

PHILLIP H. HARRIS

Charles Coffin Harris: An Uncommon Life in the Law

BORN JUNE 9, 1822, in Portsmouth, New Hampshire, Charles Coffin Harris was the grandson of Abel Harris, a successful Portsmouth merchant. His father, William, founded a well-known Portsmouth school and taught the children of New England there for some 37 years. As the eldest son, he was educated at his father's own school and then at his father's alma mater, Harvard College. Graduating in 1841, he was surely, at age 19, a "Yankee of the Yankees—and practical; yes, and nearly barren of sentiment, I suppose—or poetry, in other words."¹ Not surprisingly then, he became a lawyer. He married his cousin and settled in Boston. The first quarter-century of his life passed with no hint of the extraordinary events to come.

In 1849, Harris caught the fever that was sweeping the country and joined the Gold Rush. Heading for California with his two brothers in pursuit, he never looked back. The three Harris siblings began operating a schooner trading in produce and soon set out for the South Pacific to obtain merchandise. When they arrived in the island kingdom of Hawai'i in August 1850, he quickly surveyed the opportunities available and told his brothers to leave without him. They did.²

After opening a small law practice, Harris experienced success

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The Hawaiian Journal of History, vol. 27 (1993)

in some business ventures and became involved in local politics. As his law practice grew, he proceeded to hold minor government offices. His political and legal careers advanced rapidly and soon he was appointed attorney general to King Kamehameha IV. In 1865, he became minister of finance under Kamehameha V. The following year, his path crossed Mark Twain's, to be forever memorialized in Twain's thirteenth and sixteenth *Letters to the Sacramento Union from the Sandwich Islands*.³

Having missed his chance at a fortune in silver in Nevada, Mark Twain took up journalism and spent several months in Hawai'i. During his stay, he entertained the folks back home with letters describing the strange people, events, and scenery he observed in what, to him, was an uncivilized paradise in the Pacific. While observing some sessions of the Hawaiian legislature, which had been established under the country's constitutional monarchy, he first saw Charles Coffin Harris, whom he described as follows:

Minister Harris is 6 feet high, boney and rather slender, middle-aged; has long, ungainly arms; stands so straight that he leans back a little; has small side whiskers; from my distance his eyes seemed blue, and his teeth looked too regular and too white for an honest man; he has a long head the wrong way—that is, up and down; and a bogus Roman nose and a great, long, cadaverous undertaker's countenance, displayed upon which his ghastly attempts at humorous expressions were as shocking as a facetious leer on the face of a corpse. He is a native of New Hampshire, but is unworthy of the name of American. I think, from his manner and language to-day, that he belongs, body and soul, and boots, to the King of the Sandwich Islands and the 'Lord Bishop of Honolulu.'

He has no command of language—or ideas. His oratory is all show and pretense; he makes considerable noise and a great to do, and impresses his profoundest incoherencies with an impressive solemnity and ponderous windmill gesticulations with his flails.⁴

Many readers will undoubtedly chuckle at this vituperative description of Harris from Twain's writings. None will know, however, the man who was the victim of Twain's sharp pen, for

