

JONATHAN ROSS

JONATHAN ROSS, LL. D., a noted American jurist and publicist, was born at Waterford, Vt., April 30, 1826, and educated at Dartmouth College. He taught school in his native State for a time, subsequently studied law, and in 1856 was admitted to the Bar. He began the practice of his profession at St. Johnsbury, Vt., which has been his home from that time. After serving three terms in the Vermont house of representatives, he entered the State senate in 1870, and in the same year was elected one of the judges of the Vermont supreme court. In 1890, he was appointed chief-justice of the supreme court of his State, and in January, 1899, soon after the death of the senior Senator from Vermont, Justin S. Morrill, he was chosen to fill the latter's unexpired term in the United States Senate.

THE NATION'S RELATION TO ITS ISLAND POSSESSIONS

FROM SPEECH DELIVERED IN THE UNITED STATES SENATE,
JANUARY 23, 1900

IN REGARD to Cuba the duty is particular. It is so constituted by the resolutions antedating the war and by the provisions of the treaty. The preamble of the joint resolution of Congress approved April 20, 1898, counts upon the abhorrent conditions which have existed in that island for more than three years, shocking to the moral sense of the people of the United States, a disgrace to Christian civilization, culminating in the destruction of the "Maine" with two hundred and sixty-six of its officers and crew, and thereupon it is solemnly resolved: (1) That the people of the island are, and of right ought to be free and independent; (2) That it is the duty of this government to demand, and it does demand, that Spain at once relinquish its authority and government of the island; (3) Authorizes the President to use the entire land and naval forces and to call out the militia to

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enforce the demand; (4) The United States disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over the island except for the pacification thereof, and then asserts its determination to leave the government and control of the island to its people.

These were followed by the act approved April 25th, declaring that a state of war had existed between the United States and Spain since April 21st, and directing and empowering the President to use the entire land and naval forces and to call into the service the militia of the United States in the prosecution of the war. The President exercised the power conferred, obeyed the direction, prosecuted the war to a successful termination, resulting first in the protocol and then in the treaty ratified by the Senate, by which Spain relinquishes her sovereignty over Cuba, and the United States announces to the world that she is about to occupy and while the occupation continues she—

will assume and discharge the obligations that may, under international law, result from the fact of its occupation for the protection of life and property.

The United States is now in the exercise of such occupation. It has been claimed that she did not take sovereignty over the island; that on the relinquishment by Spain it vanished into thin air to some place unknown, or, as one eminent writer on international law has said, was in abeyance until the inhabitants of the island should be in condition to receive and exercise it. Sovereignty is supreme or paramount control in the government of a country. The United States is now and has been since the signing of the protocol in the exercise of this control in the government of the island. It has not been a divided control, as sometimes happens in the

conflict of arms. Her control has been unquestioned and undisputed. I think the United States, upon the surrender of sovereignty over the island by Spain, immediately following the signing of the protocol, took sovereignty over the island, not as her own, nor for her benefit, nor for the people of the United States, but for the inhabitants of the island, for the specified and particular purpose of pacification of the island. What is meant by the pacification of the island? It may be difficult to determine.

Persons and nations may differ in regard to the state of things which must exist to have this accomplished. The Cubans may say that they are pacified, in a state of peace now, and therefore it is our duty to withdraw and allow them to set up such a government as they may choose. We may say that pacification means more than absence of a state of war; that, considering the state of things that had existed for three or more years, it means until the inhabitants shall have acquired a reliable, stable government. Are the Cubans capable of establishing and maintaining a stable government? Who shall decide? If that be the meaning, what kind of a government? A monarchy, a despotism abhorrent to the fundamental principles that have ruled and inspired this nation from its origin? Who can tell? Then the announcement makes no provision for any return by such government when established for the expenditures and obligations incurred in prosecuting the war and administering the sovereignty. Is the United States to receive such compensation? She became a volunteer in the war, and announced herself such volunteer in taking the sovereignty until pacification is accomplished. As such the United States stands to-day before the civilized nations of the world. The inhabitants of Cuba are the beneficiaries of this voluntarily assumed duty,

and when a difference arises between this government and them, whether the duty has been performed and whether this nation is to be compensated for the expense of its administration, have a right to arraign this nation at the bar of nations and demand that it give account of the stewardship which it voluntarily assumed. The determination of the rights of this nation and of the Cubans under this assumed duty may involve many nice questions and many difficulties.

