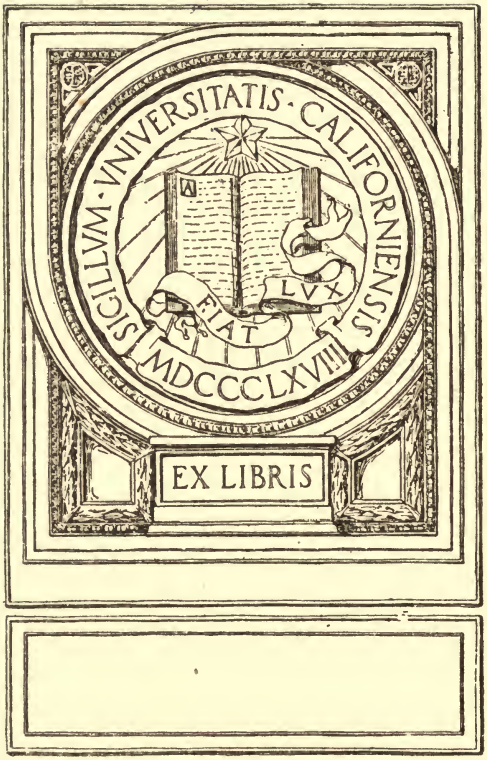
THE ADMINISTRATION OF PRESIDENT HAYES

JOHN W. BURGESS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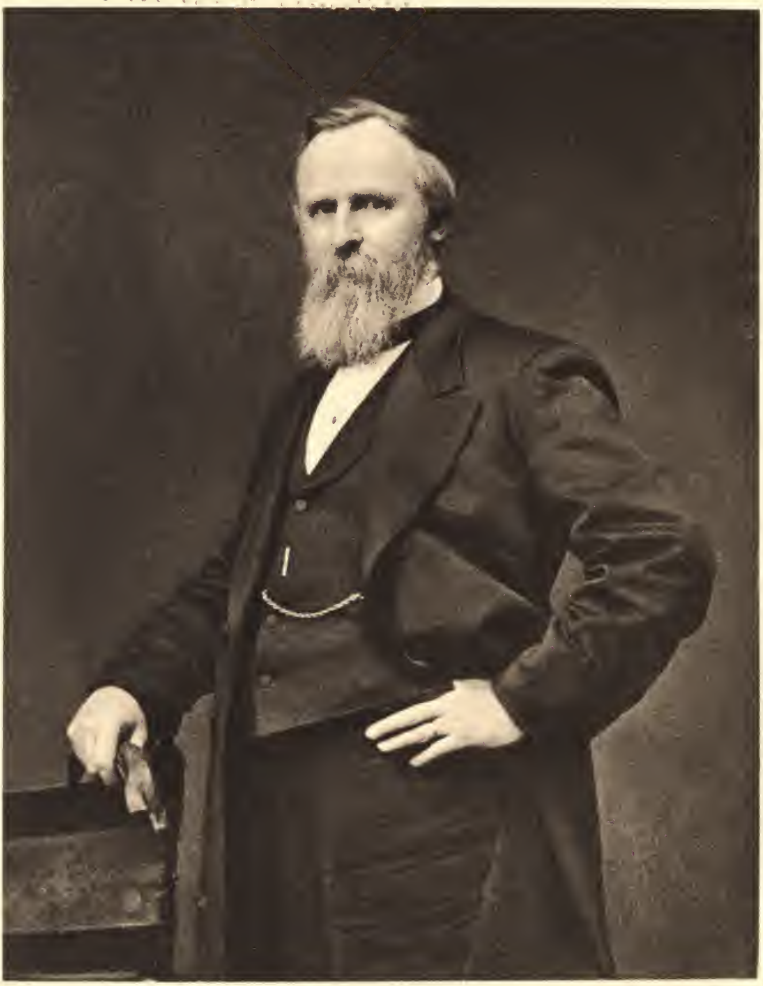

Rutherford B. Hayes

THE ADMINISTRATION OF PRESIDENT HAYES

THE LARWILL LECTURES, 1915,
DELIVERED AT KENYON COLLEGE

BY

JOHN W. BURGESS, PH.D., JU.D., LL.D.