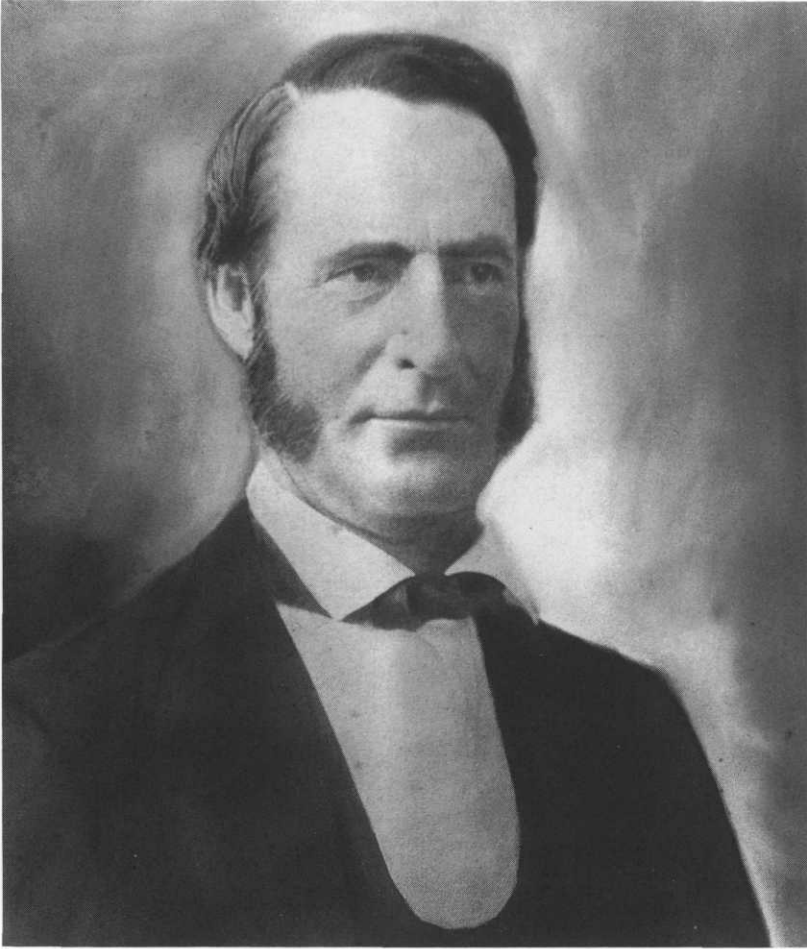


FIG. 1. Charles Coffin Harris, 1822-1881. (A.H.)

outside of Twain's letter, Charles Coffin Harris is virtually unknown.

HISTORICAL BACKGROUND

Throughout Harris's lifetime in the islands, the possibility of the kingdom being annexed by a foreign power was a constant concern. France, Great Britain, Russia, and Japan were all at one

time or another viewed as threats to the continued sovereignty of the monarchs. It was the United States of America, however, that loomed largest among the world powers in the affairs of the little country. Sometimes the pressure for annexation by the United States came from within the islands themselves, where some plantation owners viewed annexation as a way of opening up American markets to their sugar crop. Sometimes the pressure came from within the United States, from those who viewed the islands as strategic to economic and military expansion into the Pacific.

One period of political agitation on the question of annexation began in 1853, near the end of the reign of Kamehameha III. It was during this time that the name of C. C. Harris first came to public attention. Then a minor police magistrate, Harris took a public stand against annexation. Indeed, Harris is credited with having first suggested that those who favored annexation might be involved in treason against the king.⁵

When Kamehameha IV ascended to the throne on December 15, 1854, he brought with him a reputation of being anti-American. Prior to becoming king, Kamehameha IV, then known as Prince Alexander Liholiho, had visited the United States and Europe. Having been treated as royalty in Europe, he was confounded and outraged at being the object of racial discrimination in the United States, still a land of slavery. Despite this, many of Kamehameha IV's closest advisors were themselves Americans. Among those Americans who rose to cabinet rank during his reign was Charles Coffin Harris.

That Harris found favor with Kamehameha IV is hardly surprising. By this time, he had not only been identified as being opposed to annexation, but he was also one of the few Americans not tied to the influential American missionaries. Much to the distress of the those missionaries, Kamehameha IV appointed Harris to his cabinet; he also welcomed the Church of England to the islands in the person of Bishop Thomas N. Staley. Staley arrived in 1862 and became bishop of Honolulu. Kamehameha and his wife, Queen Emma, immediately became members of the Anglican Church. Within two days after the king and queen had joined the new church, Attorney General C. C. Harris became a confirmed member. One year later, the king died.

CONSTITUTIONAL CONFLICT

Kamehameha V came to power in 1863. At that time the kingdom was operating under the constitution of 1852, which had been granted by Kamehameha III at the urging of the American missionaries. While republican in form, with a legislature divided into upper and lower houses, a judiciary represented by the Supreme Court, and the executive branch under the king, the constitutional form of government was still unusual in that it contained a mixture of British, American, and traditional Hawaiian concepts.

Kamehameha V felt certain changes to the constitution were vital. In particular, he was determined to see a change in the qualifications for voting under the constitution. With sugar replacing whaling as the major industry of the islands, the king wanted restrictions on voter eligibility in order to prevent planters from using their immigrant laborers to control elections. This, together with the king's other suggested changes for the constitution, was generally aimed at strengthening the monarchy and preserving the kingdom in the face of a changing economic and political climate.

When he assumed the throne, Kamehameha V declined to take an oath upholding the constitution, or to call the legislature into session, until the question of constitutional reform had been decided. This decision not to take his oath of office put Kamehameha V at odds with all the members of his cabinet except Attorney General Harris, whom he had reappointed. Indeed, during the reign of Kamehameha V, Harris became the primary advisor to the king and was always closest to the king's views on questions of policy and procedure. One of the attorney general's first acts on behalf of the new king was to issue an opinion that the king had the power to initiate a new constitution. Harris followed up this opinion by drafting a new constitution in line with the king's desired changes. He then proceeded to garner support of the other members of the cabinet for his constitution.

Believing that a convention was the most legal way to make the necessary revisions to the constitution, Harris advised the king to issue a proclamation calling a convention together. This caused

considerable upheaval within the islands, and when an election was held to select delegates to the convention, the majority of voters demonstrated some unhappiness with the course the king had chosen. Of the elected delegates to the convention, the majority belonged or were sympathetic to the rival missionary party. The other delegates to the convention, however, were made up of the upper house of the legislature, which more generally favored the king and his program of constitutional reform.

