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the applicability to the new commercial submarine of the rights of visit and search. Are they entitled to a warning and provision for the safety of the crew and any possible passengers, as maintained by our Government in the cases of the *Lusitania*, *Arabic*, etc.?

In an interview with Dr. William Bayard Hale, Dr. von Jagow, the German Minister of Foreign Affairs, is reported to have said:

We claim nothing for this new type of merchantman save that she is entitled to be hailed, visited, and the crew placed in safety before she is destroyed—the precise rights which have been insisted upon for every other merchant ship by your government.

If, after she is hailed, she attempts to escape, she does so at her own risk, and may properly be attacked and sunk. But to allow the attack without warning upon an unarmed, fragile boat, with the lives of the crew at the mercy of a single shot, that is something of which we refuse to believe the United States is capable.

While the *Deutschland* is purely a commercial enterprise, the German Government is naturally watching with a high degree of interest the treatment accorded her by the Government of the United States, and it is certain that the German people are prepared to accept the attitude of Washington on this question almost as decisive on the whole subject of the sincerity of the professions of American neutrality.¹

True it is that the *Deutschland* is a merchantman, entitled to the provisional hospitality of our ports as long as she and others of like kind remain unarmed for offensive purposes and engaged in purely peaceful commercial pursuits. But she is also a blockade-runner, engaged in a highly dangerous business, and must run the risks involved in such an enterprise.

AMOS S. HERSHEY.

THE PURCHASE OF THE DANISH WEST INDIES BY THE UNITED STATES OF AMERICA

On August 4, 1916, the Secretary of State, the Honorable Robert Lansing, and the Danish Minister, the Honorable Constantin Brun, signed a treaty, by the terms of which the United States agreed to purchase and Denmark to sell the Danish West Indies for the sum of \$25,000,000. The treaty was sent by the President to the Senate on August 9th, accompanied by a letter of transmittal by the Honorable Frank L. Polk, Acting Secretary of State, together with a declaration made by the Secretary of State that the United States will not object

¹ Cited from *The Fatherland* for July 26, 1916.

to the extension by Denmark of its political and economic interests to the whole of Greenland.

The treaty was favorably reported to the Senate by the Committee on Foreign Relations, and on September 7th, it was advised and consented to by the Senate. As, however, the injunction of secrecy has not been removed, and as the two governments appear to have agreed that the text of the treaty will not be published without a special agreement on their part, the Journal cannot print the treaty, and it is only in a position to state its terms in the very general way in which they have appeared in the press. When the injunction of secrecy has been removed and the treaty is made public, the Journal will print the text from official sources. In the meantime, it is of interest to give in summary form the terms of the treaty as they appear in the press, and to make some observations upon the previous attempts to purchase the islands and upon the principles of policy involved.

It appears that the treaty consists of twelve articles, as compared with the treaty of 1902 which consisted of seven for the purchase of the islands, ratified by the United States but rejected by Denmark. It is said that the most important changes in the new treaty are those to be found in Article 3, enumerating the grants and concessions relating to the islands which the United States assumes and agrees to maintain. The territory ceded is said to be the Islands of St. Thomas, St. John, and St. Croix, together with the adjacent islands and rocks. The summary states further that Denmark conveys all its rights of property of all and every kind or description which it holds in the islands, and all appurtenances thereto. Doubtless the treaty, as is usual in such cases, enumerates the rights, franchises, and privileges, in order that there may be no doubt as to the exact nature and extent of the conveyance, but for present purposes, the above seems to be a sufficient statement.

In the next place, it is said that Article 2 guarantees that the conveyance is free from all encumbrances excepting such as are specifically stated and set forth in the treaty, and it is understood that Article 3 deals with this subject. In the absence of the official text, it is perhaps unwise to attempt to give the contents of this article, as the enumeration may be either inaccurate or fragmentary. Doubtless the reservations from the grant and the obligations assumed by the United States were satisfactory in themselves or were explained to the satisfaction of the Senate, otherwise that cautious body would not have given its advice and consent.

The treaty is also said to contain agreements to the effect that Danish subjects of the islands desiring to retain their citizenship may do so by a declaration made within a year of the exchange of ratifications of the treaty, and that in default thereof, the allegiance of Danish subjects shall be considered as passing with the cession of the islands to the United States; that cases on trial or on appeal in the courts shall be prosecuted to final judgment in accordance with the law and procedure in force at the time of cession; that Danish subjects of the islands shall be accorded the enjoyment of any interests that they may legally have in copyrights and patents at the date of the convention; and that in default of stipulations to the contrary, all treaties, conventions and international agreements to which the two countries are parties and existing at the time of the cession shall be extended and shall apply to the islands. It is to be expected that a treaty of this nature, including as it does a conveyance with reservations, may give rise to differences of opinion, and that the applicability to the islands of treaties, conventions and international agreements may well be the subject of disputes. The treaty, however, foresees such contingencies, and provides, as was to be expected, that differences of opinion regarding the interpretation or application of the treaty which diplomacy has failed to adjust, shall be referred for settlement to the Permanent Court of Arbitration at The Hague.