FORMERLY PROFESSOR OF POLITICAL SCIENCE AND CONSTITUTIONAL LAW, AND
DEAN OF THE FACULTIES OF POLITICAL SCIENCE, PHILOSOPHY
AND PURE SCIENCE, IN COLUMBIA UNIVERSITY

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INTRODUCTION

FOR more than a quarter of a century it has been my constant, growing, and strengthening conviction that the personality and administration of Rutherford B. Hayes, the nineteenth President of the United States of America, have not been duly and sufficiently estimated and appreciated by his countrymen and the world. About a dozen years ago I suggested this view, or rather, as I consider it, pointed out this fact, in a volume in the Scribner's American History Series, entitled "Reconstruction and the Constitution," and I have been waiting all these years for a proper opportunity to amplify this opinion and state with some fulness the basis upon which it rests. When, therefore, in the autumn of 1914, the invitation came to me from Doctor Peirce, the President of Kenyon College, the Alma Mater of President Hayes, to deliver, as the Larwill Lectures of 1915, a short course of lectures before the authorities and students of

that historic institution upon the administration of President Hayes, I felt that the occasion had at last presented itself for realizing my long-cherished hope, and, although I had not for several years undertaken so long a journey or assumed so serious a task, I did not hesitate to accept the invitation and to enter upon the work of preparation for the discharge of the duty which it involved.

On the 25th of October, 1915, we arrived in Gambier, the seat of Kenyon College, a village of less than one thousand inhabitants, situated upon a ridge of about a mile in length in the hill-country of Ohio, at the south end of which is located the original building called Old Kenyon and at the north end the Theological Hall, connected by the beautiful Scholars Walk, which is lined with grand forest trees, broken here and there with the other college buildings and the residences of the members of the faculty, a place, one could discover with a glance, for simple living and high thinking.

We were entertained most hospitably and interestingly by President and Mrs. Peirce and by Bishop and Mrs. Leonard, who came from

Cleveland to open the Bishop's residence in Gambier for this purpose and in order to be present at the lectures, and brought with them those stanch friends and supporters of Kenyon, Mr. and Mrs. David Norton. The members of the faculty, the students, and the people of the village showed their great respect for, and interest in, Kenyon's most celebrated alumnus by attending en masse the recital of his great contributions to the welfare of his country and the upbuilding of its institutions. For four full hours they listened with unflagging attention, and with a reverence which manifested that they were consciously joining with the speaker in a service of piety due from their college and country to the memory of that graduate of their institution who, more than any other, has made it famous in the history of education and in the annals of public achievement.

From Gambier we went, on invitation from Colonel and Mrs. Webb C. Hayes and in the company of President and Mrs. Peirce, to visit the Hayes Mansion, Museum, and Mausoleum at Fremont. We were met at the station by the friendly, big-hearted Colonel who con-

ducted us to Spiegel Grove. At the main portal of the great house stood Mrs. Hayes to welcome us and extend to us the genial hospitality of her beautiful home, which proved to be one of the rarest, most interesting, and most instructive experiences of our lives. The Mansion is very large and commodious, filled with furnishings, pictures, statuary, and curios gathered by Colonel and Mrs. Hayes from all parts of the world. It is situated in a magnificent grove of huge forest trees of every description, through which runs for over half a mile the old Indian trail from Lake Erie to the Mississippi, marked and preserved by Colonel Hayes with the greatest care. The Mausoleum and Museum are located within the same grounds. The Hayes Museum erected by the State of Ohio, to which the entire Spiegel Grove property has been conveyed by the Hayes heirs, is a noble memorial to Ohio's great son, and is the point of central interest of the domain. It contains the President's correspondence, note-books, diaries, and his splendid library of Americana, together with the relics and mementos of his entire public

life, both civil and military, and of the life of Mrs. Hayes as mistress of the White House of the nation. To the Museum, therefore, we soon gravitated and spent within its massive walls the larger part of the time of our visit in viewing its most interesting contents. While there Colonel Hayes asked me for the original manuscript copy of the lectures which I had just delivered at Gambier. Happily, I had taken it with me to Ohio, and it was lying at that moment in my trunk in the Mansion. We immediately composed a dedicatory page, fastened it upon the front of the manuscript and deposited the manuscript in the Museum, there to remain forever as my modest tribute to the man and woman whom I have long revered as among the noblest and the best which our great country has ever produced, and with this I felt that my pilgrimage to their shrine was complete.