Voting rights quickly became the primary topic of discussion at the convention, for it was on this issue that the true power to control the future of the kingdom would turn. Some were convinced that if the convention failed to adopt a new constitution, the monarchy would collapse. Others, particularly the annexationists, were hoping for just such a result so that a revolution could be initiated, deposing the king and inviting the United States to take over the islands. Neither side was willing to compromise, and the convention deadlocked. With such ominous consequences a possibility, the king, in an effort to preserve the monarchy and the independence of the islands, proclaimed that the constitution of 1852 was abrogated and announced that he would grant the kingdom a new constitution. The convention dissolved and for a short time the Hawaiian kingdom was an absolute autocracy.

Within a few days, the cabinet, using Harris's draft constitution as a basis, completed a new constitution, which Kamehameha V swore to uphold. Some within the government thought the new constitution would be met with violence. However, it was not only accepted, it survived in effect for 23 years, longer than any other constitution under the Hawaiian monarchs, and received favorable reaction outside the islands. In the United States, news stories predicted that Hawai'i would have a more stable and lasting government. New elections were held, and the legislature reconvened in Honolulu.

For his leading role in the constitutional reform, C. C. Harris came under increasing attack by the legislative opposition. He was constantly at odds with the powerful American missionaries, plantation owners, and other influential groups. Ironically, in later years, many of those who criticized him would look back with admiration on his efforts during the constitutional crisis of

1864. For example, Albert Francis Judd, associate justice of the Hawaiian Supreme Court in 1881, would say of Harris after his death:

Much of what had been distrusted during the trying days of the Constitutional Convention of 1864, time has proved were plans laid more wisely than the actors knew, for the strengthening and centralizing of the authority of this Government, so essential to the security of life, liberty, and prosperity of this land.⁶

It was also during this period that Charles de Varigny, the king's minister of finance, became increasingly impressed with the abilities of his fellow cabinet member, C. C. Harris. In later years, speaking about Harris's role during the early years of the reign of Kamehameha V, Varigny would characterize Harris as "a very hard worker, but with an overpositive and unbending mind . . . always ready to do battle."

Excessively persistent, unconcerned with personal popularity, [Harris] fought for his ideas inch by inch, and compelled attention to them by sheer force of conviction.⁷

INTERNATIONAL DIPLOMACY

The most important issue to face C. C. Harris during the reign of Kamehameha V was the matter of reciprocity with the United States. Increasingly, the economic health of the islands depended upon free trade with America. Sugar planters desperately needed an easing of trade barriers so their sugar could be exported to the United States in competition with other producers. Of course, the improved economy that would result from an increase in free trade between the two countries was one of the arguments used by the annexationists over the years to urge taking Hawai'i under United States control. Harris and others, however, saw reciprocity with the United States as a way to save the economy of the islands and at the same time eliminate the pressure for annexation, at least within Hawai'i. To many, the choice became one of annexation or reciprocity.

Harris's direct involvement with reciprocity began when a new ambassador to the Hawaiian Islands from the United States arrived in 1866, the year of Twain's visit. This new American diplomat, Edward M. McCook, had been a military commander during the Civil War. When he arrived in Hawai'i, he became a strong supporter of reciprocity between the two countries. After a time, McCook left Honolulu for Washington, D.C., in order to advocate reciprocity within the United States government. Receiving the authority to negotiate with the Hawaiian kingdom, McCook then traveled to San Francisco, where he met with Minister Harris. Together they negotiated a reciprocity treaty.

Harris took his copy of the treaty on to Washington and campaigned for ratification in the U.S. capital. McCook returned to Honolulu in an effort to win the support of the Hawaiian government for the treaty. Harris remained in Washington into 1868 at his own expense and lobbied for reciprocity. Unfortunately for Harris and McCook, their treaty was not to be ratified at this time. A U.S. Navy gun-ship, the *Lackawanna*, would be the downfall of their efforts.

The presence of the *Lackawanna* in Honolulu caused unrest and resentment within the Hawaiian government. The principal objection to the *Lackawanna* was a general distrust of the ship's captain, William Reynolds. Reynolds had lived in the islands some years previously and had become fully familiar with the issues and politics affecting the country. He was an ardent supporter of annexation and an open advocate of making Hawai'i a state of the Union, an idea that had little support even in the United States. Some suspected Reynolds to be anticipating the death of the king, the last Kamehameha, in the hope that subsequent confusion within the Hawaiian government would give the Americans an opportunity for annexation. With Reynolds and the *Lackawanna* in Honolulu Harbor, reciprocity with the United States was an impossibility as far as King Kamehameha V was concerned.