Yet there are those who earnestly urge that Congress should make a declaration that the nation holds Puerto Rico and the Philippine Islands under the same undefined, yet in a sense particular, duty. In my judgment, such a course is beset with complications and difficulties. By adopting it the nation would court these and invite the inhabitants of the islands to engender perplexing questions and entanglements. Under the treaty the nation takes the sovereignty of Puerto Rico and of the Philippine Islands, under the general duty to use it in such a manner as Congress may judge will best subserve the highest interests of their inhabitants and the inhabitants of this nation. I would announce no other duty in regard to them. Many more complications and entanglements may arise in the discharge of the particular duty to Cuba than are likely to arise in the discharge of the general duty to Puerto Rico and the Philippine Islands.

It is urged that this nation should announce the policy of its purpose in the administration of the sovereignty. The flag of the nation has been planted on those islands. That is the emblem of its policy and ever has been, even when at half-mast, mourning the loss of her sons slain in its defence. The flag never did, and I hope never may, represent but one policy. That policy is individual manhood; the right

to enjoy religious and civil liberty; the right of every man to believe in and worship God according to the dictates of his own conscience; the right to stand protected equally with every other man before the law in the enjoyment of freedom, of personal rights, and of property. Let the flag, as the representative of these principles, be planted and become dominant on and over every island and every inhabitant. No other, no better, policy can be proclaimed. In no other way can this Congress and nation discharge its duty to the people of the United States and to the people of the islands. Congress should proclaim this policy by its acts and make no attempt to do what it has no power to do—to pledge or limit the action of future Congresses. What future Congresses shall do is for them to determine and proclaim. It cannot be assumed that wisdom will die with the present Congress, nor that it is any part of its duty to proclaim what future Congresses shall do. Sufficient unto the day is the duty thereof.

If these principles are enforced as far as applicable to the government of these islands, the inhabitants will be blessed, whether they consent thereto in advance or not. In a representative government the right to govern is not derived from the consent of the governed until they arrive at a stage of advancement which will render them capable of giving an intelligent consent. Four fifths of the inhabitants of this country have given no consent except representatively. The consent of women, as a rule, and of minors is never required nor allowed to be taken. Wives and children are assumed to be represented by husbands and fathers. Boys are to be educated, trained, and ripened into manhood before they are capable of giving consent. Doubtless the boys of fifteen in this country are better prepared to give an intelligent con-

sent than are the inhabitants of those islands. This is not their fault. After having lived for more than three hundred years under a government of oppression and practical denial of all rights it is not wonderful that they are not capable of judging how they should be governed. They are to be trained in these principles: first, by being allowed, under experienced leaders, to put them in practice in the simpler forms of government, and then be gradually advanced in their exercise as their knowledge increases.

All accounts agree that the administration of justice in the islands through the courts has been a farce; that no native could establish his rights or gain his cause, however righteous, against the Spaniards and priests; that therein bribery and every form of favoritism and oppression prevailed. Under such training and abuse falsehood and deceit have become prevalent. These most discouraging traits of character cannot be changed in a generation, and never except by pure, impartial administration of justice through the courts, regardless of who may be the parties to the controversies. In my judgment, the people of this nation obtain more and clearer knowledge of their personal and property rights through the administration of justice in the courts than from all other sources.

All experience teaches that the requirements and impartial practice of the principles of civil and religious liberty cannot speedily be acquired by the inhabitants, left to their own way, under a protectorate by this nation. The experience of this nation in governing and endeavoring to civilize the Indians teaches this. For about a century this nation exercised in fact a protectorate over the tribes and allowed the natives of the country to manage their tribal and other relations in their own way. The advancement in civiliza-

tion was very slow and hardly perceptible. During the comparatively few years that Congress has by direct legislation controlled their relations to each other and to the reservations the advancement in civilization has been tenfold more rapid. This is in accord with all experience. The untaught cannot become acquainted with the difficult problems of government and of individual rights and their due enforcement without skilful guides.