JOHN W. BURGESS.

"ATHENWOOD," NEWPORT, R. I.,
March 4, 1916.

THE ADMINISTRATION OF PRESIDENT HAYES

LECTURE I

THE POLITICAL, ECONOMIC, AND SOCIAL SITUATION IN THE YEAR 1876.

KENYON College has called me here to give a brief account of the administration of the national government by your fellow citizen and fellow alumnus, Mr. Hayes, during his presidency, from 1877 to 1881. It is, therefore, no part of my task to delineate the personal character of Mr. Hayes. And yet I cannot help relating to you the incident of my one and only meeting with Mr. Hayes and with Mrs. Hayes — for one who ever saw them together could never think of speaking of them apart. It was in the summer of 1877, at the Fabyan House, in the White Mountains of New Hampshire, when Mr. Evarts, the Secretary of State,

was conducting the President on his tour through New England. The guests of the Fabyan House, and of all the hotels near it, gathered at Fabyan station to see the President and, in Yankee fashion, to size him up. It was a very hot day even in the mountains, and the presidential party issued from the cars limp, travel-stained, and weary. Of them all only Mrs. Hayes seemed to have preserved vigor and vivacity. On invitation of my old friend Judge Horace Gray, who was of the party, I went into the parlor of the hotel and was introduced by him to the President and Mrs. Hayes, and the quarter of an hour of conversation which I was privileged to have with them was one of the most pleasant, profitable, and instructive of my whole life. I had voted for Mr. Hayes, but from the moment of that short interview I was a Hayes man, and also a Mrs. Hayes man, as never before. Clear, sparkling intelligence, sound judgment, spotless character, and charm are a rare combination, but fifteen minutes of personal contact with Mr. and Mrs. Hayes constituted an ample period in which to discover that one stood face to face with such a com-

bination, if never before. It was a great privilege to have known them even thus slightly.

The social, political, governmental, and economic condition of the United States in 1876 was very far from satisfactory. Really, it seemed as if the American system was in decay — had been tried and found wanting. The reconstruction of the Southern States had proved a dismal failure and had produced an appalling situation. The Lincoln-Johnson scheme of reconstruction, the so-called executive scheme, according to which, by executive pardon and amnesty, a loyal electorate should be created out of a part of the old electorate in the Southern communities, upon the basis of which loyal States should be reconstructed, had been condemned by Congress as seating the rebel leaders in power again and as thus making the re-establishment of slavery, or something very like it, probable. Moreover, Congress had asserted, and rightly so, that the rebuilding of States of the Union within the rebellious districts was a legislative function, not an executive, and that the Constitution had, in the clause conferring upon Congress the sole power

of admitting new States into the Union, settled that point against the executive claim. Following this principle, Congress had set aside the Lincoln-Johnson creations, except in the case of Tennessee, had thrown the Southern country into military districts governed by generals of the army under martial law, and had finally created new States with the boundaries of the old ante-bellum States, except in the case of Virginia, upon the basis of the new negro citizenship and electorate provided in the Fourteenth and Fifteenth Amendments to the national Constitution.

While the sincerity of Congress in these measures could not be well doubted, the result had been most deplorable. For the first time in American history, States of the Union had been erected upon the basis of the democracy of the worst, upon the basis of a kakistocracy instead of a democracy, and State governments were administered by adventurers from the North, chosen by the negro electorate, and supported by the military power of the United States.

