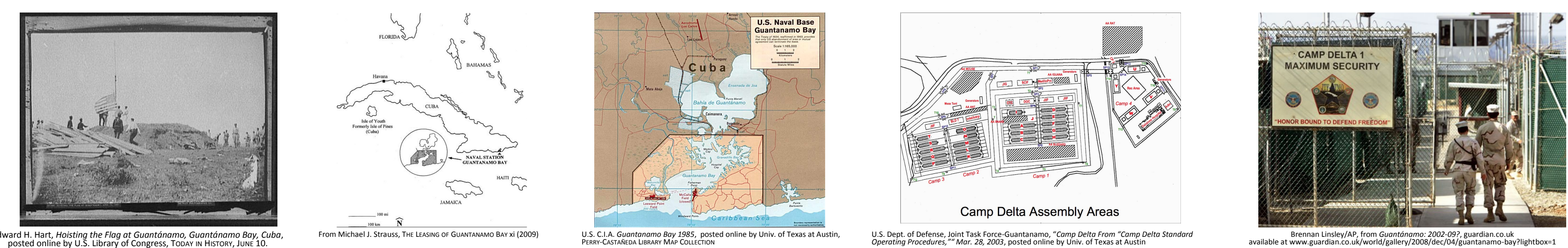
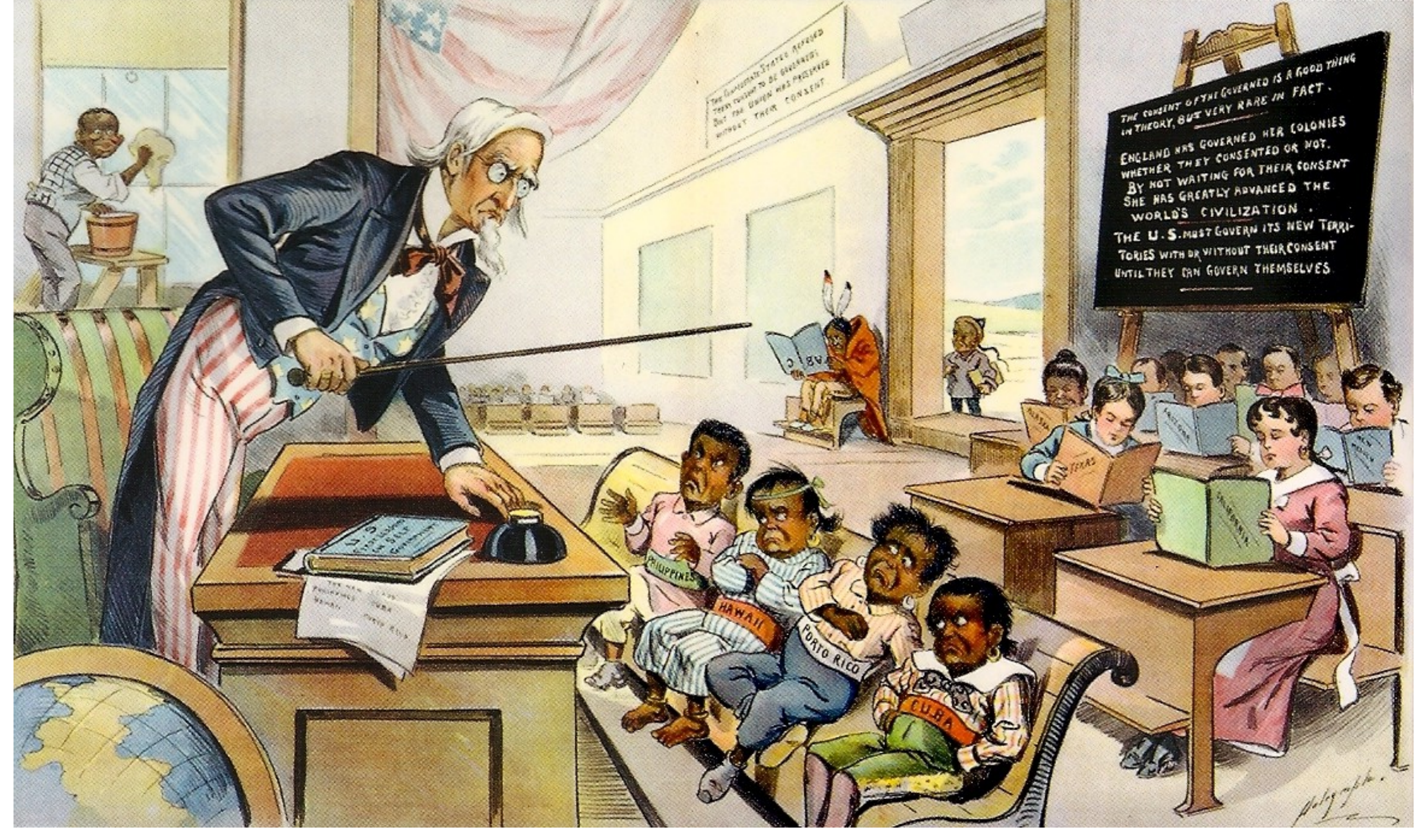