Reciprocity also met opposition in Washington, particularly from those who believed that the success of a reciprocity treaty would end all future prospects for annexation. The Americans had concluded that more was to be gained by acquiring the

islands than by opening up free trade with them. In fact, during 1867, U.S. Secretary of State William H. Seward told McCook that he favored annexation of the islands, and, in 1868, President Andrew Johnson stated that his policy would be to prevent the islands from coming under foreign domination until they voluntarily applied for admission to the United States. This news was obviously received with some dismay in the cabinet of Kamehameha V, especially since Harris had made it clear to Washington that the king and people of Hawai'i were opposed to annexation by the United States.

Harris returned to the islands and during the continued reign of the last Kamehameha, he dealt daily with policy matters for the kingdom. Interestingly, however, he also had time to direct his attention to an item that seemed relatively insignificant in the 1870s, but shows a foresight that cannot be underestimated considering the importance of tourism to Hawai'i today. Although there had been talk of the need for a first-class hotel in Honolulu, the idea did not become a reality until Harris, then minister of foreign affairs, pushed for government support of the project. Together with Dr. John Mott Smith, an American dentist and minister of finance in 1872, Harris selected a site for a hotel on the corner of Hotel and Richards streets and bought the land. The cabinet approved the issuance of hotel bonds for the construction of the building, which became the Hawaiian Hotel. The hotel became world famous and a center of social activity within the islands; the Hawaiian tourist industry had begun. After many years, the Hawaiian Hotel—located across the street from 'Iolani Palace—was converted to a YMCA.

CIVIL UNREST

King Kamehameha V died suddenly on November 11, 1872, a bachelor without an heir to the throne. According to the constitution, a new monarch would be selected by the legislature from among the *ali'i* (chiefs and nobility). Originally there were four principal candidates for the office; however, due to the popularity of Prince William Lunalilo, all but one of the other *ali'i* dropped out of the race. Lunalilo's only remaining competitor was David

Kalākaua, whom C. C. Harris fervently supported in the campaign. Lunalilo won easily. It seemed that Harris had backed the wrong candidate and that his days in high office in the Hawaiian kingdom were at an end. He returned to his law practice.

Lunalilo appointed a new cabinet dominated by members of the missionary party. He also proceeded with efforts to undo some of the constitutional changes wrought by Kamehameha V in the constitution of 1864. There was little time for Lunalilo to accomplish his goal, however, for he was suffering from pulmonary tuberculosis. As the news of Lunalilo's imminent death became public, U.S. Navy gun-ships again made an appearance in Honolulu Harbor. Floating menacingly in the bay, they waited for events that might lead to a downfall of the government and an opening for American interests to step in and take control.

With King Lunalilo on his deathbed, the selection of a new monarch again dominated the political scene. David Kalākaua was now the leading candidate and Harris's fortunes began to rise. There was, however, another member of the *ali'i* who began to think seriously about making a claim on the throne—the wife of Kamehameha IV, Queen Emma.

Lunalilo died after only a year and one month as king. The short campaign for the election of the successor was hotly contested. Queen Emma had fervent, if not numerous, supporters. When the members of the legislature finally cast their ballots, David Kalākaua received 39 votes to only 6 for Queen Emma. During the voting many people gathered around the courthouse where the legislature was meeting. At news of the vote, a riot broke out and the supporters of Queen Emma stormed the building. Two men stood side by side in an attempt to prevent the rioters from gaining access to the hall—Charles C. Harris and Sanford B. Dole.⁸

Despite the efforts of Harris and Dole, the rioters gained access to the chambers and proceeded to club members of the legislature who had voted for David Kalākaua. When the rioting spread to the streets, both U.S. and British marines came ashore to assist in stopping the violence. Queen Emma finally counseled her supporters against further violence and recognized Kalākaua as the new king of Hawai'i. Although the soldiers stayed around for several days, there was no further violence and they soon withdrew.

In 1874, the new king and other Hawaiian officials visited the United States on a goodwill tour. The visit led to negotiation of a reciprocity treaty allowing many Hawaiian products, including sugar, to be imported into the United States free of duty. Harris must have greeted the news that a reciprocity treaty had finally been consummated with some degree of elation and relief, believing that reciprocity would, at least for a time, create a buffer between the islands and the annexationists. Whether he knew that back in the American capital, U.S. politicians were now viewing reciprocity as the first step towards annexation cannot be known. But in fact, many officials in the administration of Ulysses S. Grant saw reciprocity as a way to entice Congress to begin binding Hawai'i to the United States without arousing the anti-annexation forces at home or abroad.

