

Hawaii Kolomua

PROGRESS.

The Life of the Land is Established in Righteousness.

HONOLULU, JAN. 31, 1894.

SOUND SENSE.

A LESSON IN LEGAL FACTS.

Hon. F. R. Coudert on the Hawaiian Question.

The question of Hawaii is fast reaching the condition of the Schleswig-Holstein problem. Every day that passes by adds to the difficulty of understanding facts and of applying the law. It is dim, vague and shadowy in its outline, uncertain in much of its evidence, complicated with partisan prepossession and moulded to fit partisan opinions. The testimony has become so voluminous and confused as to discourage study and repel curiosity, so that the average citizen is disposed to vote the whole business a bore and to mourn the day when the United States soldiers first put their foot upon Hawaiian soil. Whatever may be the sentimental preference of our people for a republican form of government, most of them are disposed to live in peace and comfort even if Hawaii should be deprived of the inestimable blessings of democratic rule. But then the question will not be put down without a struggle, for it involves us, our interests, and our honor. Study it we must, and it may be of use to the readers of the *Review* to have a brief statement of the controversy made for them. There is, we need not say, a serious question of international law involved. That question, like every other, has two sides, the right and the wrong side. Let us try to have it settled right. The Hawaiian difficulty be it remembered, is an inheritance. The present administration did not originate it and has thus far done nothing to aggravate the evils of the legacy, unless, indeed, its very wise course in refusing to jump into the perils and absurdity of annexing the Hawaiian Islands to the United States be considered such an aggravation. Nor has the Administration established or sought to establish any new and startling theory of international law. It has labored to assert, at the outset, the wise and wholesome principle which it has been our policy as a government to observe from the beginning; the only principles which will permit us to escape the perils of international collision and at the same time to give due protection to our citizens whenever and wherever that protection may be needed.

Secretary Gresham's instructions to Mr. Blount when the latter started upon his mission to Honolulu defined the position of the Administration in apt and concise language.

"Historical precedents and the general course of the United States authorize the employment of its armed force in foreign territory for the security of the lives and property of American citizens and for the repression of lawless and tumultuous acts threatening them; and the powers conferred to that end upon the representatives of the United States are both necessary and proper, subject always to the exercise of sound discretion in their application. In the judgment of the President, your authority, as well as that of the commander of the naval forces in Hawaiian waters, should be and is limited in the use of physical force to such measures as are necessary to protect the persons and property of our citizens and while abstaining from any manner of interference with the domestic concerns of the islands, you should indicate your willingness to intervene with your friendly offices in the interests of a peaceful settlement of troubles within the limits of sound discretion. Should it be necessary to land an armed force upon the Hawaiian territory on occasions of popular disturbance, when the

local authority may be unable to give adequate protection to the life and property of citizens of the United States the assent of such authority should first be obtained if it can be done without prejudice to the interests involved."

The position here taken is important in a double aspect: First, because it clearly states the views of our government as to its right to interfere in the concerns of another people, next, because the rules here laid down may serve as a test when we undertake to decide to what extent, if any, the late administration has violated rules of international obligation, as that obligation is viewed by the executive power now in office. It is plain that if Minister Stevens did nothing more, and nothing else than Secretary Gresham authorized Mr. Blount to do, any criticism of the course pursued by Minister Stevens is ill-timed and unfounded.

It is claimed, however, and a mass of evidence is adduced to prove, that Minister Stevens did not confine himself to the simple and obvious duties thus conceded to be properly within his sphere, but that, on the contrary, he used his great power as the representative of the United States to precipitate the downfall of the existing government. It is insisted that, without the aid which he afforded to the insurgents, the revolution could never have succeeded, nay, would not have been attempted; that the bayonets of the United States soldiers virtually terrified the Queen into submission and compelled her to resign. If these charges are made out, the result would seem to be plain, viz: that an injustice having been done by the abuse of our representative's authority, it is incumbent upon us, so far as practicable, to redress the wrong done. As the only way to accomplish this is to restore the *status quo*, justice and self respect concur to make an attempt at least at restitution.

