There was a division of opinion among the missionaries as to whether it would be advisable to give out fee simple titles, or something less than fee simple which would keep a control on them; but the consensus of opinion, and the result of that discussion between the King, and the chiefs, and the missionaries was the decision to give titles in fee simple.

The CHAIRMAN. Now proceed, Mr. McClellan, and let us confine ourselves in the matter as much as possible.

Mr. McCLELLAN. Coming to the third claim of Mr. Wise, that this bill represents the wish of the citizens of Hawaii as a whole, I want to deny that as emphatically as can be stated in terms. The newspapers of the Territory have been full of denunciation of this bill as a fake measure, as unwise and unsound as a whole.

The CHAIRMAN. That is, the Hawaiian papers?

Mr. McCLELLAN. I do not read Hawaiian myself, Mr. Chairman. I am speaking of the papers published in English.

The CHAIRMAN. I mean the papers published in the Hawaiian Islands.

Mr. McCLELLAN. The papers published in Hawaii; yes, sir. Now, the proposition that a grant of \$3,000 in real money, with a piece of land, shall be given to each Hawaiian caught their fancy and imagination everywhere. There is no question in my mind that a majority of the Hawaiians are for this bill. Neither is there any question that many of the most thoughtful members of the Hawaiian race are opposed to the bill.

I believe that it will never accomplish what it is supposed to accomplish, and that is the rehabilitation of the native people of Hawaii, and when I reached Honolulu in August of this year and asked business men there why no action had been taken either one way or the other—either for or against so important a measure—the answer which I most frequently received, Mr. Chairman, was this: That they could not believe that any bill so preposterous would be seriously considered by the Congress, and they could not believe that it would ever pass Congress, and therefore they had not opposed it.

Mr. KALANIANA'OLE. That is a peculiar statement of Mr. McClellan, when he knew of the cable sent to the chairman of this committee by the chamber of commerce. If it was so preposterous, why did not the chamber of commerce then oppose it?

Mr. McCLELLAN. That vote by which the indorsement of this bill was passed in a recent session of the Hawaiian Legislature was, I am told, officially recorded as being 15 in favor in the house and 13 against. As there are only six white men in the house, that means that seven Hawaiians in the legislature voted against it; and the opponents of the bill claim that a larger number than that voted, but the chairman counted the vote against them. Of course, I could go into that question at very great length, but I prefer to let the statement stand that so far as the general mass of the inhabitants, the citizens of Hawaii, are concerned, they are unquestionably opposed in sentiment to this bill.

There are certain white men who are very much in favor of it because of one clause of it, which relates to possible control of the Kekaha lands. That has been at the bottom of a lot of the support and the energy which has been put behind this measure, Mr. Chairman. There is a very strong sentiment in Hawaii that the highly valuable cultivated public lands should be leased for revenue instead of being given out as alleged homesteads to the lucky drawers of homestead lotteries.

Coming now to the claim that this measure will in any effective degree help to sustain the pure Hawaiian race, I want to apply to this claim the test of experience, because I believe, Mr. Chairman, that there is more guidance to be found in the experience of the past than in the theories of any man or group of men. The fact of the matter is, Mr. Chairman, that the Hawaiians are not natural farmers. They are not an agricultural people. They are very much more fond of fishing, fonder of mechanical occupations, even, as carpenters and machinists. They would rather work as stevedores on the docks. They would rather do almost anything than farm, outside of raising their own cows and taro. But so far as farming in the sense in which we think of it is concerned, the test is shown in the fact that, while the sugar industry and the pineapple industry have gone on there for years and years, no Hawaiian has ever, or practically none has ever, figured as a producer of sugar cane or pineapples. They are not naturally an agricultural people. The test of 20 years' experience in homesteading in the Territory shows that there is scarcely one successful Hawaiian homesteader. The Portuguese are twenty times more successful as homesteaders.

Now, Mr. Chairman, how can the Congress expect that an effort to put men on raw land and subsidize them there will be a real means



of reviving a race who have not been able in an experience of 20 years to succeed in their efforts at homesteading? It has been said, Mr. Chairman, that that is so because they had not the means and the support, and that this bill will provide them a capital of \$3,000 apiece which they do not have in ordinary homesteads. Very well. Let us examine what has been done in an actual test in the placing of Hawaiians on homesteads with a subsidy. An effort was made to place a group of Hawaiian homesteaders in Waimea some years ago, and in order to make that a success Mrs. Samuel Allen, out of her personal interest in the Hawaiian race, put up \$25,000 in money to subsidize 10 Hawaiian homesteaders on these Waimea lands.

They went onto land which was better than the average of the lands that are set aside in this bill, Mr. Chairman. They had this money, \$2,500 apiece, to operate with as capital, and Mr. John Wise, the proponent of this bill, was the man who was generally in charge of the matter in behalf of Mrs. Allen. I read from the Pacific Commercial Advertiser of October 6, 1920, on this matter. [Reading:]

Some six or seven years ago, we believe it was, Government lands at Waimea, Hawaii, were thrown open to homesteaders, in order that an attempt might be made to get the Hawaiians "back to the land." The Waimea lands were far superior to any that it is proposed to use for the Kuhio-Wise rehabilitation scheme. They were rich and favorably situated, with a delightful climate.

Ten homesteads were taken up by Hawaiian families. Being intensely interested in Hawaiian rehabilitation, Mrs. Samuel Allen gave a fund of \$25,000 with which to start the Waimea homesteaders in business. John Wise was placed in complete charge.

The Waimea homesteaders, it will be seen, had just about the same proposition as that contemplated by the Hawaiian rehabilitation bill, except that they had better and more favorably located lands. They had an average of \$2,500 with which to set each of them up in business—and \$2,500 then had more purchasing power than \$3,000 now.

Yet to-day the Waimea homestead experiment is only a bitter memory. The homesteaders have gone and the Waimea experiment in Hawaiian rehabilitation, under the direction of John Wise, has proved a dismal and complete failure.

In view of his connection with the Waimea experiment we can hardly say that John Wise is uninformed regarding Hawaiian rehabilitation along such lines.

That, however, only makes it the more surprising that he and Delegate Kuhio, who undoubtedly is familiar with the Waimea experiment, can go before the people and try to persuade them that the hope of the Hawaiian race lies in the rehabilitation bill.

Now, there, Mr. Chairman, was an effort made to place Hawaiians on the lands under the most favorable conditions. These men were most carefully selected, the land was carefully selected, the money was available, they were able to live in a group so as to give such help as a cooperation of interests might lead them to desire and to give; yet every one of those Hawaiians, within a short time, had left their lands.

The CHAIRMAN. When was this?

Mr. McCLELLAN. It was within the last few years.

The CHAIRMAN. How many homesteads were there?

Mr. McCLELLAN. Ten homesteaders. Now, I want to call the attention of the committee to the fact that on some of the other islands where Hawaiians have in recent years been living on their own lands which they owned, which were already under cultivation and yielding them a living, they have left those lands and gone to the cities

voluntarily. Here are some of the figures. I have a clipping here in my file which refers to the number of residents of the island of Molokai, on which it is proposed to set aside land, as one of the most hopeful examples of homesteading, showing a substantial number of those Hawaiians who have left their lands which they already owned and already had under cultivation. That same thing is true in a certain part of the island of Hawaii. Here is the testimony of Judge R. H. Makekau, of Hawaii, former Territorial senator. He claims that the rehabilitation bill is a fake measure. I do not care to read the entire article from this clipping, but I would desire to have it go into the record, with your approval, Mr. Chairman.

The CHAIRMAN. I am willing.

Mr. McCLELLAN. This is from the Pacific Commercial Advertiser of October 25 of this year, 1920.

Mr. ROBERTSON. You might say that he is a Hawaiian.

Mr. McCLELLAN. Yes; of course.

Mr. KALANIANA'OLE. You might as well say, also, that he is a Democrat and had in their platform that they were opposed to this bill.

Mr. McCLELLAN. Well, I am willing to have that go into the record.

On this question, Mr. Chairman, of the practicability of putting Hawaiians back on the land, I want to cite this fact. That early in this year, when the commission was here, a part-Hawaiian living in the islands who was interested with Mr. Shingle, who was a member of the commission, in a corporation which was engaged in deep-sea fishing—the Hawaiian Tuna Fishing Co., I believe they called it—was here and came up to my office one day and asked me if I could not assist him in getting some additional Japanese brought into the country.

I asked him what in the world they wanted the Japanese for. He said, "We must have Japanese to do our fishing for us." He told me that the Japanese had gone on a strike, and he needed other men to carry on that work. I asked him how much they paid those men, and he said that those men had earned anywhere from \$40 to \$80 per week during the fishing season. The fishing season runs about six months in the year.

Mr. ROBERTSON. All through the year?

Mr. RIVENBURGH. They run the cannery about nine months a year. Mr. Walter made a statement about that last year.

Mr. McCLELLAN. I said to him, "Here you are, asking for some measure to help the Hawaiian race. The Hawaiian race are wonderful fishermen and boatmen. Why do you not go out and get Hawaiians to man these boats and take care of your business?" He said, "Why, we can't get them to do the work. We can't get them to stick to it." I said, "Do you mean to tell me that in a business which pays in cash at the end of each week from \$40 to as high as \$80 a week you can not get Hawaiians to man those boats and carry on this work?" He said, "No; we can not. We can not depend on them. We have to get the Japanese."

I then asked him, "If these men will not work at an occupation which they like better than they do farming, where they are to get \$40 to \$75 or \$80 a week in cash at the end of each week, how in the world do you expect to put them off on a piece of raw land and have them take care of it and develop it into a real homestead?"

The CHAIRMAN. How are most of the native Hawaiians employed?

Mr. McCLELLAN. They are employed in almost every line of activity in the islands. They are very good carpenters. Some of the best mechanical workmen in the islands are Hawaiians, are they not, Mr. Delegate?

Mr. KALANIANA'OLE. I presume so.

Mr. McCLELLAN. They are most excellent sailors; wonderful sailors. I think one of the unfortunate things about the Hawaiians is their fondness for working for the Government. A Hawaiian would rather go out and work on the road, because he feels it is a Government position, and he will do anything to get some one to secure such a job for him, rather than to go to work for some plantation where he could make more money under a contract.

The CHAIRMAN. I observe the evidences of the existence of a similar tendency in a large number of the white race in this country.

Mr. McCLELLAN. Yes; who are similarly inclined.

The CHAIRMAN. Yes.

Mr. McCLELLAN. The Hawaiians are excellent clerks; they are school-teachers—more particularly the women—and they do work that is assigned to them where things are laid out for them; but they do not generally go into any business where they must themselves arrange and manage. And, Mr. Chairman, nobody who knows the Hawaiian race believes—I should say, when I say nobody, I mean no white man; I can not question what the Hawaiians say for themselves, but the white men who have been in contact with the Hawaiians for all these years, who have employed them, who have watched their habits of mind, and their points of strength, and their points of weakness, such as all human beings have, none of those men believe—that the Hawaiians can ever be made farmers and put out on the land where they have to be responsible for the management themselves. It can not be done, and the whole proposition, Mr. Chairman, is unsound from the very bottom. It is a proposition to rehabilitate a race by means which will not attain that end.

Mr. Chairman, Congress has up to this stage shown itself very generous in dealing with the Hawaiians, providing that Hawaii has to pay the bill. But I undertake to say that if this bill carried an appropriation of \$100,000 only, for this purpose, out of the United States Treasury, instead of carrying an authorization there which may run anywhere from six to ten millions of dollars out of the Territorial resources, this bill would never have a chance to pass Congress. And yet, Mr. Chairman, if this delegation which came on from Hawaii asking for the passage of this bill had come before the committees of Congress and asked you to authorize a Federal bond issue of two billions and a half of money for the purpose of rehabilitation of the citizenship of Hawaii, they would not have been asking a thing, preposterous at it would have been, that would have been as burdensome to this country as the thing they have asked will be burdensome to the Territory of Hawaii. The resources of the Territory and its population, in proportion to the United States, will be burdened as much by the provisions of this bill as the United States would be if you were proposing here that a bond issue of more than two billions of dollars should be issued for that purpose.

Mr. Chairman, I am citing that for this reason: The Territory of Hawaii was taken over by the United States Government, I think, unquestionably because of its tremendous strategic importance. It is the commanding point in the Pacific Ocean. Congress has been, and necessarily must always be, concerned with the effect on this country of any fundamental legislation affecting Hawaii. Now, how will this affect Hawaii? Why is this fundamental? It is fundamental for this reason: You have in Hawaii to-day a population of which 43 per cent is Japanese. More than 50 per cent of the entire population of the island is oriental, and only a comparatively small percentage is of pure Caucasian stock. Now, Mr. Chairman, I do not need to argue to you that in a situation of that sort there is only one possible hope of maintaining a reasonably American community in the Hawaiian Islands which will make possible the practical retention of that group, and that is through the public schools. If you can have a big educational fund to carry on your work with the public schools with sufficient energy, with sufficient thoroughness, with sufficient equipment, you can make semi-Americans out of those orientals. Failing that, you have a situation on your hands which may cost this country in the end millions of treasure and thousands of lives to meet.

Mr. Chairman, there is being worked out there in those islands, with that conglomerate population, one of the greatest problems in this country. We are the front-line trenches of the western front of this country; and it is perfectly well known that any probabilities of international complication point chiefly toward one of the aggressive oriental races. Now, you have that situation, which can not be ignored. This whole country is deeply involved in that situation, and it may be that within the Territory of Hawaii conditions will arise, which conditions will in themselves determine the yes or no as to the relations of this country with another great country. Mr. Chairman, is the Congress going to take the resources of the Territory of Hawaii to such an extent that they have to go beyond the present debt limit and even increase the debt limit to devote it to the benefit of this minority of the population, while ignoring the larger and far more pressing need?

This bill, Mr. Chairman, provides for a fund of a million dollars which, at the assignment of \$3,000 for a homesteader, and with a reduction of at least \$100,000 for overhead expenses and general expenses, will leave only \$900,000 to be used, which will place only 300 families on the soil. Can this committee, with its responsibility to the country, sponsor a piece of legislation which, even if it was successful in its application, could not apply to more than one-half of 1 per cent of the population of the Territory? Can this committee of Congress, with its responsibility to the country for the national aspect of Hawaii, risk the future of that country for the benefit, desirable as it may be, if it were successful of only one-half of 1 per cent of the population, ignoring the question of the fact, Mr. Chairman, that in doing so you are doing that entirely on racial grounds, passing that for the moment and looking only to the single question of what the interest of the country is in the maintenance of Hawaii? It is quoted from President Roosevelt, and from that day down, every President, every Secretary of the

Interior, every man who has had direct contact with Hawaii has had driven home to his mind the essential importance of trying to get a citizen class on our land.

No man can question the importance of that. Yet, what is the effect of this bill? The effect of this bill is to tie up the resources of the territory in trying to put on the land an arbitrarily selected class of people who are not natural farmers, why by their own choice seek any other occupation on earth rather than farming; and in doing so to not only tax the other classes to support that racial group, but in doing so to affirmatively shut out from a part of their present homestead rights the Portuguese, the Americans, the pure-blood Caucasians of that Territory.

Mr. Chairman, I do not believe for a moment that if this committee really gets a knowledge of the conditions in Hawaii, they can ever in the world conscientiously report this bill in the form in which it now stands; for it is subversive not only of the welfare of Hawaii, it not only arbitrarily takes away, on race lines, certain citizen rights from white men of the islands, but it also brings about a situation which will in the end imperil the welfare of the mainland of the United States, while ignoring all considerations of the individual citizen in Hawaii; and I have absolute confidence that if these facts are known to this committee the bill will either be tabled or will be substantially amended so that it shall meet the conditions as they are in Hawaii.

As to the form in which this bill is reported, your committee, it seems to me, Mr. Chairman, ought to take into consideration this fact, that this bill creates an independent governmental body in the form of these commissioners, who have power under this bill, without reference to any act of our legislature, to take command of those 200,000 acres of land; they have the actual disposal of the \$1,000,000 revolving fund as it accumulates; and they are not in any effective degree answerable to the Territorial government at all. It is true that they have to make a formal report once in two years to the legislature; but the legislature can not question anything that they do; and if the Delegate is successful in his reported ambition to become the governor of the Territory—

Mr. KALANIANA'OLE. May I interrupt you there, Mr. McClellan? I suppose you take the statement of newspapers that I am out for governor.

Mr. McCLELLAN. No; I have not taken any such statement. My reference is based on the word of well-informed men in Hawaii.

Mr. KALANIANA'OLE. It is something new to me. Some of you well-informed men seem to know more about my business than I do myself.

Mr. McCLELLAN. At any rate, Mr. Chairman, if any governor is designated, or if we take the present governor of Hawaii, who has apparently come reluctantly to indorse this bill, which he expressed doubt about at first, it will expressly give to the legislature power to create an indebtedness in the islands of many millions of dollars. That, Mr. Chairman, is entirely separate from this \$1,000,000 loan fund, which is merely a point of departure.

Not merely is this effort to be made to specially benefit one-half of 1 per cent of the population, but they have, with the approval of

the legislature, which as now constituted would undoubtedly approve, the power to issue millions of dollars additional of bonds. The bill itself provides for the increase in the indebtedness of the Territory from 7 to 10 per cent, in order to make it possible to borrow the money.