THE RULE OF LAW

Under the reign of King Kalākaua, C. C. Harris was appointed first associate justice of the Supreme Court in 1874. The Hawaiian Supreme Court was the ultimate judicial authority within the kingdom. The court not only had the final say on matters of law, equity, admiralty, and probate, but also could be called upon by the king, the cabinet, the legislature, or the governors of the islands to render advisory opinions on any questions of law that might come before the government. Thus, the Supreme Court had a highly significant role in the development of the fundamental law of the kingdom.

As he had in every matter with which he was involved during his lifetime, Justice Harris treated each case before the court as though it were the most important to the kingdom and the future of Hawai'i. Harris, no champion of judicial restraint, considered it his duty to find a just solution to every matter brought before the court. One of his associate justices on the Court, Albert Francis Judd, once commented that:

He was also a self-reliant man. This quality would often impel him to address himself more to the principles at the foundation of a case rather than to the inquiry as to whether it was supported by authority. Many times in our consultation he would say to us when

doubting if precedents could be found for a proposed judgment, "If we decide the case as we think it out to be, we shall be sure to find authority for it."⁹

In a country just developing its fundamental law, Harris's search for the "principles at the foundation of a case" was undoubtedly essential.

In one of the early cases decided by Justice Harris after his appointment to the bench, he demonstrated that the Hawaiian Supreme Court exercised a power and authority basic to American jurisprudence—that of the court to declare acts of the legislature unconstitutional. The constitution, discussed earlier, not only established the form of government for the islands but also, like the U.S. Bill of Rights, sought to protect individual freedom to the fullest extent consistent with an organized society. For example, the constitution granted the privilege of a writ of *habeas corpus* to all individuals and required due process of law before punishment for any offense. The constitution further provided that no person could be deprived of life, liberty, or property without due process and extended the rights and obligations of the laws to all citizens of the kingdom.

In the case of *Maka v. Fai*, Justice Harris found a statute dealing with intermarriages between Hawaiians and Chinese to be null and void as inconsistent with provisions of the constitution and contrary to public policy and sound morality.¹⁰ In rendering his opinion, Justice Harris relied upon the 13th article of the constitution, which provided that:

The King conducts his Government for the common good and not for the profit or *interest* of any one man, family or *class* of men among his subjects.¹¹

Concluding that this provision required the legislature to pass only those laws that bear upon all persons alike, he held that a law singling out Chinese men for unique treatment regarding marriage was unconstitutional. In so ruling, Justice Harris introduced the concept of equal protection into the fundamental law of Hawai'i, thereby laying an early foundation for racial equality in the islands.

Upon the retirement of Chief Justice Elisha H. Allen in 1877, Harris assumed the position he would hold until death, that of chief justice of the kingdom. Two years later, in a case that has had more precedential importance than any other he decided, Chief Justice Harris demonstrated his respect for the legitimacy of traditional native Hawaiian customs. *In Re Boundaries of Pulehunui* was a case involving a boundary dispute over land on the island of Maui.¹² The petitioner offered the testimony of *kama'āina* to establish the boundaries to the property.

For centuries Hawaiians had determined property and water rights by reliance on *kama'āina*, persons native to a locality and thus intimately familiar with it. When questions arose concerning ancient boundaries, water rights, or similar matters, a *kama'āina* was called upon to go on the land, point out the landmarks, and relate the history of the property so as to decide the issue. In the *Pulehunui* case, such testimony was cited with favor by the Supreme Court and the petition was granted. Such reliance on the testimony of *kama'āina* in cases of boundary disputes has survived to the present day based upon the precedent established in 1879 under Chief Justice Harris.¹³

Near the end of his 31 years in the Hawaiian Islands, C. C. Harris issued two opinions that epitomized his determination to see the kingdom continue as a constitutional monarchy firmly grounded in the common law. The court looked to the common law of England and the United States as the source of authority for its decisions. This acceptance of English and American common law began in the 1840s when the governors were empowered to act as judges. Often a governor was called upon to decide cases involving disputes with foreign nationals, particularly Americans and British. Endeavoring to establish a judiciary that would be respected by those countries, the governors utilized the common law in deciding such cases. This reliance on the common law was expanded into all areas of the governors' jurisdiction and, by the time the judicial authority of the Supreme Court had grown to primary importance, reliance on the common law was firmly established, never to change.

In March 1881, a petition for a writ of *habeas corpus* on behalf of several hundred Chinese immigrants was brought before Harris.¹⁴ The immigrants were being detained, in accordance with

local law, until they could verify that they were free of smallpox and had employment or other means of support. Most were free of the dreaded disease, but all were destitute and yet refused employment at the wages then being offered for unskilled labor. They relied upon the Hawaiian constitution, particularly the due process clause, for their petition. At trial, however, they abandoned their constitutional claims. "And rightly so," said Chief Justice Harris.¹⁵ The protection afforded by the constitution applies only to legitimate residents of the country, he added, not to aliens seeking to enter the territory. Every sovereign state—including the United States, which "is as free a country as this," Harris was quick to note—has the right to control its borders as it sees fit.¹⁶

This was not the end of the case for Harris, however. After disposing of the civil rights and other legal claims, he turned to the issue of human rights. Analyzing the statute in question clause by clause, he sought to determine whether the "rights of man" were being protected by the law.¹⁷ Finding that the petitioners were being given food and shelter, and were provided interpreters and assistance in securing employment, he ruled that the challenged statute did no more than necessary to protect the legitimate health and safety concerns of the community.