It is plain at the outset, that whatever Minister Stevens may have intended, thought, or designed, the promoters of the insurrection, when they appealed to him for aid and comfort, were not limited in their action by the lines set out in Secretary Gresham's subsequent instructions to Mr. Blount. It did not occur to them that the United States Government was only bound to protect its own citizens, nor did they believe that their appeal, to be effectual must be based upon some threatened or actual injury to American interests. It is obvious that they called upon the government of the United States very much as the benighted traveler called upon Hercules to extract his cart from an impassable road. They knew the physical power of our nation, and could well imagine that the moral force of our flag, backed up even by an insignificant number of bayonets would be omnipotent in the destruction or the creation of a government at Honolulu. And, therefore, when they wrote under date of January 16, 1893, to Minister Stevens, they respectfully reported that the Queen was misbehaving herself, that the public safety was menaced, that lives and property were imperilled; on these grounds they appealed to the United States forces and to him for assistance.

A petty, fogging lawyer would have been disposed to interpose a demurrer, as there certainly were not facts enough on their own showing to justify the forcible interference of the United States. There was no pretence that the property of our citizens was imperilled or their lives endangered; nor did it appear that the petitioners were Americans; in fact the majority of the signers were not.

But the embryonic insurrectionists went on to state their grievance viz: That the Queen, "with the aid of armed force and with threats of violence and bloodshed from those with whom she was acting, attempted to proclaim a new constitution; and while prevented, for the time, from accomplishing her object, declared publicly that she would only defer her action." This conduct and action, it was insisted, had created general alarm and terror, and the signers who

had constituted themselves into a Citizen's Committee of Safety, declared that they were unable to protect themselves without aid, therefore prayed for the protection of the United States forces. Any one disposed to criticism would naturally suggest that if the Queen had only attempted to proclaim a new constitution, but had been prevented from accomplishing her object, there was no real ground for interference of the United States forces, or any one else. A public declaration that she would defer her action so far from inviting forcible interference, should rather have been considered a reason for leaving her some room for penitence, with the hope that her action would be "deferred" indefinitely. Besides, how do we know that the new constitution was worse than the one under which the inhabitants were living and that great wrongs would be done to our minister's proteges?

It is certain that this request of the Committee of Safety reached the American minister. It is certain that the troops were landed, and it is equally sure that the Queen yielded only to the superior force of the United States of America, whose minister, Mr. Stevens, she said, had "caused United States troops to be landed, at Honolulu, and declared that he would support the said provisional government."

It is stated, in defence of Mr. Stevens, that he only consented to administer forcible remedies for the constitutional ailments of the Hawaiians after the government *de facto* had been established. It requires some effort to consider this seriously upon the evidence in the case. But let us glance for a moment at the dates. The call on the American Minister was made on January 16, 1893. On the 17th—that is the next day, the insurrectionists had made such progress as to be fully established, and to be entitled to recognition as a Provisional Government! "About 4 to 5 p. m. of this date—am not certain of the precise time"—says Mr. Stevens under date of January 17, 1893, "I addressed a short note to Hon. Samuel Parker, Hon. William H. Cornwell, Hon. John F. Colburn, and Hon. A. P. Peterson, no longer regarding them as Ministers in forming them that I had recognized the Provisional Government." It is plain, therefore, that at some time before 4 o'clock on the 17th of January, Mr. Stevens had of his motion, dismissed Messrs Parker and others from their office and notified them, that he had recognized the Provisional Government. And what makes this the more remarkable and, indeed, renders the prompt success of insurgents inexplicable, is, as we have seen, that they themselves had declared in their letter that they were unable to protect themselves without aid, and for that reason, prayed for the protection of the United States forces. The exercise of common reasoning powers and the injection of common sense into discussion are not inhibited, even where grave diplomatic questions are concerned. Is it probable—we might almost ask. Is it possible that these men knowing their own inability to protect themselves without aid and looking for protection only to the United States forces, could have succeeded in subverting the government in these few hours unless they had, at least, the assurance of aid and encouragement from Mr. Stevens? That the action of Mr. Stevens, or at least his purpose, was well known at an early hour on Jan. 17th, is plain, from the fact that the Queen's abdication was made on the same day, Jan. 17, 1893, and that in the instrument of resignation she recites that Mr. Stevens had already caused United States troops to be landed at Honolulu and declared that he would support the said provisional government.