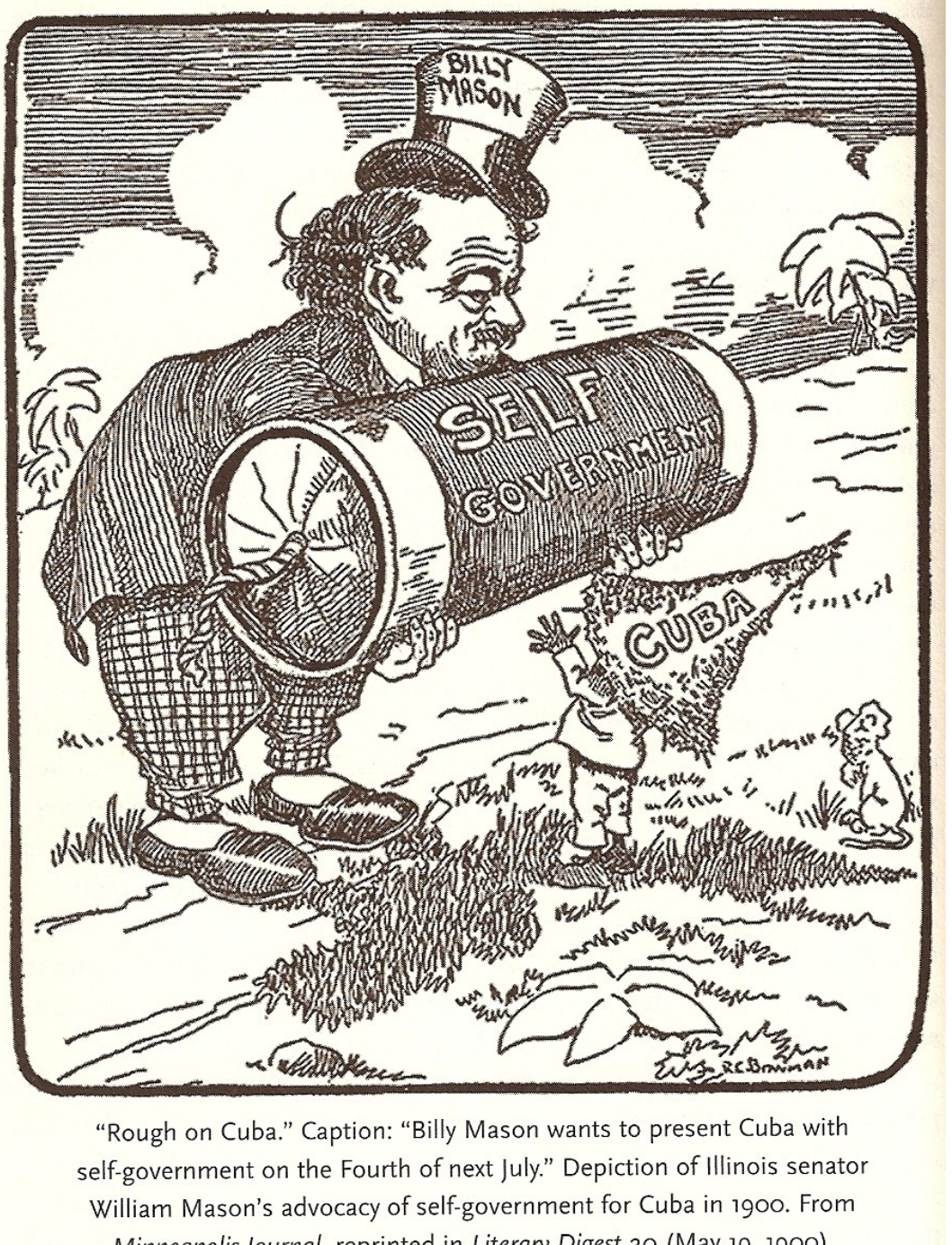
Is race implicit in US authority over the base at Guantánamo Bay, Cuba?