In addition to that, as was stated the other day by one of the proponents of the measure before the committee, they are not content that the Hawaiians should be given even these rich cane lands as homesteads, but they want them to be given both the special reserved lands and the income from all water rights and general land leases plus 30 per cent of the income from cultivated cane land, and in addition to that, then the issue of bonds for millions of dollars, which this independent governmental body that is created by this act can expend at their own discretion for roads, for bridges, for school-houses, for town halls, for water purposes, for any purposes which they in their own discretion hold to be a means of developing this racial homestead proposition.

Mr. Chairman, I believe that is a more radical piece of legislation than has ever been enacted by Congress in connection with any Territory of the United States since the day this Government was founded. I challenge any man to point out in the history of the Congress a piece of legislation as radical as this, affecting any Territory; one in which an independent governmental body is created with the power of expending these moneys practically without any responsibility to either the territorial or Federal governments. The power of the land commissioner relative to these lands is taken away and is transferred to this commission; and in the entire proposition you are doing a fundamentally unsound thing in superimposing on the Territory this great burden which the people as a whole—outside of the Hawaiians, who control the electorate at the present time—do not favor, but of which the ones who do not favor it will have to pay the cost.

I want to call the attention of the committee to what some of the costs of this improvement will be. I cite one in particular because there are specific figures as to what the costs of that work will be. Among the lands most frequently referred to in this discussion as being desirable for homesteads are the land on Molokai. They are referred to by Mr. Wise and others, and there are specific provisions in this bill that this board created by the act may develop any government waters there for the purposes of those lands, and may get the money by the sale of bonds, with the approval of the legislature. Now, what is it going to cost to do that? In 1899 and 1900 the American Sugar Co., a corporation that has no connection with the American Sugar Co. of the mainland, attempted to establish a plantation on the island of Molokai.

They had invested something like \$1,500,000 in the attempt to establish this plantation, when they found that the water supply that they had counted on had failed. Therefore it became a question whether they should go ahead and make this great water development referred to here as being for the benefit of the homesteaders, or should abandon that plantation. They had the most capable engineers that money could hire to examine that project to see what it

would cost for the development of that water, and they found as follows. [Reading:]

Expert engineers were employed and they made a survey. They asserted that it would cost about \$2,000,000 to tunnel through and bring water to the other side. The expenditure of that amount of money, it was decided, was out of the question. It was not a business proposition. Notwithstanding that a million and a half of dollars had already been spent, the additional expenditure necessary to get the water would not be good business.

Now, Mr. Chairman, anybody who knows anything about physical or agricultural conditions in the Hawaiian Islands knows that there is no use of land there which can stand so high a cost for water as the sugar proposition. Yet these men who had already spent \$1,500,000 to establish a plantation on this island of Molokai at this point decided that it would not pay them to go on and spend \$2,000,000 more to get water on this land, even to save the investment already made, and they abandoned the proposition. And, mark you, that work which would have cost \$2,000,000 then would cost nearer \$3,000,000 at the present time.

If it was an unsound proposition for them to spend that additional amount when they already had \$1,500,000 sunk in that proposition, by what manner of reasoning can it be thought that the resources of the Territory of Hawaii can be properly spent to develop that land for individual homesteaders to raise diversified crops on that land? Why, Mr. Chairman, it would be immensely better to grant a pension to each of these 300 families for life. The Territory could do that very much cheaper than they could put up the money necessary for developing this scheme of placing them on the land. It is as unsound from a business standpoint as can possibly be imagined. Those are facts which are of record in the islands, and it seems to me that they must have influence with the committee when it comes to a question of legislation authorizing such expenditures.

The CHAIRMAN. Can you give us some idea of how long it will take you to conclude?

Mr. McCLELLAN. Mr. Chairman, there are some phases of the details of the bill that I would be glad if I might have perhaps another hour for, this afternoon, if you will give it to me.

The CHAIRMAN. You have had now an hour and three-quarters, just about. I do not want to cut you short, but there must be an end to this hearing. It is absolutely necessary that we bring this thing to a close some time. I have for this afternoon appointments which I can not very well break. If it is possible for you to condense your further argument and give it to the stenographer in order that it may appear along with the rest of it, I suggest that that be done.

Mr. McCLELLAN. Well, Mr. Chairman, I am far too weary to want to expend any effort on this matter more than is necessary. If I were not impressed with the fact that this is so vital and important to the Territory, I certainly would not have taken the trouble to appear before the committee at all. I regard it as the duty of anyone who is interested in Hawaii to have these facts known to the committee—

The CHAIRMAN. Yes; and the committee wants the facts.

Mr. McCLELLAN. If the committee cares to have them.

The CHAIRMAN. But I think you will all agree now. I want to give you all the chance possible, but I do not want this thing pro-

longed just indefinitely. We have talked a very long time in order to get the facts before us.

Mr. McCLELLAN. I feel that there are certain parts and details in this bill so important that this committee should never act on the bill until those details are discussed before it and the reasons given pro and con. It is not possible, Mr. Chairman, to get the members of the committee to take a printed record on one side and a copy of the bill before them on the other and go through a statement and check up to their own conclusion as to whether or not, for instance, an amendment should be made on line 15, page 8, or any other specific place in the bill.

There are specific amendments which, aside from the fundamental ones, I think ought to be considered by the committee. However, I am perfectly willing to suspend this statement now.

The CHAIRMAN. I am going to suspend this hearing until 10.30 o'clock to-morrow morning, and I suggest that then you have the list of amendments that you propose to give, with the reasons for them, and let us have them, so that we may know just what you want. I do not want to cut you short or anything of that sort.

Mr. McCLELLAN. I understand.

The CHAIRMAN. But I want to preserve the extent of these hearings within reasonable limits and to get through with the bill. Also if the Delegate has anything that he wants to add in conclusion in view of the statements that have been made that the hearings on the other side were concluded I suggest that he be here and prepared briefly to state his side of it, and let us get through with the hearings.

The committee will stand adjourned now until to-morrow morning at 10.30 o'clock.

(Thereupon, at 12.30 o'clock p. m., the committee adjourned until to-morrow, Friday, December 24, 1920, at 10.30 o'clock a. m.)



# HAWAIIAN HOMES COMMISSION ACT, 1920.

FRIDAY, DECEMBER 24, 1920.

UNITED STATES SENATE,  
COMMITTEE ON TERRITORIES,  
Washington, D. C.

The committee met at 10 o'clock a. m., in room 347, Senate Office Building, Senator Harry S. New presiding.

Present: Senators New (chairman), McLean, Jones of Washington, Hale, Smoot, Nugent, and Chamberlain.

The CHAIRMAN. You may proceed, Mr. McClellan.

## STATEMENT OF MR. GEORGE M. McCLELLAN—Resumed.

Mr. McCLELLAN. Mr. Chairman and gentlemen of the committee, I have shown, in my statement so far, that the Hawaiians have been steadily leaving their lands for over 50 years. The point I sought to make in that was that the record shows that they have been continually leaving the lands, which they already own, on which they already had homes, which were already under cultivation; that the lure of the town life, and the fondness for the occupations which they have in the cities are so great attractions that they will not stay on the lands which they already have.

The CHAIRMAN. What disposition has been made of these lands after they have been vacated by the Hawaiians?

Mr. McCLELLAN. Oh, they have been bought up by individuals.

The CHAIRMAN. Have they gone into any of these ranches?

Mr. McCLELLAN. They naturally tend to be bought by the adjoining owners, whoever they may be.

Senator SMOOT. This is how it is, Senator, they have little kuleanas, as they are called—some have only an acre and a half in them—and they live there as they have lived for years and years. In years past all they had to do was to raise their taro, or, as they used to call it, kalo—I always like to call it kalo; it is called now taro—and they did not have to wear many clothes, and with what they raised on these little patches, and the fish that they caught, they had everything that they cared about.

In many places there are cane fields, you know, and these little kuleanas are in these cane fields now. I suppose we have a dozen of them left, lying in there now. Those kuleanas have been purchased by the cane people who are raising the cane in these large areas mostly. Of course, the people now can not live on that amount of land, as they used to, because of the fact that they do, as Mr. McClellan says, try to get to the cities, and they like the lure of the cities.

Mr. McCLELLAN. Yes.

The CHAIRMAN. I asked that question in order that I might develop whether the Hawaiian has quit the lands from actual choice or whether he has been induced to sell by the white man or by any other settler who has offered him an opportunity to sell, without a realization on his part of the real value of what he was giving up, the way it has been with the Indian in this country.

Senator SMOOT. I think it is both, Senator.

Mr. McCLELLAN. Both cases.

The CHAIRMAN. I wondered whether that had been the case with the Hawaiians. Proceed, Mr. McClellan.

Mr. McCLELLAN. The Delegate intimated yesterday, Mr. Chairman, that if somebody had only had the foresight—of course, foresight is more difficult to have than hindsight—if some one had had the foresight at the time of the great mahele to have provided that all those kuleanas should be conveyed, with the right of occupation and without the power of alienation, it would have been a great boon to the Hawaiians.

Senator SMOOT. The only kuleanas that we have purchased at Lhaia are the kuleanas the original owners of which have died and where there is no one that desires to live there.

Mr. McCLELLAN. It is perfectly well known, Mr. Chairman, just along this line, that Hawaiians, by their lack of provision for the future, which has not been instilled in them like it has been in the Anglo-Saxon, will sometimes mortgage a home to give a luau, if they have a birthday celebration in the family, or something of that sort. It is a difficult problem to get the native Hawaiians to live on the basis of foresightedness and provision for the future.

The CHAIRMAN. To understand that there is a to-morrow?

Mr. McCLELLAN. Yes; to understand that there is a to-morrow; that is the idea.

Now, I wanted to call your attention to the statement of Mayor Wilson, of Honolulu, who is himself a part Hawaiian. Mayor Wilson has opposed this measure, and I merely want here to call attention to his citation of certain cases of natives living on the other islands. For example, on Molokai, in the Wailau Valley, 14 years ago there were 30 to 40 Hawaiian voters, and all those men, or practically all, were living on their own lands, which they owned and cultivated—lands which were already in cultivation. To-day in that same district there are only five. Now, this is the very section where it is proposed under this bill to put a part of these homesteaders, but the lands on which these men were living are superior to any of the lands which you are offering for homesteading.

Senator SMOOT. Do you know whether those landowners removed or did they die?

Mr. McCLELLAN. They removed, most of them, to the towns. A certain number of them, Senator, died. But we have in a condensed form the same problem in this country, the same thing, the lure of the cities has drawn people from the country into the cities.

The CHAIRMAN. Is not that true just the same on the main continent as it is in Hawaii? Is it not a fact well demonstrated by this last census, for instance, that the tendency of the day is for people to abandon the farms and seek the cities?

Mr. McCLELLAN. Yes.

The CHAIRMAN. Is not that just as true of people here as it is of people in Hawaii?

Mr. McCLELLAN. Yes; but there is not a State in the Union where they would be willing—Senator Smoot, as earnest as he is in the support of this bill, would not be willing for his State—to vote an equal amount of burden that this bill imposes on Hawaii, to put men back on the soil. He would not be willing to do that in Utah.

Senator Smoot. But if such a proposition as this was in the State of Utah I would never let it go, if I could help it, as this is now, with lands rented for a mere nominal sum when those lands could be rented for nearly a hundred times as much and that money go into the Treasury, and that ought to be done.

Mr. McCLELLAN. I agree with that. Here is another instance given by Mayor Wilson: In Pelekunu Valley 14 years ago he says there were 20 or 25 Hawaiian voters and from 40 to 50 Hawaiian children went to school there. To-day there is not one left in that valley.

Those are examples of what has occurred with these people who already had land of their own which was already under cultivation, and they walk out and leave it.

Senator Smoot. I do not think that would be the case on the island of Maui or on Kauai. I have never thought that Molokai was very much of a place to live, and I do not think the natives think so. There is nothing particularly on that island. But you take the natives of Maui and Kauai, and I do not think you will find there that they have left their lands. You find their boys remaining there; and some of the brightest ones I know of are on those two islands.

The CHAIRMAN. I know this last census shows that even in the State of Indiana, in some of the finest sections of the State, the rural population is to-day smaller than it was 10 years ago. Some of the finest agricultural counties in Indiana—and they are perfect garden spots—have fewer people in them to-day than they had 10 years ago. There are no large cities in them; they are purely agricultural towns. That is a very lamentable state of facts.

A gentleman from Michigan told me a week or so ago that there were 48 counties in the State of Michigan that showed a reduced population compared with the preceding census. That may not be correct; he may have been misinformed; but that is what he told me. I have not looked it up.

Senator Smoot. It is the same way all over the United States.

The CHAIRMAN. That is true of the country generally.

Mr. KALANIANA'OLE. May I ask a question, Senator?

The CHAIRMAN. Certainly.

Mr. KALANIANA'OLE. I just wanted to ask Mr. McClellan a question. Has there ever been a white man who lived in Wailau Valley?

Mr. McCLELLAN. I am unable to answer that.

Mr. RIVENBURGH. The Kuleana records of the Territory show that to a great extent the older Hawaiian people are leaving their kuleanas—leaving or selling them, as the case may be—for the reason that their children have gone to Honolulu and have been educated. The girls get married and the boys take up work in Honolulu or other large centers of population; and the old folks get tired of waiting for them to come back. They leave their kuleanas and go to the cities. That

record is particularly true of these two valleys that Mr. McClellan mentioned; and also on the other two islands. These two valleys are very inaccessible valleys.

Senator SMOOT. Very, indeed.

Mr. RIVENBURGH. They are highly fertile. The kuleanas of those valleys are taro patches, with water rights and fishing adjacent to the valleys, which made them highly desirable in the early days of native occupation.

Senator SMOOT. But there is no chance whatever of anybody living there getting any work outside of the work they do upon the kuleanas.

Mr. RIVENBURGH. That is true. As the young people of the families move to the other districts, unfortunately they leave those older folks there alone, and they get tired of it and leave there and go to where the children have gone.

Senator SMOOT. They have gone to Honolulu?

Mr. RIVENBURGH. Largely to Honolulu.

Mr. KALANIANA'OLE. A few years ago many of them left on account of an epidemic of typhoid, and that is the real reason why those Hawaiians left.

Mr. McCLELLAN. It has been shown that the Hawaiians are leaving their homesteads; that they have not succeeded in general in homesteading; and also that they have failed absolutely—100 per cent of failure—in the case of the Waimea homesteading, on lands of better quality than the average of these lands under consideration, and where a cash subsidy was furnished equal, in effect, to the amount provided under this bill, and where the operation was personally supervised by Mr. John Wise, who was responsible for the plan to rehabilitate. There was 100 per cent of failure in that effort. Now, the practical question is—

Senator SMOOT. Do you say that was at Waimea?

Mr. McCLELLAN. Yes, sir. The practical question is, How far can you go in taxing and in bonding a community which is hard pressed for public funds anyway, to counteract this unquestioned natural bent of Hawaiians to go to the towns? I am undertaking to say that the amount of that burden, Senator, would be oppressive and almost calamitous—practically calamitous—to the Territory; that in carrying it out the amount provided would only provide for about 300 families after you allow for the necessary overhead, and that that would not be, of course, one-half of 1 per cent of the population of the Territory; as against which the bill authorizes expenditures, by bonds and otherwise, which will run anywhere from \$6,000,000 to \$10,000,000.

Now, I want to say that Congress has plenary power to put this measure through and force it on the community in Hawaii, although it is unquestionably a discrimination against the rights of certain citizens. It takes away the constitutional right of citizens to an equal right in all public property, and, in addition, it taxes those men from whom the rights are taken away, to furnish a particular right to another class.

Senator SMOOT. Do you claim that there is a majority of the people of the islands who are opposed to this proposition?

Mr. McCLELLAN. I claim that unquestionably, Senator, the majority of the people of the islands who would have to pay the bill are opposed to it.

Senator SMOOT. I talked to a great many people in Honolulu, and I think there were three out of five that were in favor of it, who talked to me about it, and they were men of means, and they were some of the leading business men of Honolulu.

Mr. McCLELLAN. Senator, there is a kick in section 3 of title 3 of this act which accounts for the support of such business men that you found there. I will come to that; but I think you are pretty familiar with the proposition. Substantially, as to the answer that some of those business men made, I would say that they would not favor a form of remedy which they believe an utter absurdity; they told me they do not believe it will accomplish what it sets out to do. It is not so much that it is a tremendous burden on the Territory, but that the whole effort and cost are thrown away, as it will not rehabilitate the Hawaiian race.

Senator SMOOT. Of course, I think it will have a tendency to do it. As I said in Honolulu, I am perfectly willing to admit that half of them perhaps would fail who undertook to carry it out; but as I have said, if half or one-fourth of those that take advantage of it are successful, I think that the effect of it upon the Hawaiian Islands will be such that it will be of inestimable value to those people.

Mr. McCLELLAN. If one-fourth of them succeed, that will be perhaps 75 families rehabilitated, at a cost of at least \$5,000,000.

Senator SMOOT. That, of course, you take upon the basis that every family will have the extreme allowance provided for in the bill. Now, that is not going to happen.