Assuming that the treaty is in its main lines as above set forth it is in itself proof positive that the United States wants to acquire the islands, because if it were not very desirous to obtain them, it would not offer the tidy sum of \$25,000,000 for their cession.

As a matter of fact, the United States has wanted the islands for a long time, so that in a very young country such as ours, their acquisition may be said to be the traditional policy of the United States. The project seems to have originated with Secretary of State Seward, who, as Senator and before becoming Secretary of State, uttered a famous prediction, not verified indeed during his lifetime, but which at the present day can not be gainsaid. "The Pacific Ocean," he ventured to say, "its shores, its islands, and the vast regions beyond, will become the chief theatre of events in the world's great Hereafter."¹

On November 18, 1901, the so-called Hay-Pauncefote Treaty was signed between Great Britain and the United States, giving the latter a free hand in the construction of a ship canal between the Atlantic and the Pacific. On November 18, 1903, a treaty was negotiated between

¹ John W. Foster's *American Diplomacy in the Orient*, 1903, p. 135.

Panama and the United States granting the latter an exclusive right of way through the Isthmus of Panama to construct this ship canal. The canal was opened to the commerce of all countries upon equal terms on May 18, 1914.

It was natural that Mr. Seward should have, as Secretary of State, taken the first steps to acquire an approach to the Pacific and indeed a further foothold upon its waters, which in his opinion, were to become "the chief theatre of events in the world's great Hereafter." He acquired by purchase from Russia, as we all know, the vast domain of Alaska for the bagatelle of \$7,200,000. He attempted to acquire also by purchase the outpost to the Pacific. At a dinner at the French Legation in January, 1865, Mr. Seward, then Secretary of State, expressed to the Danish Chargé d'Affaires the desire of the United States to buy the Danish West Indies. The Chargé was himself opposed to the sale and, under instructions from his government, advised that the negotiations be dropped. In April, President Lincoln was assassinated, and Mr. Seward himself gravely wounded. Upon his recovery, he broached the subject again to the Danish Chargé, who stated that, although his government did not desire to sell, it was nevertheless not unwilling to consider the Secretary's propositions. Mr. Seward visited St. Thomas, and convinced himself of the necessity of the purchase. On July 17, 1867, Secretary Seward offered on behalf of the United States the sum of \$5,000,000 for the three Danish Islands of St. Thomas, St. John and Santa Cruz. As Denmark was not desirous of selling, it was natural that the price should be objected to. The Dane asked \$15,000,000 for the three islands, or \$10,000,000 for St. Thomas and St. John, with the option of taking Santa Cruz for an additional \$5,000,000. It was also explained to Mr. Seward that the Danish Parliament would need to consent to the cession and that the consent of the islanders, freely and formally given, would be a further requisite.² Secretary

² Denmark was especially anxious to have the islands vote upon the cession because it hoped that a vote of the inhabitants of Schleswig would, under the terms of Article V of the Treaty of Prague of 1866, result in the reacquisition of the northern part of Schleswig-Holstein, of which it had been dispossessed by Prussia and Austria two years previously. Article V of the treaty provided that "the populations of the North of Schleswig shall be again united with Denmark in the event of their expressing a desire so to be by a vote freely exercised."

But the Dane was doomed to disappointment. This provision was a sop to Napoleon III, the high priest of the plebiscite; it was not a promise made in a treaty with Denmark, but in one to Austria, and it was abrogated with the assent of Austria in the Treaty of Vienna of October 11, 1878.

Seward rejected the price, and balked at the consent of the islanders. But as he was set upon the acquisition, at least of St. John and St. Thomas, he agreed on behalf of the Government to pay \$7,500,000 for them and to concede the question of vote. Denmark agreed to these terms and, therefore, on October 24, 1867, the treaty was signed.

But a lion stood in the way—a very formidable one, which could be neither flattered nor cajoled into approval of the transaction. One Charles Sumner, then Chairman of the Foreign Relations Committee of the Senate, opposed the purchase. And although the islanders voted in favor of the cession, and although Secretary Seward urged favorable action on the part of the Senate, the date named in the treaty for ratification, February 22, 1868, passed without action. The time was extended, and Seward again urged the Senate to act, but Sumner was both deaf and obdurate. He was bitterly opposed to President Johnson, as he was later opposed to President Grant, and during the presidency of the latter Sumner reported the treaty adversely on March 24, 1870 and the Senate declined its advice and consent. The treaty therefore was never ratified. The reason and consequences are thus stated by the late Eugene Schuyler:

Denmark had no particular desire to sell to the United States, but was persuaded to do so. The inhabitants of the islands had already voted to accept the United States as their sovereign. The late Mr. Charles Sumner, then Chairman of the Committee on Foreign Relations of the Senate, who was engaged in a personal quarrel with the administration, simply refused to report back the treaty to the Senate, and he was supported by a sufficient number of his committee and of Senators to enable the matter to be left in this position. It required new negotiations to prolong the term of ratification, and it was with great difficulty that in a subsequent session the treaty was finally brought before the Senate and rejected. As may be imagined, our friendly relations with Denmark were considerably impaired by this method of doing business.³

In 1892, negotiations were re-opened during the Secretaryship of State of the Honorable John W. Foster, but in view of a change of administration, no steps were taken. The matter was also considered by Mr. Olney, when Secretary of State, and the Spanish-American War, the acquisition of Porto Rico, and the negotiation of the Hay-Pauncefote Treaty brought the purchase again to the fore because the three islands are, as it were, a prolongation of Porto Rico, which was ceded by Spain to the United States in 1898.