In the same month that he decided the immigration case, Chief Justice Harris was called upon to decide whether a statute of limitations barring untimely claims against decedents' estates applied to claims by the government.¹⁸ Initially he ruled that it did; then he looked for precedent to support his opinion. Noting that this was an issue of first impression in Hawai'i, he turned for authority to court opinions from the United States, which themselves relied upon English common law. He admitted to difficulty justifying his decision:

Some excellent reasons have been adduced before us why we should adopt the rule that the statute in question shall be of universal application against the Government as against every one else. These reasons have had the greatest consideration by us, and we may say have had great weight in our minds. But we think that more injury will be done by setting up the new rule than by

adhering to that which has prevailed for centuries in the countries from which for the most part we derive our jurisprudence.¹⁹

Adding that the legislature was free to modify the statute to apply to the king if it so chose, he finally held that the government's claim was not barred. Thus faced with a conflict between "excellent reasons" of "great weight" and the rule of law, he chose the latter. In so doing, Chief Justice Harris avoided the temptation to allow one man's opinion, his own, to replace the certainty and stability provided by the rule of law. It was a characteristic ruling.

DEATH OF A LAWYER

During his remaining years on the bench, Chief Justice Harris worked tirelessly at extending the rule of law and protecting the rights of individuals throughout the islands. After the death of his second wife in 1870, he had married the daughter of Elisha Allen, his predecessor as chief justice. In 1875, Harris's only son, Frank Hervey Harris, drowned in a tragic accident on the Big Island of Hawai'i. He was just 30 years old at the time and was managing the Kaiwiki and Pauka plantations on that island.²⁰ By 1881, the chief justice's own health was failing and his third wife was critically ill, yet he continued working tirelessly for the king. On Saturday, July 2, less than a month after his 59th birthday, he died unexpectedly at his home in Waikiki.²¹ Before the month's end, his wife had died also.

After his death, Harris was eulogized by his associates and enemies alike as able, judicious, faithful, and kind. Praised for his strength and tenacity, his courage and common sense, he was acknowledged to be a man who had to overcome a personal awkwardness in order to bring other men to share his opinions. It was said that:

God blessed him with life, long enough to see public opinion, to which he was as sensitive as most men are, although apparently unmindful of it, undergo a marked change with respect to himself. This was because, as a citizen, he bore the interests of this Kingdom close to his heart and, because as a councillor, he was sincere and because, as a judge, he was honest and fearless.²²

One well-known incident that occurred during Harris's tenure as chief justice demonstrates well his personal integrity and courage. The incident is notorious for reasons quite apart from Harris' small role in it; principally, it demonstrated the ever-increasing, and sometimes corrupting, influence of the fortunes being made in the islands' sugar industry.

When speaking of sugar and money in the Hawaiian Islands, nothing can be said that does not involve the name of Claus Spreckels, who had made a fortune in the sugar refining industry in California. Determined to monopolize the Hawaiian sugar industry, Spreckels acquired vast stretches of land on Maui with the intention of opening them up to cultivation through irrigation. This required petitioning the government for water rights. King Kalākaua's cabinet was willing to give the matter serious consideration. Chief Justice Harris was even commissioned to work up a draft of a lease for the rights.

Not satisfied with the slow-moving machinery of government, Spreckels proceeded to make a gift of \$10,000 to King Kalākaua and then to lend the king \$40,000 at 7 percent interest so the king might pay off some debts that carried 12 percent interest. Having completed this transaction, Spreckels celebrated by sharing several bottles of champagne with the king. By two o'clock in the morning, Spreckels had persuaded Kalākaua to demand the resignation of his cabinet. When Harris heard what had occurred, he was outraged. Confronting Spreckels, he protested that never in the history of the Hawaiian kingdom had money been used to procure official favors from the king.²³ Though Harris decried the damage that was being done to the monarchy by this type of business, Spreckels ultimately succeeded in obtaining his lease from the new cabinet.

The history of Hawai'i changed rapidly after the death of C. C. Harris. In January of 1891, King Kalākaua died and was succeeded by his sister, Queen Lili'uokalani, the last monarch of the Hawaiian kingdom, who reigned until the Hawaiian Revolution of 1893. Without recounting the details of that well-documented event, it should be noted that Harris never saw the final victory of the American party that had so long been his nemesis. He did not witness the queen's being deposed and jailed in 'Iolani Palace by

that small band of revolutionaries, nor did he see the establishment of the provisional government under the leadership of Sanford B. Dole, son of American missionaries.