The corruption of government and the degradation of society resulting from such a situation

were indescribably appalling. Those naturally fitted for tilling the fields and doing the menial work of life, and only that, were artificially placed in part in the positions of legislators, administrators, teachers, politicians, and in part formed the proletariat of heelers sustaining these pseudo-leaders in power and receiving from them such portion of the public plunder as would maintain a miserable loafing existence; while the natural leaders, disfranchised, poverty-stricken, discouraged by defeat, and dispirited by their subjection to barbarism, robbery, and vulgarity, sat confused, benumbed, and hopeless around their ruined firesides. The political society was turned upside down, and government was debased into a means of revenge, theft, and debauchery. Taxes and debt were heaped upon these unhappy communities until they became tantamount to confiscation, and the proceeds from them could hardly be said to have been expended at all. They were simply stolen.

Then came the movement of the white men of the South to free themselves, through secret organization and the employment of intimidation and violence, from the unbearable and shameful

condition, a movement which was, for a time at least, productive of almost as much demoralization as the negro-carpetbag-military domination which it aimed to supplant. The so-called Ku-Klux conspiracy against the existing order of things was by no means unnatural or unprecedented. Whenever and wherever a tyranny, such as that established in the South by negro-carpetbag-military rule, has existed, a tyranny which cannot be shaken by regular means, resort to secret and unlawful movements has almost always been had. The trouble is that such movements do not stop with the overthrow of the tyranny against which they are directed, but those engaged in them use their triumph for the revenge of the grievances they have suffered, and then for the establishment of a new tyranny almost, if not fully, as galling over their former rulers. Moreover, the necessarily reckless and unconscionable means employed destroy conscience, character, and self-respect in those who practise them. The purposes of the Ku-Klux movement and kindred movements were to suppress the negro vote, to frighten the negroes from the commission

of crime, and to keep them in their place and make them work. This was all necessary for the rescue of civilization from the decay which threatened to consume it, but the consciousness that the methods employed were, from a legal point of view, wrongful demoralized those employing them, and kept alive the apprehension in their minds that, at any moment, what had been won might be again taken from them by the military power of the national government. In other words, they themselves became inoculated with the terror with which they had conquered the negro, and this bred increasing hatred of the national government and increasing oppression of the negro.

It must be also kept in mind that three of the newly established Southern States had not, in 1876, escaped by the employment of these means, or in any other way, from the negro-carpetbag-military domination, viz.: South Carolina, Florida, and Louisiana. So long as such domination remained in these it was more likely, as it was felt, to be restored elsewhere, and even though it might not be, it still kept the abomination ever present in the minds of

the people of the South. It seemed to me, a son of the South, but a resident of the North, that the feeling between the North and the South, or rather the feeling of the South against the North, was more bitter in the year 1876 than in the year 1866. The great problem of preserving the fruits of the victory in the war, and at the same time reconciling the vanquished to their lot, was still to be solved. In fact, it looked as if a new revolt might break out at any moment.

Moreover, the course of reconstruction had been no less demoralizing upon the internal structure of the national government than upon the relations of the political society. In the first place, it had bred in Congress a new spirit of ruthless domination. This was manifest not only in the rigor of the laws passed by it imposing political and civil equality, especially upon the Southern society, and in many respects social equality, as in the use of schools, public conveyances, hotels, inns, theatres, etc., but also in the supremacy asserted by it over the executive power and in the control of both the civil and military service in the administration.

The struggle began, as we have seen, between President Johnson and Congress over the method of the reconstruction of States in the South, but did not end with the Congress's victory in this matter. It went much further, both while the Republican party still held the majority in both houses of Congress, and also after the Democratic party had secured the control of the House of Representatives by the elections of 1874.

During Johnson's term, it manifested itself chiefly by overcoming the President's veto upon legislation, and by the adoption, in the Tenure of Office Acts, of the principle that all officers appointed by and with the advice and consent of the Senate could be dismissed only with the consent of the Senate. It was certainly the constitutional right of the houses of Congress to overcome the President's objection to legislative projects passed by them, whenever they could unite two-thirds of the members voting in each house, a majority being present in each, against the President's veto. The President did not dispute this, but his contention upon this point was that the houses, by refus-

ing to admit members from the States reconstructed by him, had been able to command a majority against his vetoes, which they could not have done had all the persons lawfully elected been admitted to seats. The President substantially claimed that Congress was a rump parliament, although he did not express his contention exactly in these words. He did, however, contend that the Tenure of Office Acts were unconstitutional, since, although the Constitution was silent in regard to dismissal from office, the exclusive responsibility of the President for the execution of the laws made it necessary that he should exercise the power of dismissal at his own discretion, and that such had been the usage of the government from the beginning. In this he was entirely right, and the triumph of Congress over him upon this most important subject introduced a demoralization into the civil and military service which spread rapidly in all directions.