³ Eugene Schuyler's *American Diplomacy*, 1886, pp. 23-24.

Indeed before the Spanish-American War in 1898, but when it was impending, Senator Lodge urged the purchase of the islands as a naval and coaling station. A bill was accordingly reported on March 31, 1898, authorizing the President to acquire the islands for this purpose, accompanied by a valuable report by Senator Lodge. The bill was not acted upon.

In 1902 the two countries agreed to the purchase and conveyance of the islands for the sum of five million dollars, and on January 24, 1902, a treaty providing for this was signed. It was advised and consented to by the Senate, but Denmark failed this time to ratify it.

Europeans sometimes express displeasure with American methods of ratifying treaties which have been signed by American diplomats duly authorized so to do. But some European countries require the approval of the legislature and it is believed that, after the present unspeakable war, the wings of a monarch or two will be clipped, at least their countries will never be safe over night if irresponsible persons are allowed to make foreign compacts and keep them secret, or indeed, if they be permitted to ratify treaties, although made public, without the advice and consent of an internal body more or less subject to the control of the people, who pay dearly for their rulers' mistakes.

Denmark is one of these countries.

By Article XXIII of the Constitution of 1849, the consent of the Rigsdag was specifically required to treaties of cession. A well informed writer thus states the present practice of Denmark:

It is expressly provided in Article XLVII of the present Constitution that no tax can be imposed, altered or abolished, no loan be assumed, nor any domains belonging to the state be alienated, except in virtue of a law. * * * The treaty signed January 24, 1902, for the cession to the United States of the Danish West Indies, failed because of the refusal of the Rigsdag to give its consent. It appears to be the practice not to ratify treaties that require legislation to render them effective and binding on individual subjects, or that involve an expenditure, until the necessary measures have been adopted by the Rigsdag.⁴

The cession of the islands is again before the Rigsdag, and it is for its members to decide whether they will or will not part with their foothold in the Western World. The price of real estate has gone up since 1902 when five million dollars were unacceptable. If it is a matter of price, five times that sum may be persuasive, for the Old World is not averse to the dollars of the new. But this is not a question of dollars to the

⁴ Crandall's *Treaties, Their Making and Enforcement*, 2nd ed. 1916, p. 332.

Dane, who did not propose to sell; it was Seward and it is Seward's countrymen who flip the coin in their faces. It is a question of lessening their national domains already lessened by their southern neighbor. The islands are comparatively valueless to Denmark, and they would only be a cause of war with the United States if they passed into other hands without the consent of the United States, and the United States is not inclined to consent for the reasons set forth by Senator Lodge in his report to the Senate from the Foreign Relations Committee:

The arguments in favor of the possession of these islands can be briefly stated, and appear to the undersigned to be unanswerable. So long as these islands are in the market there is always the danger that some European Power may purchase or try to purchase them. This would be an infraction of the Monroe Doctrine, and would at once involve the United States in a very serious difficulty with the European Power which sought possession of the islands. In the interest of peace, it is of great importance that these islands should pass into the hands of the United States and cease to be a possible source of foreign complications, which might easily lead to war.

From a military point of view the value of these islands to the United States can hardly be overestimated. We have always been anxious to have a good naval and coaling station in the West Indies. Important in time of peace, such a station would be essential to our safety in time of war. Successive administrations have labored to secure a West Indian naval station. During the war of the rebellion the United States leased the harbor of St. Nicholas from Hayti for this purpose. General Grant endeavored during his presidency to secure Samana Bay. The effort to obtain the Danish Islands, as has been shown, was begun by Mr. Seward during the presidency of Abraham Lincoln. The fine harbor of St. Thomas fulfills all the required naval and military conditions.

As has been pointed out by Captain Mahan, it is one of the great strategic points in the West Indies. The population of the three islands is only 33,000, of whom nearly 30,000 are negroes, the others being chiefly of English or Danish extraction. There is no possibility of any material increase in the population, and annexation would never involve at any time the troublesome question of Statehood. The Danish Islands could easily be governed as a Territory—could be readily defended from attack, occupy a commanding strategic position, and are of incalculable value to the United States, not only as a part of the national defense, but as removing by their possession a very probable cause of foreign complications.⁵

JAMES BROWN SCOTT.

THE TREATY BETWEEN THE UNITED STATES AND HAITI OF SEPTEMBER 16,
1915

On May 3, 1916, there were exchanged at Washington the ratifications of the treaty signed at Port-au-Prince on September 16, 1915, having for its object, as stated in the preamble, to remedy the present condi-

⁵ Senate Executive Report No. I, 57th Congress, First Session.