Mr. McCLELLAN. The general contention in the islands is that the \$3,000 is insufficient. That is the only contention that one hears in the islands. There is not any proposition that anybody will take less than \$3,000, but the general statement there is that \$3,000 will not enable the average man to go out and establish his place and make a practical working success of it.

Senator SMOOT. You do not think it will take more than \$3,000, do you?

Mr. McCLELLAN. I think it will take more than \$3,000 for the average Hawaiian, for the reason that the men who need rehabilitation are very much unschooled in management. You are familiar with the fact that the Hawaiian is an admirable worker in lines where he is supervised and everything is marked out for him. They are excellent bookkeepers, clerks, and stenographers. They are all sorts of things. They are stevedores and sailors.

In every position where they are directed they are excellent workers; but you can put it down that when you go over that entire Territory you do not find one Hawaiian running any sort of business of his own. You have indisputable proof there that there is an inherent lack of that particular faculty.

Senator SMOOT. There is no doubt about it that the business qualifications of the Hawaiian are not developed. Everybody recognizes that.

Mr. McCLELLAN. Yes; and, of course, that admitted fact has to be reckoned with.

Senator SMOOT. But it has never cost the Mormon Church anything like that; to rehabilitate the children it has not cost anything like the amount spoken of here.

**Mr. McCLELLAN.** I want to say that the Mormon people and the Mormon Church show a very remarkable ability in the handling of the Hawaiians; and it is a great credit to the Mormon Church, it seems to me, that they have done that very thing, that they have supplemented that defect of the Hawaiian in his inability to manage his own affairs; and they have helped him and carried him along and enabled some of them to remain on the land; and in doing so they have furnished a most valuable service to the Hawaiian.

**Senator SMOOT.** I think that this may be perhaps carried out in the same way. I do not expect them to go to work and place a Hawaiian on land there and give him \$3,000 and say, "Go to it." There has got to be somebody to direct it, and somebody to see that the work is done before the money is advanced.

**Mr. McCLELLAN.** I do not say this to be controversial, Senator, but it is a rather new thing to me to find the distinguished Senator from Utah an advocate of governmental expenditures to carry out commercial activities; because the Senator has said for years that the Government can do nothing effectively. And, Senator, I do not know just how this appeals to you, but I can not see how you can hope or expect that a governmental expenditure can carry out the personal relation to and supervision of these people as the Mormon Church has done so well in Hawaii in its personal hold through the combination of the religious associations with the industrial; that is an admirable thing; and the Mormons have actually achieved those results on a small scale; but no governmental agency is going to achieve any such results as that.

**Senator SMOOT.** I will not interfere any more. Go on, I want to get your argument.

**Mr. McCLELLAN.** The substance of our position is that while Congress may impose this measure on the Territory, all of the combined powers of the executive, legislative, and judicial branches of the Government can not make a farmer out of the Hawaiian when his tendency is to go into other occupations.

Something was said here by Mr. Akana the other day about the Hawaiian not having opportunity. I do not know in just what sense he meant that, but I want to call attention to the fact that the best industrial training school there in the Territory of Hawaii is a school exclusively for the Hawaiians, the Kamahameha School, which has a wonderful endowment.

That endowment is so great that the land holdings belonging to it constitute in one sense a block and in some senses a hindrance to the development of the Territory. The Hawaiians have in the Kamahameha School the best industrial training that is offered them in the Territory, so that they can go into the occupations of mechanical lines or clerical lines; and there is also instruction there in farming and agriculture; so that the Hawaiian boy has better opportunity to-day for training than the white boy has. Therefore, it ought not to be understood that the Hawaiian does not have a chance, in that sense.

The Hawaiian has the difficulty of his own particular qualifications. He has certain splendid elements of strength. He has certain pathetic elements of weakness. The problem is, of course, how to coordinate that with the civilization in which he lives.

But the point that I am trying to bring home to this committee is this: That Congress in legislating for the Territory of Hawaii should, and it seems to me must, consider the problems from the standpoint of the Territory as a whole, and that you can not properly sacrifice all of the other pressing needs, including, as I said yesterday, the apparent necessity of trying to Americanize the vast oriental population there, which is an immediate menace—that we can not pass by all of those needs to center on this one proposition, which, at most, affects not more than one-half of 1 per cent of the population.

Now, what does this bill do? It takes 200,000 acres of land and sets that specifically aside, in the first instance. In addition to that it takes 30 per cent of the proposed income from all cultivated lands, it takes all of the income from all general leases, it takes all of the income from all water rights belonging to the Territory. Both of these latter are in effect the direct diversion of moneys now going to the school fund. But all that is only the starting point.

On top of that comes the power to create indebtedness running up into millions of dollars, which must be paid for by bonds issued by the Territory, for which there is a camouflaged provision that the interest and sinking fund should be provided out of the rehabilitation fund. But there would be no such thing, because it would be all loaned out to the farmers. You can not use a dollar for three different things at once.

You are creating new demands to be put into the forefront, cutting directly into the moneys that are urgently and imperatively needed for the schools; and it is a burden which the Territory can not properly bear, desirable as it might be as a philanthropy. I believe, Senator Smoot, that the people that you talked to in Hawaii generally expressed this idea, that everyone has a friendly feeling toward the Hawaiians and wishes that they might prosper. The Hawaiians have, of course, plenty of work to do—there is plenty of occupation, such as it is; there are practically no Hawaiian paupers. But when it comes to making this subsidy for a few Hawaiians the prime demand on all the resources of the Territory, it is a serious thing, so serious that it would become well nigh calamitous to the Territory.

Senator SMOOT. Why does the governor support it, and why does the legislature support it? I do not mean only the natives, but why are the business men supporting it if it is such a calamitous thing for the Territory?

Mr. McCLELLAN. I went into all that yesterday, Senator.

Senator SMOOT. Then I will read your statement. I was not here.

Mr. McCLELLAN. As to why the legislature supported it, and also such business men as are supporting it, so far as I have been able to find out, there are those who believe that it is important to stop this frittering away of the valuable cultivated public lands; in order to do that they were willing to swallow this bill. As a matter of fact, practically all of them believed that the bill would be declared unconstitutional—the rehabilitation part of it; that it could be enjoined. I do not think it possible to believe, Senator, that any such measure as this, taking property rights away from certain citizens and taxing them in addition, for the benefit of another group of citizens, exclusively on racial lines, could ever get by without being held up. You can not put this into operation if you do pass it.

Senator SMOOT. We are putting into operation reclamation projects in the United States.

Mr. McCLELLAN. Yes; but you do not forbid Caucasians the right to equal benefits from reclamation projects. I think those business men who support this bill do so on the proposition that they want that part which will give permanent revenue from the valuable cultivated lands of the Territory, and they believe that the rehabilitation part will either be modified by Congress or be knocked out by the first court that it is passed up to.

Senator SMOOT. That is the first intimation that I have ever heard of such a thing.

Mr. McCLELLAN. Of its being unconstitutional?

Senator SMOOT. No; of the business men taking that position.

Mr. McCLELLAN. Well, I discussed it with a good many while I was down there during the past summer. Unfortunately, I left, I think, on the very day that you arrived, so that I did not see you there, Senator.

Senator SMOOT. Yes. I am the last person in the world to support legislation that could in any way, shape, or form retard the growth of the islands, and I suppose the people in the islands know that. But I do feel that if we can do anything to rehabilitate the Hawaiian people, and put them on the lands and allow them to make a living there, and get them back to mother earth there, it would be a mighty good thing.

Mr. McCLELLAN. I believe that the attitude of the press, part of which I have read, and from which I could read almost reams into the record if I chose, is opposed to this bill. I have these clippings right here in my portfolio. Judge Robertson has cited some of them in his brief. The press was practically unanimous against the bill.

Senator SMOOT. Oh, no. One paper was unanimously against it, but I have been told by business men why they were; but there is no need of my discussing it now.

Mr. McCLELLAN. Not only one paper, Senator, but all the American papers were against the bill.

Senator SMOOT. They were not when I was there.

Mr. McCLELLAN. The paper that opposed it most severely, the morning paper, has been the consistent, continuous advocate of homesteading in the Territory ever since the Territory was annexed; and one of its chief charges against this measure is that it shuts out the very type of homesteader who has succeeded best, in favor of drawing a race line and putting the men on the land who have succeeded least; a thing which is so unsound economically as well as politically that it may be summed up by saying that this is the first time in all the history of the United States that any legislation ever came before Congress and was seriously considered which gave rights to a dark race above and against the rights of the white race.

Senator SMOOT. Oh, the Indians have such legislation, right along.

Mr. KALANIANA'OLE. Do I understand you to say that color is made the basis of this rehabilitation bill?

Mr. McCLELLAN. You may call it racial blood, if you prefer, Mr. Delegate.

Mr. KALANIANA'OLE. No; but I want to ask your view of it, as a citizen of Hawaii. You claim to be a citizen of Hawaii.



**Mr. McCLELLAN.** It is avowedly drawn on race lines. That is the proposition. And we have had a good many struggles in the political development of the Anglo-Saxon people, and for a thousand years the principle that has stood up above everything, all the while, was the question of equality. Now, here is a proposition to destroy such equality and to take away certain privileges and constitutional rights from an entire group of the citizen body, and give them to one particular racial group.

**Senator SMOOT.** There is not very much difference in that way between them and the Indians in our country.

**Mr. McCLELLAN.** Well, Senator, if the State of Utah should prove willing to bond itself for \$25,000,000 to rehabilitate the Indians within its borders, then we would be more impressed with this sort of thing. But so far as the work for the Indians is concerned, no State has ever been taxed to support Indians.

The Federal Government has done that. And if there is a proposition that special aid must be extended to the Hawaiians, if it is a matter that appeals to the Congress as a thing that must be done at any cost, then that responsibility should rest on the Federal Treasury. The Federal Treasury took some ten or twelve millions of dollars out of Hawaii last year, and they can appropriate some of that for this creditable cause if it is thought proper. But when it comes to burdening the Territory of Hawaii, why, I think, Mr. Chairman, that if you were to attempt to put this sort of a proposition over on your Hoosier constituents, popular as you are, they would be inclined to run you out of the State. It is a question of where this burden shall fall. If Congress wants to assume this as a national obligation, the Nation having gotten the benefit of the acquisition of the Hawaiian Islands, why, Congress, of course, can proceed on it. So far as the imposing of that burden on the Territory is concerned, of course, Congress has the power to do it; but, as I pointed out yesterday, it came up here solely because the Hawaiians control the electorate and have exercised that control continuously, and if that minority of the population did not control in the conduct of public affairs, this proposition would never have come before Congress.

**Mr. Chairman.** with your permission, I would be glad now to go over—

**Senator SMOOT.** Did you put into the record the vote and segregate it on the basis of the racial character?

**Mr. McCLELLAN.** No, sir; I did not.

**Senator SMOOT.** Do you know what it is—how many white members of the legislature voted for it?

**Mr. McCLELLAN.** There are only 6 white men in the Hawaiian House of Representatives to-day out of 30 members.

**Senator SMOOT.** And how did they vote?

**Mr. McCLELLAN.** There were 13 voted against this bill, of whom 7 must have been Hawaiians, assuming that all the white men voted against it—all there were.

**Senator SMOOT.** Yes; but did the six white men vote against it?

**Mr. McCLELLAN.** I do not know.

**Mr. KALANIANA'OLE.** May I answer that?

**Senator SMOOT.** Yes.

**Mr. KALANIANAOLE.** The six white men mentioned voted for this resolution asking Congress to pass this bill. The four who voted against it are Hawaiians.

The senate is controlled by the so-called whites, and the majority of them voted for this resolution.

**Senator SMOOT.** What I want to know is the real sentiment of the people of the islands. Wherever I went I gathered the impression that the sentiment of the people of the islands was for the measure.

**Mr. McCLELLAN, No.**

**Senator SMOOT.** Well, then, they are very deceptive; and I took a great deal of time and was very particular to inquire among a lot of business men I came in contact with there, and I want to say to you gentlemen here, if it is the last word I ever utter in this world, there were at least three out of every four of them said it ought to be passed.

**Mr. KALANIANAOLE.** Might I add something, right there?

The **CHAIRMAN.** Go ahead.

**Mr. KALANIANAOLE.** When the chairman of the subcommittee who had charge of this bill in the House visited Honolulu for the purpose of ascertaining the views of our people, he came in touch with many business men, and he said that out of all the business men that he interviewed there was only one person who opposed it, and that was Mr. Robertson.

**Mr. McCLELLAN.** Now, Mr. Chairman, I, of course, have taken the position that the provisions in regard to this plan of rehabilitation ought not to be supported. Reference was made here to the fact that the Republican national platform has an endorsement of the idea of rehabilitating the Hawaiian people. I want to say with reference to that, that that, of course, is not a specific endorsement of this bill; and, in fact, I might cite a very conspicuous similar case—that of our distinguished President, who had one particular plan which he tried to make go through for the rearrangement of the whole world, insisting that his plan must not be amended in any way. But the Senate exercised its constitutional duty to examine the plan on its merits; and the elaborate plan was rejected by the people of this country. I want to submit that the fact that there has been a general declaration in the platform of the national party can hardly be construed as an obligation on the part of Congress to pass this specific measure.

**Senator SMOOT.** I would not consider it so.

**Mr. McCLELLAN.** I was very glad, on reading last night some clippings from the papers, to see something in the Honolulu papers quoted from Senator Smoot when he was there, to the effect that he expected some amendments would be made to this bill before it was passed. It seems to me that there are such manifest defects in the present form of the bill that if the committee is determined to report to Congress some measure of this sort, certainly some changes must be made in the present bill.

**Senator SMOOT.** Every man who made objections to the bill, that I had a conference with, I asked him to let me know what amendments he would suggest to the bill, and there is not a single one of them that has ever written to me a word or made any suggestion. No suggestion has ever been made.

The CHAIRMAN. I think Mr. McClellan has some amendments.

Mr. McCLELLAN. I shall be glad, with your permission, to take up the bill in detail and point out definite things.

Senator SMOOT. If you have the amendments prepared, I wish you would simply put them all together, so that I can follow them, and go right through with them.

Mr. McCLELLAN. If you will take the bill, I can run through in 15 or 20 minutes and show all the reasons for each one, and why some of these provisions here are objectionable.

Senator SMOOT. Have you got them there?

Mr. McCLELLAN. I have them in memorandum form, referring to lines and pages.

Senator SMOOT. Why not put that in the record, and let us have it, because then we can take time to it. I do not want to do anything here, you know, that will hurt anybody; and I suppose you have there notes, as to why. If you have, put them in the record also.

The CHAIRMAN. Can you not suggest to us here, without undertaking to go through with the bill line for line, the respects in which you think it should be amended?

Mr. McCLELLAN. Yes, I can, Senator.

Senator SMOOT. Giving the fundamental reasons for it?

The CHAIRMAN. Just give the fundamental changes which you want to make in this bill. I would suggest that you do that.

Mr. McCLELLAN. Repeating my statement that I earnestly urge this committee that you should strike out all of titles 1 and 2, I believe that the proposition as a whole is unworkable and unsound; but if you are going to report a bill, then I want to point out first of all the serious proposition that you have made in creating a separate governmental body in this bill which is not properly answerable to any form of the government there. You do not permit in your expenditures of the Federal Government any payment to be made, after it has been specifically authorized by law, except as it is approved by the Comptroller of the Treasury. But here you have the most sweeping provision that I have ever seen written into a bill [reading]:

Sec. 222. The commission may make such regulations and, with the approval in writing of the governor of the Territory, may make such expenditures, including salaries, and appoint and remove such employees and agents as are necessary to the efficient execution of the functions vested in the commission by this title.

That is an unlimited authorization. In addition, comes this expression:

All expenditures of the commission shall be allowed and paid.

Now, that is just as though you were sewing the thing up so that nobody could question it. It says:

All expenditures of the commission shall be allowed and paid.

Why, Senators, it opens up vistas of political jobbery and paying out of money here and money there which nobody can question, which it seems to me is wholly indefensible. I earnestly hope that the committee will place the sharpest limitations on this part of the bill, and I want to specifically suggest that all of the funds shall be paid out only through the treasurer of the Territory, upon vouchers

approved by the auditor of the Territory, as all other Territorial funds are paid. I say that the handing over of this money to this commission to be actually paid out by them on anything that they choose is wholly subversive of sound principles both in governmental affairs and in business. I do not believe that that part, at least, will appeal to the Senator from Utah. It seems to me that part of the bill must certainly be changed.

Here are such other propositions as this, that if a lessee fails to pay his taxes, the commission must proceed to pay those taxes. Now, anybody who knows the Hawaiian disposition knows that no Hawaiian will pay his taxes under any such rule as that. Consequently, if you do not have a provision there that if the taxes are unpaid his claim shall be sold and his rights foreclosed, you will have none of the occupants of those lands paying their taxes. And here is this provision obliging the commission to pay these taxes. The consequence would be that all the taxes on those homesteads, or at least 90 per cent of them, would have to be paid by the commission. I am sure that is a provision which calls for amendment.