Congress was, however, not even satisfied with this. It now assumed to limit the *military* power of the President by incorporating into the Army Appropriation Bill of the year 1867

provisions fixing the residence of the commanding general of the army at Washington, protecting him from being assigned elsewhere except at his own request, requiring the President or Secretary of War to issue all orders and instructions relating to military operations through him, making all orders and instructions issued in any other way null and void, and requiring the infliction of punishment upon any officer disobeying this regulation. It is true that the President approved the Bill, including these provisions, in order to save the appropriation for the army, but they, nevertheless, meant the curtailment of the constitutional powers of the executive by an altogether unconstitutional legislative encroachment, and that, too, at the most vital point, viz.: the function of commandership-in-chief of the armed forces.

This control now assumed by Congress over the civil and military service advanced rapidly towards its logical results. These results were of two general kinds. The first was the overturning of the check-and-balance system of government provided in the Constitution, and the substitution of the parliamentary system for it.

The Tenure of Office Acts provided, among other things, that the members of the Cabinet should hold their offices during the term of the President appointing them, and for one month after, unless sooner removed by and with the consent of the Senate. Inasmuch as the Senate now claimed also a real discretionary power in the ratification of the appointments to the Cabinet, the Tenure of Office Acts made the Cabinet something more like the ministry in parliamentary government than an informal body of the heads of departments subject entirely to the President's commands, which was its constitutional character.

The struggle of Stanton to hold on to the secretaryship of war by the support of Congress, but against the will of the President, threatened for a time to completely subordinate the executive to the legislature. The movement culminated in the attempt to remove the President from office by impeachment. Had this succeeded, and it came dangerously near to it, the check-and-balance system provided by the Constitution, the American system of independent and co-ordinate departments in gov-

ernment, would have been completely set aside, and Congress would have changed the Cabinet into a ministry, subject to the will of the Congressional majority in the administration of the government. As it was, President Johnson never recovered thereafter the exercise of the full constitutional powers of the executive. He went out of office with the distinct knowledge that the constitutional position of the executive had been degraded through the arbitrary tyranny exercised over it by the extraordinary Republican majority in Congress, bent upon robbing him of all power to limit their control over the administration. Naturally, upon the accession of President Grant, Congress modified somewhat its attitude towards the executive, and the diminishing Republican majority in Congress ultimately deprived the dominant party of the strength to carry out its policy of parliamentary control over the administration. Nevertheless the precedents established during the term of President Johnson exerted a baleful influence during the entire eight years of the presidency of General Grant.

It was, however, in the other direction, in the

control of the tenure of the officials, both as to its origin and termination, that the sway of Congress, or rather of the members of Congress, developed during the presidency of General Grant into most harmful and corrupting proportions. President Grant was a poor judge of men except only as to military qualifications. He made strong friendships upon insufficient grounds. He was loyal to his friends. And he was trustful of the honesty and purposes of those to whom he had given his confidence. He was just the character to be played upon by designing politicians. His experiences in opposition to President Johnson had betrayed him into the hands of the Republican Stalwarts, and had made him amenable to their methods. The scheme of party organization which the Republicans had worked out with the purpose of maintaining the permanent supremacy of the party was ingenious and not altogether artificial. It was quite impossible for the President to determine from his own personal acquaintance how to fill properly the thousands and tens of thousands of offices under his power of appointment, and it was an unwritten usage that the federal offi-

cers should be taken from the respective localities in which they might serve. It was natural, therefore, that the President should turn to his party adherents in Congress, not as a body, but separately, to suggest to him proper persons to fill the federal offices within their respective localities. It is also comprehensible how the members of Congress should gradually come to regard their solicited advice *by* and *to* the President as obligatory *on* the President, and finally to regard the solicitation of such advice by the President as a right of theirs to *be* consulted, a right attaching to their positions. The Congress had the power to make good these claims of its separate members through its power to reduce to a minimum the offices filled without the advice and consent of the Senate, and through the power of the Senate to reject nominations made to it by the President not recommended by the respective Congressional members entitled, in the view of the party majority in the Senate, to be consulted in such nominations.