Mr. Charles L. Carter, who visited the United States soon after the revolution, in the interests of the Provisional Government, is very wroth at Her

Majesty for this ill timed proclamation. Evidently, in his mind, it would have been more decorous for her to wait until all these minor matters had been settled to the satisfaction of Mr. Stevens and the Provisional Government. He says that the Queen's protest was a "quibbling trick" which now makes clear to many of us what we then considered her "cowardly surrender." Independently of the fact that this sentence is unintelligible, for a "quibbling trick" is not apt to make clear a "cowardly surrender," it does seem unfair to her to use these hard words where her conduct was so obviously proper and natural. But he pours out a good deal more strong language upon her unprotected head and upon those who ventured to stand by her to aid and abet her in her disaster. They were "tricksters" they incorporated a "wanton lie" but "that lie did not act as an estoppel" and he winds up with the pregnant information to the Secretary that "national affairs are not controlled as litigations in courts of law." Unfortunately, this is true. National affairs are not always controlled by sound rules of justice and of truth. The weak are not always protected; the strong are not always bearing and prudent. Judgment does not always follow justice. Mr. Carter is, no doubt, a very able and intelligent man, whose character, so far as we know, is unimpeached and unimpeachable, but his defence of Mr. Stevens and the insurrectionists would have been quite as strong if he had said less about the "tricksters" and their wanton lies, and had more clearly demonstrated "the mighty truth" that inspired the course of the insurrectionists.

One of the points most hotly contended for by the defenders of Mr. Stevens is that he only gave his recognition of the Provisional Government as the *de facto* Government of the islands, after the Committee of Safety had taken possession of the Government buildings, archives and treasury, and after the Provisional Government had been installed at the heads of these respective departments. Possibly, this may be true, although very strong evidence to the contrary is offered. It is possible that Mr. Stevens may have actually deferred recognition of the provisional government until such occupation of the public buildings, but that does not seem to be the only, or indeed the important, question in the case. If by his action, he coerced the feeble administration of the Queen to yield up its power and to succumb before the authority of the United States, then to argue that he should escape criticism because of these delays, is simply pettifoggery. The expression may be harsh, but it is a proper one. The truth seems to be that he had arranged the matters with the insurrectionists; that the soldiers had been landed, that the moral forces at his command were used and the physical forces held ready for action, and when, under these combined influences the government resigned, he appeared for the first time formally to recognize, an administration of his own creation.

But even this attempt at palliation is disposed of by Judge Dole, a gentleman in whom Mr. Stevens places the highest confidence, and whose veracity he must be the last man in the world to impeach. Judge Dole writes on January 17th, 1893, the very day on which Mr. Stevens had refused any longer to regard Messrs Parker and others as ministers, and says:

"I acknowledge receipt of your valued communication of this day recognizing the Hawaiian Provisional Government, and express deep appreciation of the same. We have conferred with the ministers of the late government, and have made demand upon the marshal to surrender station house. We are not actually yet in possession of the station house, but as night is approaching and our forces may be insufficient to maintain order, we request the immediate support of the United States forces, etc."