In regard to the case where a lessee leaves his homestead, under the provisions of this bill as it is now drawn, he can walk up to the commission and say, "Gentlemen, you pay me for my equity in this property," and under this bill they have got to do it. He can carry on his experiment for six months, or until he gets tired, and then he can go and get a job in Honolulu and walk out, and he can go up to this commission and say "Gentlemen, my money." Under this bill they have got to pay it to him.

Senator SMOOT. No; I do not think they have got to pay it to him, unless the commission say so; and it would be a fool commission that would say so.

Mr. McCLELLAN. The present bill directs them to pay it.

Senator SMOOT. Yes; that is, if it is approved by the commission. If there is any requirement like that, there, I would not object to an amendment. The provision is that if the commission approves the claim, they have got to pay it.

Mr. KALANIANA'OLE. These commissioners will have to be confirmed by the Senate?

Mr. McCLELLAN. Yes; but after they are confirmed they have absolute authority, free of the Senate. They can snap their fingers at the Senate.

Mr. KALANIANA'OLE. Mr. McClellan contends that "all the expenditures of the commission shall be allowed and paid," but he forgets to say that it must have the approval of the governor.

Mr. McCLELLAN. The governor is one of the members of this commission.

Mr. KALANIANA'OLE. And the governor is appointed by the President of the United States, and he has to first approve all expenditures, including salaries, etc. The commission has no power to go over what the governor disapproves of.

Mr. McCLELLAN. If you will show us where there is such a provision as that in the bill—

Mr. KALANIANA'OLE. All of section 222 provides that.

Mr. McCLELLAN. I find no such provision in the bill. This commission can outvote the governor any time they choose.

Mr. KALANIANA'OLE. Section 222 specifically provides that before any expenditure can be made the governor must first give his approval in writing, and there is no provision in this bill which gives the commission the power to outvote the governor.

Mr. McCLELLAN. I think there is. Now, here is another provision—

Senator SMOOT. I do not want a dollar paid out under the bill if it is not lawful. I do not care what restrictions are made to bring that about, or how drastic they may be:

Mr. McCLELLAN. Here is a point that I think will appeal to the Senator from Utah, because I know that he is interested in getting results out of this proposition. He is not merely for spending money. There is no adequate provision in the bill, Senator Smoot, to really see that the money loaned to the lessee shall be applied to the purposes intended. It is true that the bill says no part of the money loaned shall be devoted to purposes other than that for which the loan is made; but what does that amount to after you hand out \$3,000 to a Hawaiian?

Senator SMOOT. They are not going to hand it out.

Mr. McCLELLAN. But there is no provision in this bill other than for advancing a loan to this man, which means paying over the money; and under the provision here made this man has got a year after he takes this before he is required to go onto the land. Now, you know the happy disposition, the happy-go-lucky way of the Hawaiian with money. What would become of this loan fund in the hands of the average Hawaiian between the time he borrowed that money and the time he got onto the land?

Senator SMOOT. If he got the money he would spend every dollar of it—or many of them would.

Mr. McCLELLAN. Certainly he would; and I want earnestly to point out to the committee that there is no adequate provision here for seeing that the money is advanced only as it is applied; for example, if he is buying certain farm implements, that the money should be paid when the bill for the farm implements is rendered.

Senator SMOOT. The Hawaiian is no different than about half the whites here, in that; they are the same way. And I take it for granted that no commission that will be appointed—that could be appointed—would advance the money to anybody until they knew just where that money was going, or that the contracts had been agreed to as to the expenditure of the money. I can not conceive of any commission doing otherwise.

Mr. McCLELLAN. Well, Senator, if you were familiar with some of the things that have been done with money in the Hawaiian Islands, you would believe that that would be quite possible, and that the whole thing would be a means of dissipating money rather than really aiding Hawaiians.

Senator SMOOT. Have you an amendment to cover that?

Mr. McCLELLAN. I have proposed an amendment to cover that, which I hope will be considered.

There is one fundamental thing I want to dwell on with the committee in the line of amendment, if you are going to report this bill. I believe that if you are going to make this experiment—and I think it must be admitted that it is an experiment—it ought not to be done

on so heroic a scale; that you ought to undertake it on such a basis as to make a real experiment in good faith, but not to spread it around over the entire Territory.

One of the fundamental propositions, it seems to me, is that this experiment should be limited to at most two islands, to begin with, instead, as is now planned, on five islands. I believe the experiment should be made on not to exceed two islands. Personally, I have a strong conviction that Oahu should not be one of those islands, for the reason that the lure of city life at Honolulu is so great that you would have an almost hopeless handicap for the average Hawaiian, where there was no local community and center to hold him on his homestead. I believe it would be impossible to hold these men on any of the lands named on Oahu; they would go right back to Honolulu.

Senator SMOOT. What two islands would you suggest?

Mr. McCLELLAN. Well, I would suggest that Kauai would be one of the most attractive.

Senator SMOOT. Very good.

Mr. McCLELLAN. And I have supposed, Senator, that Molokai was one of the best, for the reason that there the natives would have a better opportunity of having their own life, without any of the excitement and distractions of large cities.

Senator SMOOT. If you are going to have two, you had better take Maui as one.

Mr. McCLELLAN. What lands are available on Maui?

Senator SMOOT. I do not know just how many of the lands are available on Maui.

Mr. KALANIANA'OLE. About 31,000 acres in Maui.

Mr. McCLELLAN. But it has been conceded, I believe, that practically none of that is really agricultural land.

Mr. KALANIANA'OLE. No; it is grazing land.

Mr. McCLELLAN. I would suppose that Oahu was one of the most unpromising. I should think that the three best were Kauai, Molokai, and Hawaii.

Senator SMOOT. How many acres have they in Hawaii?

Mr. McCLELLAN. The largest area is in Hawaii.

Mr. RIVENBURGH. About 130,000 acres, in round figures.

Mr. McCLELLAN. The largest area is in Hawaii.

Senator SMOOT. Yes.

Mr. McCLELLAN. But it would seem to me, if you are going into this, you ought not to spread it all over the group. You ought to take not to exceed two islands and keep it to the area of the land reserved in those islands.

Senator SMOOT. The only reason for having it on Oahu is that they could work outside there on the farm lands away from their homesteads in different times of the year. You would not object to that, would you?

Mr. McCLELLAN. I would not at all object to it, Senator, providing they did not really desert their homesteads.

Senator SMOOT. That is what our farmers do here. In fact, they have to do it, particularly in a new country.

Mr. McCLELLAN. I would not object to that if it did not end up by their abandoning their places. But your work which is going on in the settlement at Laie is successful largely because you have a

self-contained community life. You have all the things that are called for in community life. You have a village center, offering religious, educational, and social forms of community life; and right at hand is the plantation, on which they can do outside work. You have all the conditions there for retaining those men, and consequently you have achieved the one success in the Hawaiian Islands in keeping the Hawaiians on the land.

But now, for instance, what would happen if a Hawaiian had a place over on the windward side of Oahu, within an hour's ride of Honolulu? How much of the time would you have him there on his place? It can not be done; it simply would not work. There is nothing there to hold him except his own little place, which is undeveloped; and there is the town, beckoning, right at hand, and so easily to be reached.

Senator SMOOR. He would not have a place unless he worked it, of course. This commission would not give him the money.

Mr. McCLELLAN. But the point is that they would be going on and making a start and then dropping it; and, of course, all buildings and implements depreciate rapidly; and the cost of fencing and all that sort of thing is quickly wiped out. It seems to me if you are going to make any such experiment, it should be made with no part of it on the Island of Oahu. I would think that Oahu and Maui were the least promising islands of the group; and the experiment should be made on not to exceed two islands to start with. Try the thing out, but try it on a scale that would not almost bankrupt the Territory and strain all of its other resources to bring it about. That amendment I regard as very, very fundamental. It is true that if anything is done, it should be done on a scale large enough to really try it out; but many of these tracts would each be large enough to establish a real community on. That should be done, and I think that would be the way. Hawaiians are like all people, they like to be together. You can not have one homesteader off by himself in the wilds. He must have more or less of a grouping. But the size of those tracts is sufficient to admit of that.

Now, I want to come to Title III of the bill, and to express the opinion that on page 21, section 302, the provision which enlarges the borrowing capacity, extending the limit of indebtedness of the Territory from 7 to 10 per cent, ought not to be enacted. My reasons for that are, briefly, in line with what I said yesterday of the very grave problems that are ahead of Hawaii in the next 10 years, that you must conserve the resources of that country, and if you get the territory tied up to the limit of its borrowing capacity, you will have no reserve strength to meet the school and other educational and development interests of the islands. The islands have been in the main prosperous in recent years, and instead of going on and borrowing so much money, they ought to increase taxation and carry more of it as current cost. But this proposition of tying up the Territory to a debt limit of 10 per cent I believe is unsound, and I do not believe that provision should be passed.

I think that a debt limit of 7 per cent is as much as the Territory ought to incur at the present time. Values are increasing, the assessed valuation is increasing, so that the amount that may be

borrowed under the present debt limit exceeds \$19,000,000. I think that it would be a mistake, from the standpoint of sound administration, to increase that debt limit. Every governor that comes into power wants to carry through some public works. Well, they are very good, and they leave nice monuments to him in the form of piers and docks, etc., and they are necessary works; but there is a limit to which those things should be carried, and my point is that if you have that borrowing capacity there you will not meet as large a part as you should by means of current taxation, which can be better borne than laying so great a debt burden on the Territory.

Mr. KALANIANA'OLE. Is the chamber of commerce opposed to this legislation?

Mr. McCLELLAN. My understanding is that they went on record as opposing the increase of the debt limit.

Senator SMOOT. They were on record, however, a year ago, before this legislation was enacted, to increase that to 10 per cent.

Mr. McCLELLAN. I believe that the official brief, filed by the commission which came on, shows that the chamber of commerce had placed themselves on record as opposing this increase in the debt limit.

Senator SMOOT. This particular debt increase?

Mr. McCLELLAN. Yes; Senator.

Senator SMOOT. But Hawaii has asked that this very provision be enacted into law, allowing them to increase their bonded indebtedness from 7 to 10 per cent—I mean before this legislation was thought of.

Mr. McCLELLAN. I was not aware of that.

Senator SMOOT. Yes.

Mr. McCLELLAN. Now, the final thing that I want to take up is the question of the leasing of the cultivated lands of the Territory. I want to say that the present system of homesteading cultivated lands is, in my opinion—and I think it is the general opinion of the people of the Territory—a failure. It is not a success, because in the main it has been used as an opportunity for the lucky drawers in a lottery to grab a part of the territorial wealth and use it a short time and then dispose of it as a private resource. It all comes back, gentlemen, to the ever-present urgency of the needs of the Territory for these resources, fundamentally, for educational purposes. If these highly developed lands become dissipated through this alleged system of homesteading, we shall be left with a piled-up debt and no property resources to offset it. Many States of the Union have set aside vast areas of lands as a permanent school fund.

Senator SMOOT. What assurances have we that the same process will not go on in the future as it has in the past? Some of these leases now, I believe, of the very best and most productive lands in Hawaii, terminate within a year, do they not?

Mr. McCLELLAN. Yes, sir.

Senator SMOOT. What assurance have we that the same bunch of people will not get them, and get them for really a—well get them for almost nothing?

Mr. McCLELLAN. Well, Senator, I want to say this, that I have personally reached the conclusion that the disposition that should



be made of those lands is to auction off leases in areas of, say, a maximum of 75 or 80 acres; auction them off to the highest bidders; in other words, to make those lands which are developed lands, worth anywhere from \$400 an acre to, in some cases, perhaps \$1,000 an acre, a resource for the payment of a steady income into the Territorial treasury.

The CHAIRMAN. Would you put any limit on the number of parcels of 75 or 80 acres that any one body or corporation could take?

Mr. McCLELLAN. Certainly. No man should have more than one such tract or lease; and they should be limited to citizens of 21 years of age or over.

The CHAIRMAN. Did you mean to limit it, in other words, to a tract of that size coming into the possession of any one person?

Mr. McCLELLAN. Yes. Make it a chance for individual farming or cane growing, but require the citizen to pay a real commercial rental for the developed lands, and not merely a nominal rate. I certainly would not leave the thing open to any group, because if you did that you would be practically in the same position you were in, of offering the tract as a whole.

The CHAIRMAN. That is just it.

Mr. McCLELLAN. I want to say that my information when I was in Honolulu last was that there are three financial groups all lined up there to bid for those leases, and I do not think that there is any possibility that any of those developed properties will ever be leased again for any nominal sum, because their value is so demonstrated that the rest of the people in the country are not going to stand by and see the Kekaha Sugar Co. go in and get a lease on that property for a nominal sum.

Senator SMOOT. There would have to be some sort of organized effort to bid against them, or else they would get them. They have every advantage in the world. You know very well that no native could get them by bidding against the company or the parties that have them to-day.

Mr. McCLELLAN. No; certainly not.

Senator SMOOT. It seems to me that if we are going to get anything at all out of it in the way of assisting the people of the islands, you would have not only have to have limited acreage provided for, but you would also have to have a provision that no one should have more than one lease.

Mr. McCLELLAN. That would be in the line of establishing the individual as a grower on the land.

Senator SMOOT. Yes.

Mr. McCLELLAN. And would be the practical means of giving a permanent revenue, an income to the Territory, from these lands, instead of having them dissipated and handed out by lottery, as at present. I think that by all manner of means, if this Congress is going to pass any legislation in that line, that matter should be gone into, because it is one of the fundamental matters affecting the Territory.

Senator SMOOT. Would you make a regulation as to the Japanese? Would you allow Japanese to lease?

Mr. McCLELLAN. No; they are not citizens. Certainly not.

The CHAIRMAN. Have you concluded?

Mr. McCLELLAN. Yes, Senator. But I will add to my statement the entire list of amendments that I desire to bring to the attention of the committee.

(The amendments referred to are as follows:)

At the suggestion of members of the Senate Committee on Territories, the following proposed amendments to H. R. 13500 are respectfully submitted for your consideration:

The undersigned has contended before your committee that all of Titles I and II should be stricken from the bill for reasons stated at the hearings. If, however, your committee should decide to retain those portions of the bill in some form, the following amendments are designed to correct some defects of the bill and to make the proposed experiment more practicable:

Page 2, strike out all of lines 19, 20, and 21, and after the word "any," in line 18, add the following: "citizen of the Territory being of the Polynesian race and of the full blood."

Page 3, line 9, strike out all after the word "Territory" and strike out lines 10 and 11.

Section 203: If the experiment is determined upon at all it should be limited at first to not to exceed two islands. It is hopeless to make this experiment on Oahu; because of its nearness the homesteaders would at once drift back to Honolulu. The lands named on Maui are not practicable and that island should be excluded. My suggestion is that the present bill be limited to the islands of Kauai and with that the lands of Hawaii or Molokai as an alternative.

NOTE.—There are serious objections to reserving the entire 200,000 acres conveyed in the bill, since all of the unused portion of such lands would immediately lose a large part of their rental value.

Section 204: Amend to provide that reserved lands shall only assume the status of the Hawaiian home lands as definite parts of the same may be designated by the commission after definite applications for occupation have been made.

Page 8, line 14, strike out "one year" and substitute "six months." No lands should be assigned to a homesteader until he is approximately ready to begin occupation and development.

Page 8, line 17, after the comma, insert the words "but not less than one-half the time."

Page 8, subdivision (5): Limit the right to mortgage to an Hawaiian by providing that the loan from the commission must first have been paid in full; provide further that if the mortgagee shall assign to any other than an Hawaiian the land shall forthwith revert in the commission.

NOTE.—Without such limitation as the above every acre of the homestead lands could be transferred to corporate ownership by assignment of mortgages.

Page 9, subdivision 6, strike out the provision that the commission must pay delinquent taxes.

Under the bill as it now stands the commission would actually have to pay taxes on at least 90 per cent of all the lands.

Page 9, line 21, strike out "two years" and insert "six months."

Page 11, lines 8 to 14 should be stricken out unless the area of lands is greatly reduced.

Page 12, strike out all of lines 6 and 7.

NOTE.—Loan funds should be strictly limited to buildings, stock, and equipment; no part whatever should be used for current expenses. This is in line both with the suggestion of Senator Smoot, who is familiar with Hawaiian characteristics, and with the provisions of the national farm loan act.

Page 12: In the place of lines 6 and 7 insert the following:

"Payments for the foregoing purposes should be made by the treasurer of the Territory from the loan fund only upon specific bills approved by the Territorial auditor: *Provided, however,* That the treasurer shall not make any payments on loans out of the Hawaiian home-loan fund that will impair or make impossible full provision for interest and sinking funds on all bonds issued for the benefit of Hawaiian home lands, as provided in section 220 of this act."

NOTE.—The Delegate from Hawaii has strenuously insisted that it is the intent of this measure to have all interest and sinking funds taken from the Hawaiian home-loan fund. Clearly that can not be done unless the necessary part of that fund is reserved for this exclusive purpose.

Page 15, line 11, strike out the word "shall" and substitute "may." Line 15, change the period to a semicolon and add "Provided, however, That no such payment shall be made until the same shall have been paid to the commission by the next tenant of that identical tract."

NOTE.—The proviso as now framed in the bill obliges the commission to buy out a tenant any time he chooses to quit the game, and whether they have a new tenant ready or not.