By 1870 the system of appointment to the federal offices had reached a development which

may be roughly stated as follows: The senators from each State, if they happened to be of the same party with the President, and could agree between themselves, furnished the President with the names of the persons to be nominated to the Senate by the President for the higher federal offices within the State. If they could not agree in each and every case, a rough sort of distribution was made between them by the President. If only one of the two senators was of the same party with the President, then the entire patronage of the higher federal offices within his State fell to him. To each member of the House of Representatives, of the same party with the President, fell the patronage of the lower federal offices within his Congressional district. In case of the representation of the district by a member not of the same party with the President, the patronage of the lower federal offices within that district fell to the representatives from other districts of the State in which that district lay, who might be of the same party with the President. In case there should be no representative from a particular State of the same political party with the President, then

the patronage of the lower federal offices within that State fell to the senators or senator from that State, provided they or one of them might be of the same party with the President. The President's independent power of nomination was thus reduced to the federal offices within States not represented in either house of Congress by members of the same political party with himself. The senators had even come to the point of considering that they should be consulted in the selection by the President of the members of his Cabinet.

This body of federal office-holders had now also become the leading personalities in the party organization. They dominated and controlled and officered the caucuses and the local, State, and national conventions of the party. They spent about as much time and energy in managing the party organization and its affairs as in administering the duties of their offices. In fact, the names of many persons were carried on the official pay-rolls who did nothing except manage the affairs of the party. It must be, also, kept in mind that at this period of our history party organization and manage-

ment had not been subjected to law. It was at that time regarded as a principle of American liberty that it should not be. It was considered that this was a realm of free action. All men of voting age and capacity, it was argued, had the same right of political organization, and if they failed to make use of it, it was their own fault, and that the best way to bring them to a *sense* of their negligence was to let them suffer the *consequences* of their negligence. The party managers fixed thus the time of meeting, the place of meeting, and the procedure of the caucuses and conventions, and made the common voters simply heelers. The vicious circle was thus completed. The congressmen appointed the federal officers, and fixed and voted their pay, and the federal officers, through their control of the party, elected the congressmen and kept them in position. The federal officers collected the party funds by a system of assessment among themselves and of solicitation from the voters, or certain of the voters, and these contributors came in usually for some sort of a reward, either in the form of office, or concession, or rake-off.

In order to prevent dissension within the party and to assign to each worker his duty and reward, some one person was advanced, through a sort of process of natural selection, to the position of party leadership in the different districts and States. This was the boss, the capstone of party organization, in the decade preceding 1876.

So soon as General Grant succeeded to the presidency he began to feel the cramp of the situation and to rebel against it. He secured a modification of the Tenure of Office Acts, which gave him a little freer hand, and in his annual message of December, 1870, he recommended a reform of the civil service. President Grant designated the existing system as "an abuse of long standing," and declared that he wished a reform applicable not only to subordinate offices, but one which should "govern the manner of making *all* appointments." He wished not only to remove the relation of the congressmen to the officers of the administration, but also to relieve himself and his heads of departments from an intolerable burden.

Under pressure from the President, Congress

passed the Act of 1871, authorizing the President to establish a civil-service commission, and making an appropriation for its expenses. The President lost no time in the appointment of the members of the commission, and they lost no time in setting up a system of competitive examinations for the offices. Almost immediately the character of the public service began to improve, too rapidly to suit the congressmen, who saw their patronage and the means of controlling the nominations and elections slipping away from them. By 1874 the Congressional revolt against the new system was strong enough to refuse the annual appropriation to defray the expenses of the commission, and before the end of President Grant's second term the official service was back in the old ruts of 1870. Inefficiency, graft, and corruption crept in everywhere and brought scandal upon the administration from top to bottom. Even the Secretary of War fell under such strong suspicion that he was obliged to resign in great haste his high office in order to escape impeachment by the House of Representatives, which by the elections of 1874 had fallen into the hands of

the Democrats. Star Route, Crédit Mobilier, and the Whiskey Ring are terms which will always be connected in our history with the venality, or at least the generally believed venality, of the Republican party and the Republican administration in the year 1876.