We must leave this highly respectable man, Judge Dole, to reconcile his statement,

with Mr. Stevens' declaration. If Judge Dole was telling the truth, at a time when there was no reason why he should dissemble or disregard it, he was not in possession of the station house at the time when he was thanking Mr. Stevens for his recognition of the Provisional Government. Until these two gentlemen have settled this question, it must be assumed, with all the probabilities in favor of the assumption, that Mr. Stevens had actually, as he certainly had in intent, promoted, encouraged, aided and abetted insurrection.

The downfall of the monarchy may or may not be a desirable event; the Queen may or may not be what her enemies charge. Judge Dole and his associates may absorb in themselves all the cardinal and other virtues, but it is difficult for an impartial man to escape the conviction whatever good, whatever credit, and whatever praise may attach to the downfall of Queen Liliuokalani belongs mainly to Mr. Stevens. Judge Dole and other excellent men may have a just claim to a small part of the success, but the chief actor is undoubtedly Mr. Stevens. Truly he did it; and if it be part of the occupation of United States envoys to act the part of international Don Quixotes, to use their office, and their power to subvert governments that do not suit their tastes, and to arrange new establishments more to their own liking, he has earned the gratitude of his countrymen. In the mean while his zealous efforts, have made it imperative upon our people to decide how far they will ratify his acts, thereby, establishing precedents which are very sure, if followed, to relieve our international relations from the reproach of being tame or monotonous.

F. R. COUDERT.
In North American Review.

The *Advertiser* amuses itself by printing a letter which appeared in the *New York Sun* under the heading "One Shot Fired" and was signed by Hawaiian Ann Arbor. People familiar with the circumstances which took place on the 17th of Jan. 1893, will easily realize that Hawaiian lies. We have taken the trouble to interview Messrs Wilson and Fernandez and we can add our own knowledge in regard to the matter referred to, in proving that neither was Mr. Fernandez a spy for Mr. Wilson, nor did the marshal depend upon him for any information. It is equally untrue that a squad of armed police officers were around on the 17th of January, waiting the delivery of arms from E. O. Hall and Co, or that the few unarmed officers did run when Mr. Good—this fine acquisition of the P. G.—fired off his gun and hit a poor officer. Anybody conversant with our affairs will know that the revolution was not depending on the few persons who for a large amount of cash did the shooting and talking during the memorable days of last year. It is noteworthy that a son of Frank Judd and a son of Mr. Waterhouse are among the pupils of Ann Arbor, there to receive the superficial education (?) which the American continent furnishes. If the communication printed in the *Advertiser* this morning emanates from the chips of the old blocks mentioned, no one will wonder that the writer has reached to a superlative of lying.

THE *Star* nearly overdid itself in an attempt to be cutting, and witty at the expense of the French Commissioner. Mr. Vhrey needs not to feel annoyed over the insult which has been offered to him and his estimable lady by the *Star*. That paper does not represent the tone of the society among whom we hope that the French Commissioner shortly will find many congenial friends. The *Star* and the "rough" element backing it may know more about the political situation in the world than does the French Government, but we are of the impression that even Mr. Smith of the *Star*, and Mr. Mulligan of the *League* will find

out that all their intent is to show their irrepressible desire and willingness to show the cloven hoofs as bears and boors.

We devote considerable space today to the republication of an article by Frederic Coudert one of the leading lawyers in the United States which appeared in the January number of the *North American Review* and which deals with the Hawaiian question. The article is worthy of personal not alone on account of its intrinsic value, but on account of the source from which it was pruned. Mr. Coudert who has gained fame by his conduct and attitude in the Behring sea case is generally considered the attorney of the Cleveland administration and his words, therefore carry great weight. There is more common sense and good law in Mr. Coudert's article than ever has appeared in the whole of the jingo press in America or Hawaii nei.

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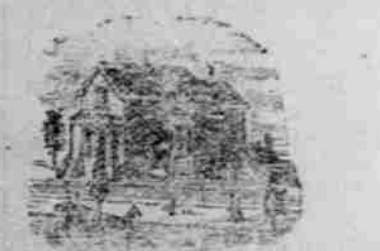
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