Section 220 as now written would enable the commission to contract for great development works and obligate the Territory for payment, whether bonds or other provision for such work had been made or not. It is submitted that some such changes as the following are absolutely required to safeguard the financial resources of the Territory:

Page 17, line 2, strike out the word "general" and substitute the word "such." Line 3, strike out the period and add the words "as shall have been specifically authorized by the legislature: *Provided, however,* That no work shall be contracted for or work thereon begun until bonds to pay for such work shall be ready for immediate sale." Line 9, after the word "appropriated," insert the following: "*Provided, however,* That the governor and the treasurer of the Territory shall not issue or sell any bonds, nor shall they pledge or pay out any Territorial funds for the aforesaid purposes beyond an amount for which the interest and sinking funds can be paid from the Hawaiian home-loan fund, as provided in this section."

NOTE.—Since the Delegate from Hawaii insists that all the interest and sinking fund requirements on bonds will be met by the loan fund, this amendment can not consistently be objected to.

On page 17 the provisions contained in lines 9 to 21 are meaningless and would be wholly inoperative unless some such limitation as the above is inserted.

Page 18, strike out the first comma in line 23 and all of the words following it and insert the following: "any privately owned water."

Page 18, strike out lines 24 and 25.

Page 19, strike out lines 1 to 8.

NOTE.—This section as it stands in the bill would enable the commission to confiscate any water rights and ditch rights in the Territory.

Page 19: If the lands of Molokai are excluded from the bill, line 11 on this page should be stricken out.

Page 20: Section 222 gives unlimited right of expenditure to the commission, with no check or curb. This should certainly be limited to payments approved by the auditor of the Territory, as is now done with all other Territorial expenditures. The treasurer of the Territory should handle all commission funds.

Page 21, strike out section 302.

NOTE.—The present law permits a Territorial indebtedness of over \$19,000,000; with the many grave problems to be met in Hawaii, the Territorial indebtedness should certainly not be allowed to go above that sum.

Page 25, line 13, change semicolon to a period, and after the period insert the following: "The cultivated and developed agricultural lands of the Territory shall hereafter be held by the Territory for revenue purposes. Such cultivated lands shall be leased for periods not to exceed 15 years, without any right of withdrawal. Such lands shall be leased in tracts of not to exceed 50 acres of the best cane lands, and not to exceed 80 acres of any cultivated lands. All such leases shall be sold at auction, after proper advertisement, and no such leases shall be sold except to an individual who is a citizen of the United States and at least 21 years of age. Only one lease of such cultivated land shall be held by any citizen, and no such lease shall be assigned to or be held for the benefit of any corporation, alien, minor, or for any citizen who is the holder of any lease of cultivated land."

Page 25, line 13, strike out all after the word "effect," and on the same page strike out all of the lines from 14 to 19.

Respectfully submitted.

GEO. MCK. McCLELLAN.

#### STATEMENT OF MR. W. B. PITTMAN—Resumed.

Mr. PITTMAN. Mr. Chairman, I have some amendments here that I believe will meet with the approbation of the proponents of this bill, as well as my side of it, anyway. I propose to amend the section defining the term "Hawaiian." I suggest that the first amendment

to this bill should be where they define the term "native Hawaiian," so that instead of providing that the term "native Hawaiian" shall mean "any descendant of not less than one thirty-second part of the blood of the races inhabiting the Hawaiian Islands previous to 1778" it shall be changed so as to read as follows:

The term "native Hawaiian" means any citizen of the Territory being of the Polynesian race and of the full blood.

I do not believe that the Delegate will object to that, because if all of these lands—

The CHAIRMAN. Will you read your amendment again, please?

Mr. PITTMAN (reading):

The term "native Hawaiian" means any citizen of the Territory being of the Polynesian race and of the full blood.

The CHAIRMAN. That is your amendment?

Mr. PITTMAN. Yes. In other words, that this shall apply only to Hawaiians who are of the full blood; and that will rehabilitate only a very few of them, because there are only about 22,000 full-blooded Hawaiians, and there can be only two or three hundred homesteads. I do not believe the Delegate will object to that, that it be confined to the full blood instead of the half blood, because he knows and everybody knows that any part Hawaiian is capable of taking care of himself and does not need any rehabilitation.

Senator SMOOT. Are you in favor of that, Mr. Delegate?

Mr. KALANIANA'OLE. No; I am opposed to it, because I am here to carry out the wishes of the legislature and not my own.

Mr. PITTMAN. No doubt that matter was not discussed before the legislature. The bill was not discussed in detail at all.

The next provision certainly can not be objected to by the Delegate or any proponent of this bill. The next amendment is that the lands subject to being homesteaded under this bill for the purpose of rehabilitation of Hawaiians be all of the lands. Not simply to mention the lands on Molokai or lands on Hawaii, but to mention all the lands that are subject to being homesteaded—all the lands that are not highly cultivated. That means that all the lands of the Raymond ranch, that I now represent, can be homesteaded if the commission thinks it advisable. It means that all the lands of the Parker ranch can be homesteaded, and it means that thousands of other acres can be homesteaded and turned over to the Hawaiians under this rehabilitation bill.

Senator SMOOT. It also means that if the commission says that the Parker ranch is not to be, it will not be.

Mr. PITTMAN. Why not leave it to the judgment of the commission? The Delegate has always stated here that we should have confidence in the governor and in the commission. Now, I have sufficient confidence in the commission and sufficient confidence in the governor—the present governor or whoever may succeed him—that he will not place Hawaiians upon lands that they can not make good on; and that if the Raymond lands are not subject to being homesteaded under this bill, no commission would set those lands aside. They may set some of them aside; no doubt they will. They may set some of the Parker ranch aside; they may set some of the other lands aside. But leave that in the judgment of the commission. They are subject to being homesteaded now. They can be

withdrawn and used under this bill for the purpose of rehabilitating the Hawaiian people. Now, why is not that fair and just? It does not in any way interfere with the rehabilitation of the Hawaiians.

Although I believe that this rehabilitation scheme will prove a failure, still they seem to be anxious to have it, and they have intimated that we have a selfish interest here. Now, as the representative of Dr. Raymond, I stand here ready to say that these lands may be used for the purpose of rehabilitating the Hawaiians, providing the commission thinks it advisable. But I also ask that they put other people's lands here; that they not only put the Parker ranch lands in, but that they put in all the lands; and that is all they have got to do. Now, is that fair and just? Certainly the Delegate can not object to that. It gives the Hawaiians more lands to draw from. It is an advantage to the Hawaiians. Now, I claim that that should be done. They should not set aside certain lands and leave other lands out.

The former land commissioner, Mr. Rivenburgh, has testified that there are many acres besides these particular lands that are mentioned in this bill that can be used for the purpose of rehabilitating the Hawaiian people. The Delegate himself said there were something like 200,000 more acres of land in the Territory of Hawaii. Take all of that land and say to the people down there, "We are going to take all the land that is not highly cultivated and we are going to leave it up to the judgment of the commission as to what lands they shall set aside for the purpose of rehabilitating the Hawaiians." I claim that that scheme is just and fair, and no one who conscientiously believes in the rehabilitation of the Hawaiians can object to it unless he has some personal motive.

The next proposition is something that the Delegate has said was a good thing, and that is in reference to highly cultivated lands. I object to these highly cultivated lands being turned over in large blocks to the highest bidders. That is what it means. Under the present bill it means that the plantations are obtaining these lands, and probably the same plantation, the Wind River plantation, the Kakaha plantation, will still retain these lands for another year. Why? Because they are in a position to bid more for these lands than anyone else. Regardless of how much money I might have or you might have or any other citizen of the Territory might have, they could not compete with the men who are now in control of these lands, and working them; so I say if we are conscientious in wanting to turn this land over to citizens of Hawaii, turn it over to any citizen, not for a few dollars, not in such a gambling scheme as he can take it by now, but on the same plan as in this bill, except to provide that it shall be turned over to the highest bidders in blocks of not more than 80 acres.

What does that mean? It means that we will have the same amount of money to rehabilitate the Hawaiians as we do under the present plan, and instead of these highly cultivated lands going to the plantations they will go to a number of citizens who have sufficient funds to bid for these lands and pay a high rental to the Government, and it will increase our farming citizenship. Now, can anything be wrong with that? We are still going to rehabilitate the Hawaiians.

Senator SMOOT. You had better make it 40 acres instead of 80 acres.

Mr. PITTMAN. Let them make it 80 acres, or whatever the committee may think best; not to exceed 80 acres. Then leave it in the power of the land commission to say, "Gentlemen, I think you should have only 30 acres here," or "I will let you have 40 acres here," and put out a bid. The citizens of Hawaii are willing to lease these lands and pay to the Territory sufficient rentals to rehabilitate the Hawaiians.

Now, is not that right and fair? My objection, as I said in the beginning, was not a purely selfish one. I have been studying this bill for many months, long before I became associated with, or attorney for Dr. Raymond, and I am so confident that it will work that this commission will only take lands fit for rehabilitating Hawaiians, and that they will take very little of the Raymond ranch, that, therefore, I as attorney for Raymond, am willing that they should take out of the Raymond ranch whatever they want to.

I do not know what Judge Robertson thinks about the Parker ranch, but I say do not turn over these lands to the Waimea, the Miller ranch, the Kekaha ranch, and those plantations, but turn them over to the people, let them pay a high rental and let this money paid go into the Treasury to go for the purpose of rehabilitating the Hawaiians, providing that none of these highly cultivated lands shall be sold to any corporation, any alien, or any minor, or shall be sold for the benefit of any corporation, or any alien, or any minor.

Now, the reason I say not to a minor is because the Japs might be able to bid it all in for their children, and that will keep them from doing it—the same situation as they have in California. I can not see any objection to those amendments of this bill, and with those amendments I withdraw my opposition to the rehabilitation bill. I withdraw my opposition to the Hawaiians taking all of the uncultivated lands that they can cultivate profitably, that the amendment says. I am willing that all money received from the leasing of these highly cultivated lands shall go for this one purpose and one purpose only, to rehabilitate the Hawaiians. But I do say, make it a pure-blooded Hawaiian. Do not make it the Hawaiian that you know does not need any rehabilitation. How many of the pure-blooded Hawaiians, who are the only ones in our Territory who need rehabilitation, will get a foot of this land if you pass the present bill? Senator, there would not be five. There would not be five men that need any more rehabilitation than you do get this land, unless you make it to apply to the pure Hawaiian.

The CHAIRMAN. You ought to pick out a more fortunate example for your comparison. [Laughter.]

Mr. PITTMAN. So that I do not think that the Delegate can object to those amendments. That is all it does. It does not designate the land. It makes it apply to the pure Hawaiians, and it provides for the leasing of these lands to the citizens; not, as Mr. McClellan said, to give it to them for a few dollars, a paltry sum. No; make them all pay a high price for the lands, just as you do under this bill, and say to the corporations and to the aliens and to the minors, "You can not bid on it. We are going to give it to the citizens. We are going to build up farming communities, and we are going to take

these boys who have money and are willing to go on farms and are willing to put \$4,000 or \$5,000 into it, and we know they are going to go on the land. All right; let it go to Hawaiian boys."

I am willing to leave it to the commission as to bonding our Territory, but I say do not take these highly cultivated lands away from them and do not give it to any other than the pure Hawaiian. He is the one that needs rehabilitation. And I do not believe that the Delegate can conscientiously object to these amendments, because this is in keeping with his testimony.

I do not think it is correct to say that the legislature have indorsed this bill. They have simply indorsed the scheme. You know how they did it. That resolution was brought up and they lined up, the Democrats lined up and the Republicans lined up on the question, and, bingo, it passed, and it was not gone over paragraph by paragraph, and two-thirds of those that voted on it did not know what was in the bill.

Senator SMOOT. It has been discussed in the papers enough for all the members to know.

The CHAIRMAN. That might indicate that they do things in Hawaii on pretty much the same plan that we have here.

Mr. PITTMAN. I have the amendments all prepared, and I have the bill all fixed in my own handwriting, so that you can see just what is proposed.

The CHAIRMAN. I would like very much for you to leave a half a dozen copies of that as you have it prepared for the benefit of the members of this committee, and they will be submitted for their consideration, together with the printed copies of your remarks.

Mr. PITTMAN. Yes, sir; and then, Senator, if these amendments are made, or such amendments along these lines as you think should be, it means the withdrawing of opposition to rehabilitation of the Hawaiians.

Mr. McCLELLAN. You mean it withdraws your own opposition.

Mr. PITTMAN. Yes; I do not speak for Judge Robertson. But I do say, with all due respect to Senator Smoot, that the majority of the people, the poor people, men who are worth from \$5,000 to \$6,000 and \$7,000, are opposed to turning these highly cultivated lands over to the sugar plantations, and that they are opposed to that portion of the bill as it stands to-day. But, now, why fight over this rehabilitation? Just change that clause and leave it to the judgment of the commission; that is all I say. I am willing to stand by the commission. Take these highly cultivated lands and lease them to the common people, people who have \$5,000 or \$6,000, who are willing to do real farming, and turn the money over to the Hawaiians to rehabilitate them, but leave it to the commission as to what lands they shall use and say, "We are not going to designate any lands, but all lands, every foot of land in the Territory of Hawaii, which is subject to being leased which is not cultivated shall come under the provisions of this law." It gives them more land to select from, and it makes it fair.

The CHAIRMAN. All right; you will prepare more copies of this?

Mr. PITTMAN. Yes.

The CHAIRMAN. I wish you would prepare several copies for the benefit of the members of this committee, and I will see that they

are submitted in connection with your remarks here, to be read by them. I will also turn one vote to the Delegate, so that he can have it to look over. Is that all, Mr. Pittman?

Mr. PITTMAN. Yes, sir; thank you.

The CHAIRMAN. Now, Mr. Kalaniana'ole, if there is anything you care to say, say it now, or forever after hold your peace.

**STATEMENT OF HON. J. KUHIO KALANIANA'OLE, DELEGATE IN CONGRESS FROM THE TERRITORY OF HAWAII—Resumed.**

Mr. KALANIANA'OLE. I am opposed at this time to any amendments. I went before the people for six months, calling upon them for any suggestion or amendment that would improve this bill or to meet the objections of those who opposed this bill, but during all of that time and all through my campaign of three months, and this bill was the only issue before the electorate, not one suggestion or amendment was proposed. On account of the danger of the Territory losing the revenue from the highly cultivated cane lands, those who had the welfare of the Territory at heart, discussed ways as to the best method of securing legislation so that the Territory would derive some benefit from these lands, and in 1919 they passed a resolution to the effect that the Delegate—

The CHAIRMAN. Now, make it clear in the record why they had that fear. Make plain the reason for the fear that you will lose these cultivated cane lands.

Mr. KALANIANA'OLE. I will do that later on.

Senator SMOOT. Are you willing to have it apply to natives with only one thirty-second native blood in them?

Mr. KALANIANA'OLE. I am not opposed to that. This is the bill that the people of Hawaii want, although I have my own views as to what amendments I would want, yet, in the 20 years of my service in Washington I have never urged the passage of any measure without the authorization of the Legislature of Hawaii. They represent the people. Whatever they demand from me, I do it if I can.

Mr. PITTMAN. Would you not rather see the full-blooded Hawaiians get the benefit of this bill?

Mr. KALANIANA'OLE. I would like to see everybody get the benefit of it in Hawaii. For years past and up to the present time, the Hawaiians have never received any benefits. This is the first opportunity given to a poor man, and you who represent some poor people are objecting because these poor people are getting these lands which they would never get otherwise.

Judge Robertson in his statement frankly admitted that he is representing a special interest and nothing else. He represents an orphan, who is about 7 years old, and is worth in the neighborhood of \$5,000,000. This bill seeks to set aside 200,000 acres, about 88,000 of which comes from the lands held under lease by the Parker ranch, of which this infant is the sole beneficiary. The Parker ranch owns in fee simple 339,316 acres, and has under lease from the Territory 141,301 acres, and it pays the annual rental of \$16,286, averaging a little over 11 cents per acre. It is no wonder that the Parker ranch, deriving the benefits of these lands at such a small rental, has seen fit to send a paid representative to appear before your committee and strenuously oppose this bill.



Judge Robertson objects to the bill for reasons which are not well founded.

He strains the point that the money to be raised for the purpose of carrying out this bill will be by taxation; that when the commission recommends the construction of irrigation systems, and there is insufficient money in the Hawaiian home fund, the Territorial legislature may authorize the issuance of bonds, and that the Americans or whites, as he calls them, would be subjected to increased taxation for the benefit of the Hawaiian, discriminating against the whites for the benefit of the Hawaiian.

This statement is absolutely untrue. Section 220 of this bill provides that the interest and principal of the bonds so authorized to be issued shall be paid from the Hawaiian home loan fund.

Section 213 of this bill provides for the creation of a revolving fund to be derived from 30 per cent of the Territorial receipts derived from the leasing of the cultivated sugar-cane lands and water licenses.

The highly cultivated land which this bill provides can be leased to the highest bidder, if approved by two-thirds of the land board, amounts to about 32,660 acres, 3,000 acres of which compose the highly cultivated land of Kekaha, Island of Kauai. For this tract, including also the mill site, private interests have offered the sum of \$5,000,000 as the purchase price and have offered the sum of \$400,000 per year as rental for this same property.