UNCONVENTIONAL EPILOGUE

Although C. C. Harris did not survive to see the end of the Hawaiian kingdom, Mark Twain did. Twain died in Connecticut in 1910, more than 40 years after his visit to the Hawaiian Islands. During that visit he had described Harris variously as vain and sarcastic, grotesque and greedy. Yet Twain's opinion was certainly not shared by those who knew Harris best. At the time of his death, one of Harris's fellow members of the Hawaiian Bar, had this to say about him:

In the death of Chief Justice Harris, the Hawaiian Kingdom has sustained an irreparable loss. Occupying the most exalted position of any subject, he was, by common consent, worthy to fill that position. No man could meet him without feeling that he was in the presence of a leader. The originality, the vigor, the simplicity, the depth and sagacity of his mind were shown in all he did.

No nation ever had a more truer or capable public servant than he. His name will be remembered with gratitude as long as the national existence shall be maintained. In private life he was a noble, unpretending gentleman, with a quaint and genial humor, and a kind and friendly manner, which won the hearts of all who were fortunate enough to be admitted to social intercourse with him.²⁴

Even granting that kinder things are said about a man immediately after death than during his life, how can the incredible contrast between the opinion of one who knew C. C. Harris from close association and Mark Twain, who viewed him from afar, be reconciled? Maybe it was that Harris was a lawyer that prompted Mark Twain to make unflattering remarks about him. After all, lawyers are rarely beloved and even Charles de Varigny, the Frenchman who became his closest friend and associate during the trying times of constitutional reform, once described Harris as

“combining the merits along with the failings of an American lawyer.”²⁵ More likely, however, it was that Harris had become completely committed to the Hawaiian kingdom.

Twain charged Harris with being unworthy to be called an American. In his sixteenth letter to the *Sacramento Union*, dated June 30, 1866, Twain concluded a scurrilous attack upon Harris’s character with this parenthetical note to his readers:

No genuine American can be other than obedient and respectful toward the Government he lives under and the flag that protects him, but no such an American can ever be *hoopilimeaa*i to anybody.²⁶

Twain defined “*hoopilimeaa*i” as obsequiousness, and it was undoubtedly this perceived subservience of Harris to the Hawaiian king that Twain simply could not comprehend. Then the epitome of nineteenth-century American chauvinism, Mark Twain, in his tirades against Harris, revealed his disbelief that any government other than America’s could merit the respect of someone born in the United States.

In his book *Monarchy in Hawaii*, John Dominis Holt said this about Twain’s attitude toward the Hawaiian people:

Mark Twain had sent letters to his little newspaper describing the “Pagan orgies” in such away that considerable venom crept through his mawkish sentences intended, no doubt to produce a humorous picture. . . .

Twain’s attitude reflects the contempt in which the native practices of any people who lived outside the pale of Anglo-Saxon complex were held. He knew his reading audience all too well when he fashioned his statements in the guise of ridicule. . . .²⁷

By the time of Twain’s sojourn in the South Pacific, those Hawaiians he ridiculed had accomplished in years what had taken Western man centuries—they had gone from an ancient feudal society to a republic that respected the rights of the individual. Where Twain saw heathens clinging to their ancestors’ deviltry, there were, in truth, people who had rapidly accepted Christian-

ity and who welcomed foreigners into their country, their government, their homes, and their families. What Twain perceived to be an ancient tribal kingdom was actually a constitutional monarchy soundly based on the British and American common law. While Twain was reporting despotic practices, the Hawaiians were striving toward racial equality and individual freedom.

Of course, Mark Twain's views of Hawai'i were not universally critical; he reportedly called Hawai'i "the loveliest fleet of islands that lies anchored in any ocean."²⁸ The description is accurate, but Twain is describing the islands themselves, not the people. Viewing the native Hawaiians as savages in an uncivilized country, Twain could not conceive of C. C. Harris treating them with respect and admiration.

In considering Twain's view of Harris, it is enlightening that in early 1873, Edward McCook, no longer ambassador to the Hawaiian Islands, sent a letter about Harris and Hawai'i to Ulysses S. Grant, Twain's favorite president. In the letter McCook revealed himself as an ardent annexationist and informed President Grant that he considered Harris to be the most able and adroit among Hawai'i's public men.²⁹ He went on to say that he thought Harris, together with other Americans in the Hawaiian government, could be counted on to control matters in an emergency and that they would expect to be rewarded after a successful annexation effort.