No practical educator would think of creating a body of skilled mechanics by turning the unskilled loose in a machine shop. He would place there trained superintendents and guides to impart information to their untaught brains and to guide their unskilled hands. It is equally true that they would never become skilled without using their brains and hands in operating the machines. So, too, if this nation would successfully bring the inhabitants of these islands into the practice of the principles of religious and civil liberty it must both give them the opportunity to be taught in and to practice them, first in their simpler forms and then in their higher application, but under competent and trained teachers and guides placed over them by this nation. It is equally true that the laws and customs now prevailing must neither be pushed one side nor changed too suddenly. They must be permeated gradually by the leaven of civil and religious liberty until the entire population is leavened. To accomplish this without mistake in the interest of the people of this nation and of the inhabitants of the islands is a most difficult task, demanding honesty, intelligence, and the greatest care and good judgment. The task is rendered much more difficult because the people of the islands have hitherto been governed by the application of the direct opposite of these principles, and are composed of great numbers of tribes,

speaking different dialects and languages and governed by different customs and laws.

The successful solution of this problem demands accurate knowledge of the present conditions of the entire population and of the different classes, of their respective habits, customs, and laws. As the principles of civil and religious liberty are gradually intermingled with their present customs, habits, and laws, changes will be constantly going forward. An intimate knowledge of these changes will also be necessary for their successful government. Hence, as a first step to a successful discharge of this duty, Congress should create a department of government charged with the sole duty to become accurately acquainted with and to take charge of their affairs and place exact knowledge of them before Congress for its guidance. They should not, as now, be left in charge of departments overloaded and overworked.

The second step to be taken is to remove all civil appointments in the islands from the realm of politics. The nation will utterly fail in the discharge of its duty if the islands are made political footballs subject to change in government with every political change in the administration. The administration of the sovereignty must be intelligent, honest, and uninterrupted. A faithful, intelligent man with a full knowledge of the situation must not be displaced to give place to one ignorant of the conditions, however capable otherwise. The duty rests upon the entire nation. It must be discharged for the interest of the whole nation. There are honest, capable men in every political party. These should be sought out and given place in the administration of this sovereignty, as nearly as may be in proportion to the strength of the several political parties in the nation. Then when there is a political change in the administration there

will be no inducement to make extensive changes in the administrative appointees of the sovereignty.

Difficult as is the administration of this sovereignty, if honestly and intelligently undertaken such administration, I believe, will be beneficial both to the people of this nation and to the inhabitants of the islands. Difficulties which have come as these have come—unsought—honestly and faithfully encountered, bring wisdom and strength. The struggle for nearly a century in this nation over slavery gave wonderful wisdom, strength, and clearness of insight into the great principles which the nation is now called upon to apply to these oppressed islands. Stagnation is decay and ultimate death. Honest struggle, endeavor, and discussion bring light, growth, development, and strength. The primary object to be attained by the discharge of this duty is the elevation of the inhabitants of the islands physically, mentally, and morally; to make them industrious, honest, intelligent, liberty-loving, and law-abiding. This end attained, the secondary object—commercial and material growth among them and among the surrounding millions—will surely follow. The first unattained, the second, at best, will be spasmodic and of little worth.

The intelligent, thoughtful observer sees more in nature and in the ordering of the affairs of this world than the unguided plans and devices of men and nations. For him the wisdom of the Eternal shapes the affairs of men and of nations, sometimes even against their selfish plans and desires. For such, his hand planted the seed of individual manhood and for centuries watched over and cared for it in its slow growth amidst infinite sufferings, struggles, and conflicts, until at length planted on these shores, not entirely in its purity, but at last brought to full fruitage in the ter-

rible struggles and conflicts which ended with the Civil War. Under him no man, no nation, lives to itself alone. If it has received much, much must it give to the less favored. Under his guidance, I believe, the discharge of this great and difficult duty has fallen, unsought, to the lot of this nation. Then let the nation take up the duty which the Ruler of men and nations has placed upon it; go forward in an honest, unselfish, intelligent, earnest endeavor to discharge it for the highest interest of the nation and of the islands in the fear and under the direction of the Supreme Ruler, who guided the fathers and founders; and the nation will not, cannot, encounter failure.