The governor states that if put up at auction and leased to the highest bidder, the Territory would receive at least \$700,000 per year from these lands, which sum would greatly increase the revenues of the Territory. Now, if these lands are leased as provided in this bill the Territory would derive an enormous income and every citizen of the Territory would be benefited, as under this procedure it would not be necessary to increase the taxes to meet the expenses of the Territory, but if these lands are not leased the Hawaiians would get no funds and all of the people would be subjected to increased taxation.

Mr. RIVENBURGH. Prince, right there, is that \$700,000 from the land or from the mill and land too?

Mr. KALANIANA'OLE. It includes the mill site.

Mr. RIVENBURGH. The rental of the mill and the rental of the water also?

Mr. KALANIANA'OLE. Three thousand acres includes the mill.

Mr. RIVENBURGH. And the water rights, also?

Mr. KALANIANA'OLE. Judge Robertson states that if this bill passes the Territory would lose large sums of money by financing the Hawaiians, which would be the means of increasing the taxation to meet the needs of our Territory. As a matter of fact, if this bill passes it will be the means of preventing further taxation of our people, for the reasons that these highly cultivated cane lands, as proposed in this bill, is left to the land board and the land commissioner the discretionary power to decide as to what percentage of these lands should be leased and the percentage to be homesteaded.

As I stated before, if \$400,000 can be derived as rentals from 3,000 acres of cane land, you can readily imagine what income the Territory would derive from the balance of 29,660 acres of highly cultivated cane land. But if this bill fails to pass Congress at this session, every acre of these highly cultivated lands will be homesteaded

and the Territory would lose this enormous income which otherwise they would gain if the bill passes.

The main purpose of this legislation, and the sending of a legislative commission to Hawaii, was to amend the organic act and derive some method for raising the revenue of the Territory. Long before the legislature met in 1919, in its regular session, the governor and other officials had in mind the question of raising the necessary revenue by methods other than increased taxation.

These highly cultivated lands were leased some 30 years ago, which were later developed into highly cultivated sugar land, and the rentals from which were very insignificant. These leases are about to expire, and the governor, having received tentative offers from the different corporations to purchase or lease these lands at their present value, submitted the matter to the legislature.

The legislature, by resolution No. 28, proposed that a third of these lands be released, but later amended it to a fifth to the corporations and the other portion subject to homesteading, subject, however, to a provision in the resolution which reads:

After adequate provision has been made by the Congress aforesaid to accomplish the purposes of resolution 2.

Resolution No. 2 provided for the rehabilitation of the Hawaiian people, and this resolution had preference over the former.

Resolution No. 28 also authorized and empowered the governor and land commissioner and land board of the Territory to exercise the power and right of selection of homesteaders in all cases of applications for the opening of homesteads and the right and authority to pass upon the qualifications and capabilities of any such applicant as a homesteader of such land. This portion of the resolution was struck out, being considered by the House committee as un-American.

The House Committee on Territories decided that it was for the best interests of the Territory that these highly cultivated lands should not be subjected to homesteading, but in deference to the home-rule wishes of the Territory provided in this bill that the portion to be leased and the portion to be homesteaded be left in the discretion of the land board and the land commissioner.

As to the constitutionality of the bill, I had much time with the subcommittee and the full committee of the House, the majority of whom are lawyers, and those committeemen said that Congress had the power. I ask to be allowed to file the statement of the attorney general as to the constitutionality of this act:

STATEMENT OF HON HARRY IRWIN, ATTORNEY GENERAL OF HAWAII.

The CHAIRMAN. You may exercise your own judgment as to whether you want to read your brief or bring only certain parts of it to the attention of the committee or refer to it in your statement.

Mr. IRWIN. I will not read the brief, but file it for the record.

(The brief referred to is as follows:)

FEBRUARY 9, 1920.

THE CHAIRMAN AND MEMBERS OF THE  
COMMITTEE ON THE TERRITORIES,  
*House of Representatives, United States.*

GENTLEMEN: There is now pending before this committee a proposal to enact certain legislation whereby portions of the public lands of the Territory of Hawaii shall be set apart and devoted to the exclusive use of citizens of Hawaii and Hawaiian blood, in whole or in part. This proposition has the support and

approval of the Legislature of the Territory of Hawaii, as shown by concurrent resolution No. 2, which was passed by both houses of the Territorial legislature during its 1919 session, and which has been incorporated in the record of these hearings. Senator John H. Wise, of Hawaii, the principal spokesman and advocate for this legislation, bases his argument in support of the proposed legislation on five grounds, namely:

1. That in the Great Mahele, or division of the lands of the Kingdom of Hawaii, which took place in 1847, the common people of Hawaii, who at that time constituted almost exclusively members of the Hawaiian race, did not receive their just share of the lands of the kingdom.

2. That those portions of the lands of the kingdom which in the Mahele were set apart as Crown lands were and are impressed with a trust in favor of the common people, which has never been executed in their favor.

3. That at the time of the overthrow of the monarchy the Crown lands were taken over by the Republic, and the rights of the citizens, as such *cestuis que trustent*, confiscated.

4. That equitably and as a measure of belated justice the Hawaiian people are entitled for these reasons to preferential treatment in the further disposition of these lands; and

5. That in any event, whether the said equitable claim shall be considered as established or otherwise, the Congress of the United States should recognize the fact that because of conditions outlined by Senator Wise the Hawaiian race is rapidly dying out, and that legislation should be enacted for the special advantage of the Hawaiian people, to the end that the remaining Hawaiian population may be induced to return to the land as tillers of the soil, thus removing them from the conditions which are tending to their destruction and thus providing for the rehabilitation of the Hawaiian race.

This last proposal is based squarely upon the proposition that Congress should, so far as it constitutionally may do so, enact such legislation a will tend to stem the tide of destruction, which unless checked must inevitably within a short time result in the utter annihilation of this fine race of people.

These various propositions will be discussed in the order above indicated.

First. It may be conceded that the native Hawaiian population did not receive anything like a proper proportion of the public lands under the Great Mahele. The theory upon which these lands were divided was that the shares of the King, the chiefs, and the people in the land of the Kingdom were about equal.

The board of land commissioners to quiet land titles, which was established for the purpose of settling these rights, decided that "There were but three classes of vested rights or original rights in the land, which were in the King or Government, the chiefs, and the people, and these three classes or rights were about equal in extent." (See President Dole's article in the *Overland Monthly* of June, 1895.)

Theoretically, therefore, the common people were entitled to one-third of the land. This right, however, was absolutely dependent upon the presentation of these claims to the said board of land commissioners, and no matter how strong a claim of right a native Hawaiian or other citizen of the Kingdom of Hawaii may have had in a piece of land, unless that claim was presented to and allowed by the board of land commissioners he could not after the board had completed its work successfully assert title to the same.

In this connection the following rule was adopted by the board of land commissioners:

"All persons are required to file with the board by depositing with its secretary specifications of their claims to land and to adduce the evidence upon which they claim title to any land in the Hawaiian Islands before the expiration of two (2) years from this date, or in default of so doing they will after that time be forever barred of all right to recover the same in the courts of justice." (Fundamental Law of Hawaii, p. 149.)

It is amazing that of the large area of land involved in the Mahele, and in which the common people undoubtedly had very extensive rights, that only 28,000 acres were awarded by the board to the common people of Hawaii, as distinguished from the King and the chiefs. This situation is undoubtedly due to the fact that large numbers of the native population failed to file their claims with the board of land commissioners. Just why they failed to file their claims was due in part to opposition on the part of the chiefs and land-lords and in part to a natural reluctance on their part to break away from the old feudal system, which had prevailed in Hawaii for a period prior to the memory of any then living man. The fact remains, however, that they failed

to present their claims to the board, with the legal effect that by operation of law they lost entirely any right that they theretofore had in those lands. As a matter of law, therefore, whatever the causes may have been leading up to this result, the real reason why the Hawaiians failed to obtain a larger portion of the public domain through the Mahele was due to their failure to present their claims to the board of land commissioners within the time provided for by law.

Second, third, and fourth. These three propositions will be discussed together. The position taken by Senator Wise in this connection is that under the Great Mahele the lands that were set apart as Crown lands were impressed with a trust in favor of the common people, and that equitably they are still impressed with that trust, notwithstanding the various changes of government, with their attendant changes in the disposition of these Crown lands.

I do not believe that this proposition can be sustained either at law or in equity. The whole theory of the Great Mahele was based upon the idea that the public domain was to be divided between the King, the chiefs, and the people. It seems to me to be unnecessary at the present time to enter into an extended discussion of the evolution of Hawaiian land titles. The board of land commissioners heretofore referred to adopted certain rules, which were subsequently approved by the King and chiefs in privy council.

With respect to the work of this commission and the general results of the Mahele, I quote the following excerpt from an article written by Sanford B. Dole, President of the Republic of Hawaii, and published in *Overland Monthly* in June, 1895:

"The principles adopted by the land commission use the words "King" and "Government" interchangeably, and failed to reach any adjudication of the separate rights of the King in distinction from those of the Government in the public domain, or, in other words, they failed to define the King's public or official interests in distinction from his private rights, although they fully recognized the distinction. There was, however, an implied apportionment of these two interests through the proceedings by which an occupying claimant obtained an allodial title. The commission decided that their authority coming from the King to award lands represented only his private interests in the lands claimed. Therefore, as the further payment by the claimant as a condition of his receiving a title in fee simple from the Government was one-third of the original value of the land, it follows that the King's private interest was an undivided two-thirds, leaving an undivided one-third belonging to the Government as such.

"The commission also decided that there were but three classes of vested or original rights in land, which were in the King or Government, the chiefs, and the people, and these three classes of interest were about equal in extent.

"The land commission began its work on February 11, 1846, and made great progress in adjudicating claims of the common people, but its powers were not adequate to dispose of the still unsettled questions between the King, the chiefs, and the Government, though it must be admitted that it made progress in that direction. Neither were the chiefs ready to submit their claims to its decision.

"After earnest efforts between the King and chiefs to reach a settlement of these questions, the rules already referred to were unanimously adopted by the King and chiefs in privy council December 18, 1847. These rules, which were drawn up by Judge Lee, embodied the following points: The King should retain his private lands as his individual property, to descend to his heirs and successors; the remainder of the landed property to be divided equally between the Government, the chiefs, and the common people.

"As the land was all held at this time by the King, the chiefs, and their tenants, this division involved the surrender by the chiefs of a third of their lands to the Government, or a payment in lieu thereof in money, as had already been required of the tenant landholders. A committee, of which Dr. Judd was chairman, was appointed to carry out the division authorized by the privy council, and the work was completed in 40 days. The division between the King and the chiefs was effected through partition deeds signed by both parties. The chiefs then went before the land commission and received awards for the lands thus partitioned off to them, and afterwards many of them commuted the remaining one-third interest of the Government by a surrender of a portion.

"After the division between the King and the chiefs was finished, he again divided the lands that had been surrendered to him between himself and the Government, the former being known thereafter as Crown lands and the latter as Government lands."

It is apparent from this statement that it was always considered that the lands reserved by the King were his individual property, which would descend to his heirs and successors. The act of 1846, by which the cession of lands by the King to the Government was approved by the Hawaiian Legislature, expressly refers to the Crown lands as "The private lands of His Majesty Kamehameha III, to have and to hold to himself, his heirs, and successors forever, and said lands shall be regulated and disposed of according to his royal will and pleasure, subject only to the rights of tenants."

The same act enumerates the lands which were transferred to the Government by the King as having been "made over to the chiefs and people by our sovereign lord, the King; and we do hereby declare these lands to be set apart as the lands of the Hawaiian Government, subject always to the rights of tenants."

Prior to an act of the Hawaiian Legislature of 1864, these Crown lands were alienable to the same extent as other privately owned lands. (See Estate of Kamehameha IV, 2 H. 715.) The preamble to that act declares that—

"Whereas by the act entitled 'An act relating to the lands of his majesty and to the Government, passed on the 7th day of June, A. D. 1848. It appears by the preamble that His Most Gracious Majesty Kamehameha III, the King, after reserving certain lands to himself as his own private property, did surrender and make over to his chiefs and people the greater portion of his royal domain; and

"Whereas by the same act it was declared that certain lands therein named shall be private lands of Kamehameha III, to have and to hold to himself, his heirs, and successors forever, and that the said land shall be regulated and disposed of according to his royal will, and subject only to the rights of tenants; and

"Whereas by the proper construction of the said statute the words 'heirs and successors' mean the heirs and successors to the royal office; and

Whereas the history of said lands shows that they were vested in the King for the purpose of maintaining the royal state and dignity, and it is therefore disadvantageous to the public interest that the said land should be alienated or the said royal domain diminished; and

"Whereas, further, during the two late reigns the said royal domain has been greatly diminished and is now charged with mortgages to secure considerable sums of money. Now, therefore, *Be it enacted*," etc.

Nowhere, so far as I have been able to discover, is there any suggestion that these Crown lands were being held by the sovereign in trust for the common people. The history of land titles in Hawaii and the adjudicated cases all clearly show that up to the passage of the act of 1864, above referred to, the Crown lands were considered to be the private property of the sovereign, free from any trust whatever. After the passage of that act the King was still considered the owner of the Crown lands, subject to the condition that they were to be held by him for the maintenance of the royal family and state and for the benefit of the heirs and successors to the royal office. This latter condition existed up to the time of the revolution, the overthrow of the monarchy, and the establishment of the Republic of Hawaii.

Article 95 of the constitution of the Republic of Hawaii provided that "That portion of the public domain heretofore known as Crown land is hereby declared to be heretofore and now to be the property of Hawaiian Government and to be now free and clear from any trust of or concerning the same and from all claim of any nature whatsoever upon the rents, issues, and profits thereof. It shall be subject to alienation and other uses as may be provided by law. All valid leases now in existence are hereby confirmed."

This article of the constitution of the Republic definitely and legally fixed the status of what before that date had been known as Crown land, and that status has been definitely upheld by the Supreme Court of Hawaii in a case entitled "Territory v. Kapiolani Estate (18th H. 640)," where the court, on page 645, said:

"As above stated, it was unnecessary to aver the title of the Territory in that portion of the public lands which, at the date of the lease, were known as Crown lands, since judicial notice is taken that by article 95 of the constitution of the Republic of Hawaii the Crown lands were declared to be the property of the Hawaii Government and that by the public land act of 1895 those lands, as part of the public domain, were placed under the management of the Commissioner of Public Lands, a title which was recognized by the joint

resolution of annexation, the lands having been ceded by the Republic of Hawaii to and accepted by the United States and also recognized by the organic act (sec. 83) in continuing in force the land laws of the Republic of Hawaii, and (sec. 90) declaring that the Crown lands on August 12, 1898, were, and prior thereto, had been the property of the Hawaiian Government. The validity of the declaration in the constitution of the Republic of Hawaii, under which the present title is derived, does not present a judicial question. Even assuming, but in no way admitting, that the constitutional declaration was confiscatory in its nature, this court has no authority to declare it to be invalid. The subsequent derivation of title by the United States as above stated, is clear."

There can be no doubt, therefore, that when these Crown lands were ceded to and accepted by the United States, they were ceded and accepted free and clear of any trust whatever. In my opinion, therefore, this proposed legislation can be sustained, if at all, not upon any theory that the Hawaiian people ever had any equitable right or title to these lands, but only upon the theory suggested in the fifth subdivision as hereinabove set forth, namely, for the purpose of rehabilitating a race of people who, through circumstances, perhaps beyond their control, are in danger of extermination.

In making the foregoing statement I am not to be understood as opposing the enactment of legislation in conformity with the spirit and intent of Senate concurrent resolution No. 2. If the legislation is to be enacted, I believe it should be enacted upon a sound basis of fact and law and not upon a theory which can not be sustained by the history and law of the Kingdom of Hawaii and its successors.

Fifth. I come now to the proposition which I believe to be one which merits the careful consideration of the committee and which I believe constitutes a sound and the only basis upon which legislation of this kind can be enacted. The proposition briefly stated, is that the Federal Government in the exercise of its plenary powers over the Territory of Hawaii, should by apt legislation set apart for the exclusive use of members of the Hawaiian race, certain portions of the public domain of Hawaii for the purpose of rehabilitating the race and preventing its ultimate extinction. It has been suggested by some and emphatically stated by others, that legislation of this kind may not be constitutionally enacted for the reason as suggested and stated that it would be class legislation, and therefore in violation of the Constitution of the United States. No particular article of the Constitution has been suggested as being prohibitive of this legislation, nor do I know of any such prohibitive provision in the Constitution.

The only provisions of the Constitution of the United States which could, by any construction, affect legislation of this kind, are section 2 of article 4 and section 1 of the fourteenth amendment. These sections are usually grouped in the textbooks under the title "Privileges and Immunities and class legislation."

Section 2 of article 4 of the Constitution provides that, "The citizens of each State shall be entitled to all privileges and immunities of citizens of the several States." This provision, however, has no application to legislation by Congress affecting the Territories.