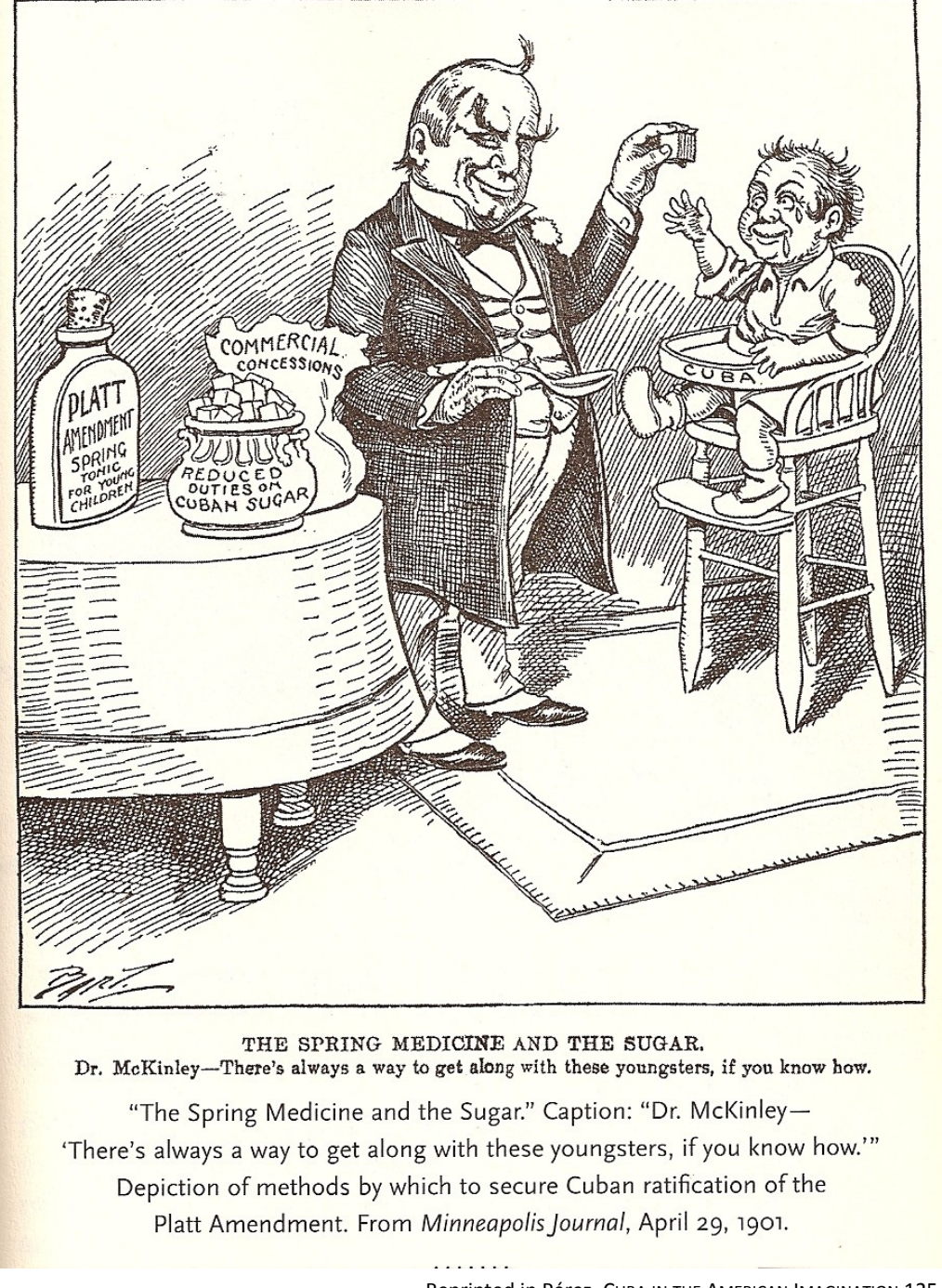
Answer: Yes, race has always been influential for crafting base jurisdiction and excluding populations from protections in int'l and US law.*