While he may have been correct about some of the other men mentioned in his letter, he was mistaken about Harris. It is interesting, however, how McCook's view of Harris differed so drastically both from Twain's and from the opinion of Ambassador James McBride, McCook's predecessor. McBride said in his own letter that he considered Harris a renegade who had sold out his American citizenship in exchange for his position with the Hawaiians.³⁰ Twain certainly would have seconded McBride's opinion.

Despite Mark Twain's revulsion at the sight of an American lawyer serving the government of what Twain considered a backward native society, C. C. Harris may well have left a lasting impression on the world-renowned author. Many years after his brief observations of Harris, Twain began a fantastic novel about a modern nineteenth-century American who goes back in time to

confront the feudal kingdom of Arthur and the Knights of the Round Table. Could it be that Harris, the American lawyer living in the island kingdom, was the inspiration for *A Connecticut Yankee in King Arthur's Court*? If so, the real-life character differed markedly from Twain's fiction.

Where Harris adapted to Hawaiian culture and helped Hawai'i adjust to the encroaching world, Twain could only envision his modern man ending up at war with the chivalrous knights. Perhaps Twain had in mind those other Americans who did resort to force in overthrowing the constitutional monarchy that Harris sought to preserve.³¹ If Charles Coffin Harris was indeed the model for Twain's fictional character, it is a most remarkable memorial to the truly unusual career of an American lawyer.

NOTES

- ¹ Mark Twain, *A Connecticut Yankee in King Arthur's Court*, ed. A. Ensor (New York: W. W. Norton, 1982) 8.
- ² *HG*, 6 July 1881.
- ³ *Mark Twain's Letters from Hawaii*, ed. A. Grove Day (U of Hawaii P 1966) 114-22, 161-76.
- ⁴ Walter Frear, *Mark Twain and Hawaii* (Chicago: privately printed, 1947) 324.
- ⁵ Merze Tate, *The United States and the Hawaiian Kingdom* (New Haven: Yale UP, 1965) 328.
- ⁶ *In Memoriam: Hon. Charles Coffin Harris*, 4 Hawaii 678, 685 (1881).
- ⁷ Charles de Varigny, *Fourteen Years in the Sandwich Islands, 1855-1868*, trans. A. Korn (Honolulu: UP of Hawaii, 1981) 146.
- ⁸ Tate, *The United States and the Hawaiian Kingdom* 36.
- ⁹ *In Memoriam*, 4 Hawaii at 686.
- ¹⁰ *Maka v. Fai*, 3 Hawaii 631 (1875).
- ¹¹ *Fai*, 3 Hawaii at 633 (emphasis in original).
- ¹² *In Re Boundaries of Pulehunui*, 4 Hawaii 239 (1879).
- ¹³ See *State of Hawaii v. Zimring*, 58 Hawaii 106, 566 P.2d 725 (1977); *In Re Application of Ashford*, 50 Hawaii 314, 440 P.2d 76 (1968).
- ¹⁴ *In Re Chow Bick Git and Wong Kuen Leong*, 4 Hawaii 385 (1881).
- ¹⁵ *Leong*, 4 Hawaii at 390.
- ¹⁶ *Leong*, 4 Hawaii at 391.
- ¹⁷ *Leong*, 4 Hawaii at 393.
- ¹⁸ *Minister of Interior v. Parke*, 4 Hawaii 366 (1881).
- ¹⁹ *Parke*, 4 Hawaii at 369.
- ²⁰ *PCA*, 13 Mar. 1875.
- ²¹ *HG*, 6 July 1881.

- ²² *In Memoriam*, 4 Hawaii at 686.
- ²³ Ralph S. Kuykendall, *The Hawaiian Kingdom*, vol. 3, 1874-1893, *The Kalakaua Dynasty* (Honolulu: U of Hawaii P, 1967) 201.
- ²⁴ *In Memoriam*, 4 Hawaii at 683.
- ²⁵ Varigny, *Fourteen Years* 130.
- ²⁶ Frear, *Mark Twain* 349.
- ²⁷ John Dominis Holt, *Monarchy in Hawaii* (Honolulu: Topgallant, 1971) 18.
- ²⁸ *Mark Twain's Letters from Hawaii* vi.
- ²⁹ Letter from Edward M. McCook to President Ulysses S. Grant, 4 Jan. 1873, U.S. Department of State, Miscellaneous Letters.
- ³⁰ Ralph S. Kuykendall, *The Hawaiian Kingdom*, vol. 2, 1854-1874, *Twenty Critical Years* (Honolulu: U of Hawaii P, 1953) 207.
- ³¹ *Mark Twain's Letters from Hawaii* xiii; Fred W. Lorch, "Hawaiian Feudalism and Mark Twain's *A Connecticut Yankee in King Arthur's Court*," *American Literature* 30.1 (1958): 50-66.