"The guaranty contained in the Constitution as originally adopted, protects only those persons who are citizens of one of the States in the Union. Thus, it does not apply to aliens or to citizens of the United States resident in an organized or unorganized Territory of the United States." (12 C. J., 1109.)

This question was considered by the Supreme Court of California in *Estate of Johnson* (139 Calif., 532). In that case the inheritance tax law of the State, which imposed an additional tax upon certain nonresident heirs of the decedent was before the court for consideration. It was argued that the provision of the inheritance tax law in question was violative of section 2 of article 4 of the Constitution of the United States. The court said:

"Still further, as hereinafter will be shown, the decision in the *Muhoney* case rested upon illegal assumption of both appellants and respondent and was therefore invited error. The appellants' first contention was, as expressed by the commissioner in the *Muhoney* case, 'That legacies to nephews and nieces are exempt from the collateral inheritance tax, whether they reside in this State or not.' This contention was a claim that section 2 of article 4 of the Constitution of the United States secured not merely to citizens of other States the immunities and privileges granted by a State to its own citizens,

but secured the same to aliens, to residents of Territories, and to citizens of the United States who are not citizens of any State, none of which classes come under the protecting shield of the Constitution (p. 535). The constitutional immunity goes only to citizens of sister States, and there is a clear distinction thus recognized between citizens of the States and citizens of the United States who are not citizens of any State, as well as citizens of alien States. By virtue of the Constitution of the United States the immunity which the legislature by the amendment of 1897 conferred upon the citizens of this State is extended to citizens of sister States, but the immunity goes no further.

Citizens of the Territories, of the District of Columbia, as well as aliens, are not exempted, and their property is thus liable for the tax (p. 539).

In the case at bar we have the expression of the legislative intent to confer a certain immunity upon citizens of the State. By force of the Constitution of the United States that immunity is extended to all citizens of sister States, leaving as liable to the burden of the tax the property of all other nephews and nieces, aliens and citizens of the United States, who are not citizens of any particular State (p. 540).

In support of the text as quoted from 12 C. J., 1109, supra, this case directly holds that citizens of the United States, that is, residents of the Territories, organized and unorganized, who are not citizens of any State, are not protected by this clause of the Constitution.

"This privilege does not affect the power of Congress to give the residents of Territories privileges and immunities not accorded to nonresidents thereof." (12 C. J., 1109.)

In a case entitled "Coal and Improvement Co. v. McBride" (3 Ind. Territory, 224), an act of Congress which provided that a law of the State of Arkansas relative to the recording of mortgages should apply and be operative in the Indian Territory was under consideration. Certain provisions of this law operated to the advantage of residents of the Territory and to the disadvantage of nonresidents, and it was therefore claimed that the law in question was beyond the power of Congress, as being in violation of section 2 of article 4 of the Constitution. The court, in discussing this question, said:

"The clause of the Constitution of the United States referred to reads as follows: 'The citizens of each State shall be entitled to all privileges and immunities of citizens in the different States' (sec. 2, art. 4, Constitution of the U. S.). This was intended to secure to the citizens of every State within every other State the privileges and immunities (whatever they might be) accorded in each to its own citizens. It is a limitation on the power of the States, and in no wise affects the power of Congress over the unorganized Territories and the Indian reservation. It is doubtlessly true that the citizens of all the States must be accorded equal privileges and immunities within those Territories and reservations, but it does not necessarily follow that they are to have the same privileges and immunities as those residing here. There are no such limitations upon the power of Congress nowhere expressed in the Constitution. The inhabitants of a State have a dual citizenship, State and Federal. The article of the Constitution under consideration guarantees to 'the citizens of each State' all privileges and immunities of citizens in the several States, but this interstate citizenship is only granted to citizens of a State, and not to citizens of the United States. It is plain, therefore, that unless a law deprives the inhabitants of a Territory of some property or of vested rights, or of personal liberty, without due process of law, Congress has plenary power of legislation over them" (pp. 228-229).

In my opinion it is clear from the language of this section and the adjudicated cases that it does not limit the power of Congress to enact the legislation recommended by concurrent resolution No. 2.

That portion of section 1 of the fourteenth amendment which is germane to the subject under consideration reads as follows:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

This is a limitation on the power of the States, and in no wise limits the power of Congress. The language of this section is so clear on this point as to admit of no argument.

"This section of the Constitution operates only as a protection against State action." (12 C. J., 1111; Robinson v. Fishback, 175 Ind., 132; Mulligan v. United States, 120 Fed., 98; Farrell v. United States, 110 Fed., 942.)

After a consideration of the various principles involved, I am of the opinion that nothing in the Constitution of the United States prohibits Congress from enacting the legislation recommended by Senate concurrent resolution No. 2.

Respectfully submitted.

HARRY IRWIN,  
*Attorney General of Hawaii.*

Judge Robertson also makes the statement that these lands, Parker lands, are now subject to homesteading under the present law. That is true, but the people are only allowed to homestead these pastoral lands, only up to 80 acres: while under this bill every citizen is allowed to take up to 1,000 acres, and I do not blame the Parker ranch for objecting to the passage of this bill, because, under our present homestead law, who would want to homestead grazing lands of only 80 acres for the raising of cattle and horses? But they do not object when we have a provision that any person in Hawaii can make application for pastoral land up to 1,000 acres.

Mr. PITTMAN. It do not object to it.

Mr. KALANIAN'OLE. That is why Mr. Robertson is objecting to this.

That statement made by Mr. McClellan, and I am surprised, especially as he claims himself to be a citizen of Hawaii, that this is the only country where whites are controlled by colored. I do not know what he means by "colored," but I take it that he means "niggers." He knows, and if he doesn't, he ought to know that in Hawaii there is no such animal. I am surprised at the statement made by McClellan. He knows he could make that statement here in safety, but he would never dare make that statement in Hawaii.

Mr. McClellan states that the Hawaiian Legislature was controlled by the Hawaiians and that the resolution which was the basis of this bill and the resolution indorsing this bill was railroaded through the legislature as a racial issue.

Never in the history of the Territory of Hawaii, with the exception perhaps of the first and second legislatures, has there been an instance where the Hawaiians have controlled the legislature. The Hawaiian electorate is a fair and a square one. If you put up a good man and one who is capable, and they are convinced that he will do the square thing, they will vote for him whether he is a Hawaiian or a white man; and they have carried out that principle to this day, and to-day the legislature is not controlled by the Hawaiians. This statement to my mind is uncalled for. I think it is un-American and I know it is un-Hawaiian. It is only for one reason, I suppose, that this statement has been made before this committee. I suppose to get sympathy. But I doubt whether this committee will ever consider such a proposition as that for a moment—a proposition of racial discrimination.

It is our country, gentlemen. We did not want to be annexed to this country, and it was through the connivance of this country, through the help of the American minister that we became a part of this country. And then to say that we Hawaiians have no right to say what is for the best interests of our people in Hawaii is damnable. And I say again, that you can never find a more just, a more equitable and fair people than the Hawaiians. In so far as the interests of the Territory of Hawaii are concerned, they are just as interested in its welfare as any other people. You talk about the fairness of the Hawaiians. Although they are in the majority, yet at the last elec-



tion, Mr. Robert Hind, who is a great friend of Carter, represented here by Mr. Robertson, also a friend of mine, who is a capable man—I knew he was opposed to this bill, but the electorate did not. All that I had to do was to say to the electorate, "This man is opposed to this bill," and he would have been defeated just like that. In Honolulu, Oahu, there were Hawaiians and whites who were candidates for the senate. Who were elected? Two white people and one Hawaiian.

Who were elected on the Island of Kauai? One white man and one Hawaiian.

Who were elected in Maui? Three white men and no Hawaiians.

Surely you can not deny the fact that the Hawaiians play the game and play it squarely.

Both Judge Robertson and Mr. McClellan state that the present legislature indorsed this bill by a small majority, and that the legislature was controlled by Hawaiians. This statement is also incorrect. The resolution indorsing this bill passed almost unanimously. The house passed it by a vote of 24 to 4, and every American in the house voted for the resolution. In the senate the vote was 10 to 4. The senate is composed of seven Americans, seven Hawaiians, and one Portuguese; four Americans voting for the resolution, three Americans and one Portuguese voting against it.

In reference to Mr. Robertson's statement as to drawing the racial line in the citizenry of Hawaii, I wish to go on record as condemning such statement. In the first place there is no such a thing in Hawaii as the racial line. In the second place, no one to my knowledge, outside of the Parker ranch, has employed, or even requested Mr. Robertson to represent the so-called whites. In fact the legislative commission sent here by the Territorial legislature was composed of four whites and two Hawaiians, and they were unanimously in favor of this legislation.

The majority of the so-called whites in the legislature voted for the resolution indorsing this bill and requesting Congress to pass the same without amendment. All through my campaign, which was a very bitter one, never had I heard a word mentioned that this legislation was based on racial or color line.

This demagogism on the part of Judge Robertson should be condemned. Such statement is entirely uncalled for, vicious, unwarranted and un-American, and as it comes from one who is paid a high fee, who is not representing any American in Hawaii, but a part Hawaiian child, and who is married to a Hawaiian girl, should be condemned in the most uncompromising terms, and not even considered by your committee.

The statement just made that if the Hawaiians did not have any money for the development of water, they could go to the territorial legislature and ask to issue bonds up to \$6,000,000 or \$10,000,000, and that the whites would have to pay it. This I have already answered.

Mr. PRITMAN. Suppose you have not money enough to take up those bonds?

Mr. KALANIANAOLE. You do not suppose that the Territorial legislature is going to issue bonds without first knowing how the money is to be paid.

Mr. PITTMAN. They will not go far in developing water power with that.

Mr. KALANIANAOLE. Oh, they don't need any such sum as \$6,000,000, that is all poppy rot talk, to develop water for Molokai, would cost no more than \$3,000,000 for our purposes. A million dollars revolving fund and 200,000 acres of land would be sufficient to give the scheme a working basis. The commission is not going to allow every Hawaiian indiscriminately to take land and \$3,000. If I am not mistaken, they are going to pick out Hawaiian families and select certain lands that they think they can make good on, and try them on it.

The CHAIRMAN. May I ask you a question there?

Mr. KALANIANAOLE. Yes, sir.

The CHAIRMAN. It was brought out by Mr. McClellan, and he alleged it as an objection to the passage of this bill, that an attempt at rehabilitation, in line with what this bill provides, had already been made; that a number of Hawaiians had been placed upon lands, and that \$2,500 apiece had been provided for them by Mrs. Allen, I believe it was.

Mr. KALANIANAOLE. Mrs. Allen, yes; she is a Hawaiian lady.

The CHAIRMAN. And that that experiment had been a failure. Now, is there sufficient analogy between that and what is proposed here for it to serve as an indication of what will possibly happen under the operation of this bill?

Mr. KALANIANAOLE. No; there is no criterion at all in that. That was not rehabilitating. That statement has been made by both Mr. Robertson and Mr. McClellan. It was made to mislead the Senators into a belief that it was a proposition to rehabilitate. It was not, at all. It was a few boys—automobile drivers—boys in Honolulu, who wanted to take up homesteads. They made application for these lands with the belief that they would improve their condition. I think there were 15 or 20 of these boys.

Mr. RIVENBURGH. There were 10.

Mr. KALANIANAOLE. Ten boys of different nationalities. Not having the Government to encourage them in the development of those lands, they went to Mrs. Allen, and they got her to give them \$25,000, I believe, to help these boys along. She appointed Wise, not for the purpose of rehabilitating these boys or helping these boys to make good, but to see to it that these funds were spent according to the wishes of Mrs. Allen.

Those boys went up there, started off by buying motor tractors which cost some thousands of dollars and built beautiful homes. In fact, started off without making any provision for the future with the result that the money ran out and they were left stranded and of course it was not a success.

Under this bill, when the Hawaiian gets his money to work his land, the commission will keep its eye on the operation right along, as that money can only be expended at the discretion of the commission.

Under this bill the commission has power to appoint experts for agriculture and for stock raising, and these persons are there to see to it that these Hawaiians carry out the rules and regulations that are set down by the commission. So every opportunity is given

them to make a success of their holdings. Without a commission whose sympathy is with the object of the bill, they will make a failure of it.

Senator SMOOT. Is there any idea in the minds of the Hawaiian people that they can go on and homestead this land, and that as soon as they make entry upon it they can go and get \$3,000 from this commission?

Mr. KALANIANA'OLE. Well, I think the feeling among some few Hawaiians is that they can get this \$3,000 and the land.

Senator SMOOT. As soon as the bill passes?

Mr. KALANIANA'OLE. As soon as this bill passes.

Senator SMOOT. If they are to have it, I am against the bill.

Mr. KALANIANA'OLE. If what?

Senator SMOOT. If this commission is going to give them \$3,000 to spend it the way they want to, I am against the bill.

Mr. KALANIANA'OLE. I think some of the Hawaiians have that impression.

Senator SMOOT. I would not pass it at all if that was to be done.

Mr. KALANIANA'OLE. I would not either. I would be opposed to anything by which it is proposed to indiscriminately give money to people to spend it the way they want to.

Mr. PITTMAN. Is not that the very reason that the Hawaiians are supporting this bill—that is, because they think they are going to get this \$3,000 and have a big huan out of it?

Mr. KALANIANA'OLE. You know that is not so. A good number of Hawaiians were opposed to this bill. They opposed—and was used by the Democratic Party—the bill because they thought it was against the interest of the Hawaiians and that it would put them in the category of wards, and I had to explain to the Hawaiians that it was not so, but it was for their salvation. And it is their only salvation. Under the present conditions the Hawaiians have not a bit of show.

Mr. RIVENBURGH. May I ask a question there?

Mr. KALANIANA'OLE. Certainly.

Mr. RIVENBURGH. Did you state your position as clearly to the Hawaiian electorate, in regard to the giving of land indiscriminately and money indiscriminately, as you have stated it to this committee?

Mr. KALANIANA'OLE. I stated the bill just as it is.

Mr. RIVENBURGH. I mean, did you so state it to the electorate?

Mr. KALANIANA'OLE. Of course I did; did you expect that I would lie to them?

Mr. RIVENBURGH. Those that I talked to there did not seem to understand it. They seemed to think they were going to get land and money.

Senator SMOOT. I want to say this, that in my statement before the Civic Association of Honolulu I said that if any Hawaiian thinks that he is going to get this \$3,000 in a lump sum to spend it the way he desires to, he might as well get that out of his head immediately, because it would not be the case; that when the money would be expended, no part of that \$3,000 would ever go into their hands with any other idea than to pay for the improvements that were put upon the land.

Mr. RIVENBURGH. That was not understood by the Hawaiians, in the campaign.

Mr. KALANIANAOLE. That is only your say so; it is not true. In my campaign, Senator, I said to the Hawaiians, "Do not ever run off with the idea that this bill is going to give lands and money to you to do as you please with." When I returned to Honolulu, I know a good many Hawaiians did not understand this bill, because the Democrats misled the voters. I had this bill, and my explanation, for the benefit of the people, and I asked reporters of the Advertiser if they would not publish this bill and my speech on the bill. I was told that the proprietor of the Advertiser refused to do it. The consequence was that the people of the whole islands were ignorant of its provisions, they knew nothing about this bill until I went before them and explained it. That shows you how the opposition treated me in this matter, a matter which was of vital interest to the whole people of the Territory.

I do not want to keep you any longer.

The CHAIRMAN. Then I think, gentlemen, that we will call the hearings closed.

Mr. ROBERTSON. Mr. Chairman, I think that I am entitled to a few minutes to reply to the statements that the Delegate has made here. The opener of the debate, under the rules, has a right to close.

The CHAIRMAN. Well—

Mr. KALANIANAOLE. May I suggest that he be allowed to put any remarks he may desire into the record. I have not answered all of their contentions, but I am going to ask that I be allowed to answer all that they had to say again before this committee if they are going to continue.

Mr. McCLELLAN. May I ask one question?

The CHAIRMAN. All right.

Mr. McCLELLAN. I want to know if I understood you right, Mr. Delegate, that you are opposed to the particular amendment suggested, of having the cultivated lands leased to the highest bidders individually and in small tracts rather than to the plantations?

Mr. KALANIANAOLE. I said before that I was opposed to all amendments for the reason that it would only prolong matters, and that the legislature had acted on this bill and that I could not favor—

Mr. McCLELLAN. I just wanted to know whether I was correct in saying that you were opposed to that amendment.

Mr. KALANIANAOLE. I am not opposed to that amendment, but at this time I am opposed to all amendments for fear that the bill might be held up.

Mr. ROBERTSON. I am not willing to accept the Delegate's suggestion that I be allowed to have my closing remarks here submitted in writing and included in the record. I am certainly entitled to a few minutes to reply.

The CHAIRMAN. I think you are entitled, of course, to an opportunity to say whatever you want to say as to any personal reference that the Delegate made.

Mr. ROBERTSON. I do not propose to be called a demagogue here without a chance to reply.

The CHAIRMAN. I think you are entitled to make a reply to the personal references that were made. All I want to do is, I want

some day, somehow, to get through with this hearing; and you may proceed now for a few minutes on that.