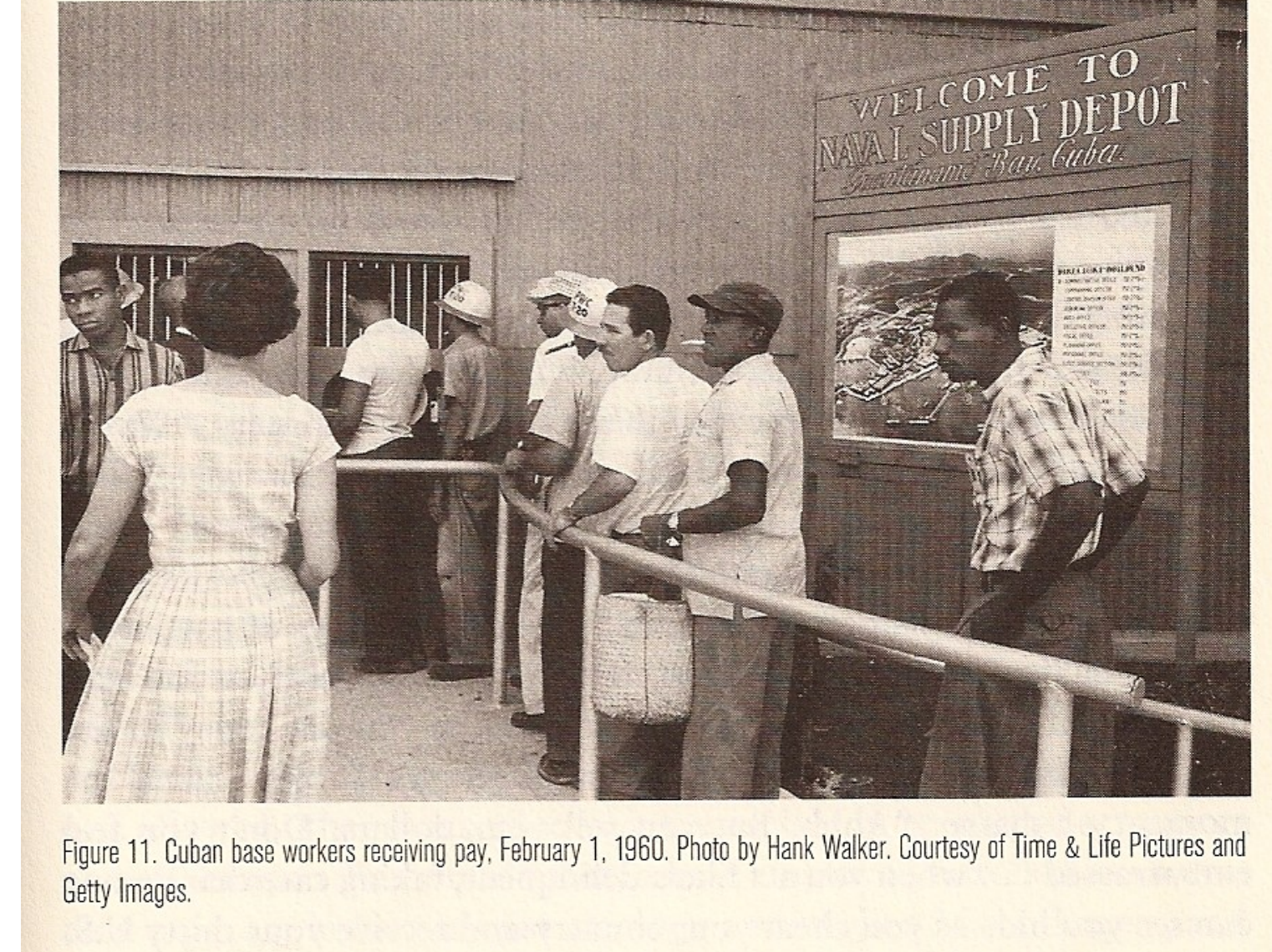
Notions of Anglo-superiority fueled US entry into Cuban independence (1865-98), i.e. the "Spanish-American War of 1898."



With these assumptions, the Platt Amendment (1901-34) excluded Cubans from full sovereignty, requiring Cuba provide a base indefinitely with the US having "complete control and jurisdiction."



Premised on assumptions of Cubans being child-like, 1903 US-Cuba agreements checked Cuban sovereignty, making base-borders lines between populations with "ultimate sovereignty" and non-sovereign jurisdiction.



After 1961 the base, a remnant from informal empire, symbolized Cold War and post-colonial tensions.

In 1992, US courts suggested the base could be free of constitutional and international law checks, permitting Haitian asylum-seeker detentions.

Capitalizing on this anomaly, the US detained nearly 800 men, mostly South or Central Asian, Middle-Eastern, or Arab, denying them international and constitutional law protections.

- is the "unlawful enemy combatant" a proxy for the savage or barbarian (not protected by prior int'l law)?
- do detainees common nationalities and shared culture suggest racist assumptions in the law of overseas detention?

Base jurisdiction has been essential when excluding certain populations (Cubans, Haitians, and detainees) from rights protections. Exclusions require cultural and de facto racial reasoning, e.g. :

- Cubans are child-like
- Cuba has "ultimate sovereignty"
- US control is non-sovereign
- detainees are "unlawful enemy combatants"



* based on Ernesto Hernández-López "Boumediene v. Bush and Guantánamo, Cuba: does the "Empire Strike Back?" 61 SMU LAW REV. 117(2009) and "Guantánamo outside and inside the U.S.: why is an American base a legal anomaly?" (work-in-progress)