Mr. ROBERTSON. I am sorry that the Delegate so far forgot himself as to dub me a demagogue. I have been in public life in Hawaii since I was a young man—many years longer than the Delegate himself has. I have practiced at the bar, have served in the legislature, and have sat on the supreme court bench. Before I went on the bench, and when I was in politics, I spent a good deal of my time and money helping the Delegate, here, to get elected to Congress, and I do not think he shows much gratitude, 5,000 miles away from home, in calling me a demagogue. However, my record is an open book and is accessible to anybody that wants to examine it. I am neither afraid nor ashamed of it.

The Delegate has referred to the fact that my client, young Richard Smart, who owns the Parker ranch, is a wealthy minor, and he urges that as a reason why I should not be listened to by this committee. It seems to me that the members of this committee are far more interested in my argument here and the objections that I have presented to the bill than they are in the personality of my client. If my argument is good and my reasons are sound it does not make any difference to this committee whether my client is a pauper or a millionaire, I take it.

The CHAIRMAN. The committee absolutely agrees to that.

Mr. ROBERTSON. The Delegate has also said that in some of my remarks, that I made the other day, I made statements that were untrue, particularly with reference to the provisions of the bill with reference to taxation. I stand absolutely by what I said to the committee the other day, and I stand also on what I have stated in my written brief in that record. Any member of this committee, who will examine the bill, will see that what I have said is not untrue, but is perfectly true, because the bill does provide for the taxation of non-Hawaiians, both directly and indirectly, for the benefit of the monopoly given those of Hawaiian blood. Anyone who reads the bill can see that, and I stand positively on that statement.

I do not care to reiterate the points covered by me the other day.

In regard to the amendments offered by Mr. Pittman, which I have listened to here, I think that if the bill is going to be reported at all by the committee, some or all of those amendments ought to be incorporated, because they certainly improve the bill. I am not a party to those amendments, however, and I want the committee to clearly understand that I stand positively on the same ground that I have maintained from the beginning. I thoroughly believe that this bill will not rehabilitate the Hawaiians at all, even if it is enacted. I am convinced that it is unfair for Congress to load upon the taxpayers of that little Territory out there the enormous burden of this costly experiment. I stand definitely on the proposition that the bill as it stands is an unfair, unjust, and illegal discrimination, based absolutely on the color line, which would render the bill, if enacted, unconstitutional before the courts.

I am also standing definitely on my first position with reference to the Parker ranch. I maintain that that ranch is a necessary adjunct to the United States military forces stationed in the Territory as being one of the main sources of supply, and that the breaking up

of Parker ranch as contemplated by this bill would detract from and decrease the beef supply, to the detriment of not only the Military Establishment but the people at large.

**Mr. KALANIANA'OLE.** Mr. Chairman, I do not want to argue over this matter. If I remember rightly, I stated that in his argument he insinuated that this bill was drawn on the basis of "color line," and what I meant by "demagogue" was his statement in reference to that. What he says of himself is true; he has been a member of the supreme court, and it behooves me to be the last person to go to work and make any statement that would displease him. I fail to see, though, where his ingratitude to the Hawaiian people can not be answered in any other way than just what I have said.

The drawing of the color line by both Mr. Robertson and Mr. McClellan is demagoguish talk, and I say again that it is un-American and it is un-Hawaiian.

**Mr. RIVENBURGH.** In the Delegate's statement there is a misleading statement of fact in regard to the rental value of a certain specified 3,000 acres of public land which I should like to correct. This land is situated in the island of Waimea and district of Hawaii. With your permission, as an ex-land commissioner of the Territory, and knowing the facts, I would like to write out a statement and submit it.

The **CHAIRMAN.** That permission is granted. You write that and send it directly to Mr. Johnson, the reporter—he will give you his address—and he will incorporate it at the close of this testimony.

**Mr. RIVENBURGH.** The statement was that this 3,000 acres of public land has a rental value of over \$700,000 a year; but the fact was not brought out there that the Government owns a mill capable of grinding the cane from 4,500 acres of land, and owns the water rights. That is not for the land alone there, but that rental refers to the land, the mill, and the water. The mill and the water, and all, goes together.

(Mr. Rivenburgh submitted a statement in writing which is here printed in full, as follows:)

STATEMENT BY R. G. RIVENBURGH, EX-COMMISSIONER OF PUBLIC LANDS TERRITORY OF HAWAII.

Mr. Chairman and gentlemen, the Delegate from Hawaii, Mr. Kalaniana'ole, has referred to the rental value of a certain 3,000 acres of cane land situate in the district of Waimea, island of Kauai, now under lease to the Knudsen estate and in use by the Kekaha Sugar Co. The Delegate's remarks in substance were that the governor estimated the rental at \$700,000 per annum, and, says the Delegate, "if only 3,000 acres of this valuable land will produce a revenue such as that, what will the balance of the cane land produce—some 20,000 acres?"

Not knowing, Mr. Chairman, whether any offer to lease the Kekaha land has been made or not, I simply want to point out for the information of this committee that there is a Government-owned mill and an irrigation system, including pumps, etc., located on the lands in question, and any offer to lease would naturally include them.

This is not true of the balance of the Government-owned cane land, which on the whole, with the exception of Waimanalo, is leased in small tracts scattered over several islands and whose rental value can in no way be compared to the rental value of Kekaha as stated by the Delegate in Congress from Hawaii.

**Mr. McCLELLAN.** Just a word of personal privilege. The Delegate referred to me in connection with the race statement. I want the

record to witness that I cited statements of facts as to the numbers of Hawaiians and part-Hawaiians in the legislature, and that that was a political domination which had been maintained as a simple historical fact, and I attempted to state it in respectful and not in offensive language: and I submit that the statement of the Delegate that I would not dare make any such statement in Hawaii does not square with the facts, and was entirely uncalled for.

#### STATEMENT OF REV. AKAIKO AKANA—Resumed.

Mr. AKANA. Having been permitted to extend my remarks, I take this opportunity to answer some of Mr. McClellan's statements.

Mr. McClellan claims that this measure purports to be an attempt to do a thing which has never been accomplished in the history of the world, viz., to materially reconstruct and reinstate a primitive people who are dying out as a separate people. It never has been achieved.

Where, in history, could such a claim find its support? It is foolish to make such a statement. Mr. McClellan claims to have been a resident of Hawaii. If that is so, then he must have been blind to the material reconstruction and to the reinstating of a primitive people which have been going on at Laie, in Oahu, Territory of Hawaii. Such successful operation as the Hawaiians of the Laie Settlement have been enjoying for years is a fact of the constructive education which the Mormon missionaries have been giving them. This, by the way, is a fact of the Hawaiian history. That settlement now owns a sugar plantation. Isn't that a sign of success in the idea of rehabilitating a "primitive people"?

Again, there are the Maoris, of New Zealand, who are making forward strides in business and in general agriculture. They are of the Hawaiian stock, a so-called "primitive people." Then, again, there are the Indians, whose success materially can not be denied. And then, again, there is the colored race, whose people are "reinstating" themselves. This race is working out their own way of reconstruction—their salvation. Mr. McClellan should observe more than reading dead records of others.

Mr. McClellan appears to be very much against the control of the Territorial legislature by the Hawaiians, and he is claiming that because the bill is the work of such a body that it is "frankly class and race legislation." He also claims that "Hawaii is the only place on earth where a civilization contributed and established by white men submits to the political domination of a colored [this word is changed in the record] race"; that "if the Hawaiian race had not controlled the electorate and the Legislature of Hawaii, no such legislation as this would ever have been submitted to Congress."

Replying to these statements, let me say that of all the peoples residing in Hawaii the Hawaiians should be the ones to govern the land of their birth and parentage. It is their right, and they have no business in any way to pass that right to others. The Americans here on the mainland and in Congress are exercising the same right in so far as their dealing with other peoples is concerned. However, by reason of the natural hospitality of the Hawaiian people, no such thing as "political domination of a colored race" has ever been exercised on the so-called whites. From the time of the advent

of Christianity into Hawaii to the present the so-called whites have enjoyed more than equal rights in the legislature as well as in the social life of Hawaii. History records this to be a fact, and Mr. McClellan knows it. The Hawaiians should have exercised more governing than they did. On the other hand, they have given more power to the so-called whites and have submitted to their policies all the way through to the annexation of Hawaii to the United States.

Therefore it can be emphatically said that the bill before us is not only the wish of the Hawaiian race, which Mr. McClellan claims as having "political domination," but the desire of the legislature which represented the American citizens in all Hawaii.

Civilization has not been contributed to the Hawaiians. It has been forced on them, and, as correctly said, established by white men. It is because of such civilization that we are bringing a measure of this character in order to save the Hawaiian race from the perils of that civilization. This bill is for no other reason. It is not race discrimination, for such is not in the Hawaiians; and I may say very frankly that the Hawaiian people would have been in a better condition of life to-day if they had discriminated against others. The trouble with them has been that they have been too kind and too generous. They have been giving away to others the very best that they have gotten from their ancestors. Now, they are being awakened by the economic needs which such giving away has brought about.

And now we are asking through this bill only a small portion of the land which originally belonged to us—our right to the crown land, such as has been discussed here by the prince. And we are asking, not in the spirit of discrimination with which Mr. McClellan is completely possessed, but in the spirit of mutual helpfulness such as our sovereign kings and queens had when they gave thousands of acres of land to the missionaries for nothing, and when they sold to them extensive areas at a negligible cost.

Referring to the comparison that "about a score of years after the landing of the first missionary families, the contrast of fecundity and viability between them and the natives—were not the missionary families averaging 65/9 children each while 20 chiefs had only 19 children among them," I may say that it is a known fact of the Hawaiian history and of the experience of ancient Hawaiians, some of whom are living to-day, that the raising of too many children was not cherished very much in the days of old by the kings and chiefs; that children were largely killed off and only the favored ones lived. Mr. McClellan should have read that fact of history. Abortion among the so-called civilized people of to-day because of the convenience of society is doing the same thing with the unfortunate young lives not wanted in this world.

Granting, as Mr. McClellan claims, that the Hawaiians had opportunities to acquire land if they chose, did they have opportunity to acquire a practical business education to lead them to see the use and the value of the land at that time? Did they have a foundation knowledge and experience such as the white man had to enable them to grasp readily the instructions and the idea of Coan and others? The Hawaiians were children as far as business experience and knowledge were concerned and it is unfair to judge them from a white man's standpoint. The period of the nation's unpreparedness



was no time to divide land for or to sell land to the Hawaiians only for others of matured business experience and foresight to take away or to buy from them again at an advantage. No; the land should have been retained until the people were in the position to fully appreciate its value before distributing it.

Mr. McClellan claims that the Hawaiians are not natural farmers and that they have failed absolutely.

Let me say again that Mr. McClellan should observe more than reading books and claims. I can take him to different parts of the Hawaiian Islands and show him successful Hawaiian farmers and ranchers. Of course, the Hawaiians have never been able to get on the sugar plantations and pineapple fields much because of the monopoly by orientals, who would work more cheaply than either the Hawaiians or the whites. And sugar and pineapples are not the only farm products to get on the land for or to create a home for. There are other things to raise on the farm besides cane and pine.

It is keenly disappointing and regretful to me to see and to hear the color line drawn and spoken of in the way Mr. McClellan has done. Race prejudice is one of those bitter enemies of human society which we who love Hawaii have been endeavoring to destroy. Such attitude and feeling are not of Hawaiian origin. They are planted in Hawaii by such people as Mr. McClellan and are wholly un-American in every way. If Mr. McClellan had the interest of Hawaii at heart, he would not have uttered such remarks here. What better American citizens could be found in Hawaii than the Hawaiians themselves?

What more self-sacrificing people for the cause of Christianity which lies at the very foundation of Americanism and of the American civilization are there than the Hawaiians? To think of the impossibility of maintaining in Hawaii an American community without the so-called whites is ridiculous; and to think of maintaining an American community in Hawaii by allowing whites of Mr. McClellan's type to dominate is still more ridiculous, for Hawaii will then be a caldron of race hatred, race riots, and bolshevism. Mr. McClellan had better remain right here now, as he is no longer a citizen of Hawaii, instead of returning to the islands, for those who love Hawaii and whom he calls a colored race would not tolerate his presence there. And no man of such spirit should be allowed to live in Hawaii.

In regard to the provisions of the bill, their relationship to the homestead laws, the claims of the common people and the John Wise Waimea homestead project, I shall leave those to Prince Kalaniana'ole who will fully discuss them. I am only touching those objections which affect the line of thought which I have come to Washington for.

(By direction of the chairman, a letter from the mayor of Honolulu is here printed in full, as follows:)

HONOLULU, HAWAII, *December 21, 1920.*

HON. HARRY S. NEW,

*Chairman Committee on Territories,  
United States Senate, Washington, D. C.*

DEAR SIR: My principal opposition to the so-called rehabilitation bill is based upon my sole desire to secure the rehabilitation of the Hawaiian people.

Delegate Kalaniana'ole's proposed scheme will not do this. To the contrary, it will weave into the fabric of our organic law restrictions and stipulations

which will far outshadow any privileges and concessions it may contain. In other words, the so-called rehabilitation proposal will not rehabilitate, but will serve only to withdraw from future participation in homestead drawings those few Hawaiians whom it purports to serve.

I am opposed to the bill because of its narrow and restricted scope; because it provides for placing Hawaiians on land which it is difficult to cultivate and generally inaccessible; because it contains provisions which limit those who take advantage of it solely to acquisition of land by its terms, disqualifying them to partake of future homestead drawings; because it pretends to give comfort and happiness back to the Hawaiians in this Territory and yet provides for rehabilitation beginning with those of one thirty-second Hawaiian blood; because under its provisions as stipulating the size of land to be placed at the disposal of each applicant, the number of homes it is capable of creating will be comparatively negligible.

I am not opposed to the idea or principle of rehabilitation as regards the Hawaiian people, but I am unequivocally against any proposition or persons advocating ideas that would work to the detriment of the poorer class of Hawaiians or create greater hardships for them.

#### WHAT THE BILL PROVIDES.

The House resolution, as introduced by the Delegate in the Sixty-sixth Congress, proposes to create a Hawaiian Homes Commission, comprising five members, two of whom must be of Hawaiian blood. This commission is to be appointed by the governor, with himself as chairman and with practically unlimited powers regarding the division of the home lands among the Hawaiians. The lands provided for this purpose are scattered over all the islands from Hawaii to Kauai. They consist of about 193,000 acres of what is classed or known to-day as first and second class pastoral land. Very little of this is first-class pastoral land, and, in fact, only about 10 per cent could be classed as such. The bill provides that the commission can grant not less than 200 acres and not more than 500 acres of first-class pastoral land to any applicant, or not less than 500 or more than 2,000 acres of the second-class pastoral land.

If this section of the act is carried out on the supposition that the average acreage allowed each person was 1,000, the largest number of homes which could be supplied the Hawaiians would be 193. If the estimated average is 500 for each homeseeker, the total number of homes supplied would be 386. Certainly there are more than 386 Hawaiian families in this Territory who should be provided for under any rehabilitation scheme, and how the fathers of this bill intend to satisfy those who are not so provided is a problem the solving of which does not seem to be even on the dim horizon.

As regards the physical value of the lands proposed to be divided, I am personally acquainted with the majority of them and I know, as others do, that the possibility of putting the necessary water on many of these acres is dim and unattainable. This was proved in regard to the Molokai lands, where, in 1898-99 the estimates for water supply staggered the American Sugar Co. Many of these lands, in fact, the great majority of them, will remain as second-class pastoral and waste lands for a long time to come or until a vast reclamation project is conducted by the Federal Government on these islands.

#### WOULD BE CRIMINAL.

It would be a criminal act to place Hawaiians upon dry, barren lands, such as are mentioned in the rehabilitation bill, and on which it would be impossible for them to live without water and roads, and, at the same time, to deprive them of the right ever to participate thereafter in a homestead drawing, which right they now enjoy under the present land law.

But it is possible to solve this great and human question. Why not open up all agricultural lands for homesteading purposes—lands on which a person can live? The Kapaa and Kulaheo homesteaders on Kauai; the Waiakoa, Papauoa and Hamakua homesteaders on Hawaii are examples of what can be done where good lands are given to the people.

Why should not our Delegate to Congress request that the United States extend its present reclamation district to Hawaii? Unquestionably, with the great force of engineers and appropriations at the command of Congress, lands that are now arid and waste in this Territory could be made useful to the

Hawaiian people under the land law as it now exists and without resorting to a pet scheme, the principal object and purpose of which is sentimental propoganda. The present land law gives any person a right to acquire a homestead in fee simple, and, if one prefers, he can, under the law, secure a piece of land for a 999-year lease, which is practically ownership.

There is much to be said regarding the constitutionality of this so-called rehabilitation scheme. Many declare it to be class legislation, but on this I have nothing to say. It matters not to me what technicality may be discovered to render it inoperative, because I am convinced that on the face of it and in its tangible and integral parts it would mean not rehabilitation to the Hawaiian people, but, in fact, dispossessing them; not advancing their interests, but retarding them, not perpetuating the blood, but tending to drain it dry.

Very truly, yours,

JOHN H. WILSON,  
*Mayor of the city and county of Honolulu.*

(Thereupon, at 1 o'clock p. m., the committee adjourned, subject to the call of the chairman.)