The economic and financial systems of the country had fallen into no less confusion and viciousness. The long war and the spirit of adventure developed by it had produced an era of reckless speculation. This was encouraged by the existence of opportunities for its indulgence never before at hand. These opportunities consisted, first, in the railway situation and extension; secondly, in the land-grabbing game; thirdly, in the discovery of the mining wealth of the Rockies; and, fourthly, in the condition of the public debt and the currency.

In the first place, the distinction was still to be made in our law between public-service corporations and purely private corporations, and the system of governmental control of the former was still to be worked out. As a rule, charters were granted to favored persons, and they were left to their own devices as to how

they might exploit the rights and privileges granted in them to their own private advantage without any regard to the primary interests of the public. They were allowed to float stocks and bonds at will, and in many cases the bonds of municipalities and States, and in one noted case the bonds of the United States, were *given* to them either outright or under a method of loan, which amounted to nearly the same thing. Vast areas of public land along their routes were also given to them. The natural and inevitable results of all this were the overbuilding of railroads, the inflation of the capital invested in them by the overissue of stocks and bonds, the management of the roads for the purely private enrichment of the managers, discrimination in rates between places and between shippers, declaration of dividends without regard to earnings, wild and artificial speculation in the stocks so manipulated, and certain loss or even bankruptcy in the end.

The opening up of the public lands to private occupation on a scale never before experienced and the placing of mines by the discoverers of the mineral wealth of the new country were

things no less conducive to reckless speculation than the railroad situation. Everybody was grabbing the public land under every possible subterfuge, and even boasting of his shrewdness in outwitting government and law in doing so, while the exchanges were glutted with the shares of mining stocks, many of them worthless and some of them simply bogus. The get-rich-quick bacillus had entered every man's blood, and had poisoned the brain and destroyed the conscience of all too many.

To all this as universal incentive came the monetary situation, the debt and the currency problems. The war had left a debt upon the United States Government alone, to say nothing of the States and municipalities, of nearly three thousand millions of dollars, and an irredeemable paper currency of over four hundred millions of dollars. President Johnson's Secretary of the Treasury, Mr. Hugh M'Culloch, was a sound financier, and he strove earnestly and successfully to reduce the debt and the volume of the paper currency, but Congress stopped his work as to the latter by the law of 1868, and fixed the volume of the greenbacks, as this currency was

called, at three hundred and fifty-six millions of dollars, and made no provision for its redemption. Down to 1870, it was still an open question whether the Supreme Court would hold the legal-tender quality ascribed by Congress to these notes to be in accordance with the Constitution. In that year the Court pronounced against it, and then in another case, after the addition of two members known to be favorable to the greenbacks, it reversed its decision and fastened upon our monetary system a legal-tender paper currency which contained no provision for its present or future redemption in coin. These performances of the Supreme Court, and these acts of the administration in so changing its membership as to bring them about, produced a judicial scandal, which increased, most harmfully, the confusion of the age in regard to the standards of morality and law. The final decision of the Court was a great encouragement to the party which favored the expansion of the greenback currency to any degree which, in the judgment of the government, the business of the country might require, and the payment of all public, as well as private, debts in such cur-

rency, unless otherwise expressly stipulated in the evidence of the debt itself or in the law under which it had been created.

The situation favored and increased, also, speculation in the coin metals, making prices of commodities not only high, but uncertain and irregular. And to all this came now the silver question, or the question of the relation between gold and silver as the coin basis of our monetary system. After 1853, and down to 1873, the fact that, under the legal ratio between gold and silver coin, the gold dollar was worth less than the silver dollar had driven the silver dollar out of circulation and had made the gold dollar the standard of our money. By the act of Congress of 1873, it was ordered that no more silver dollars should be minted for our domestic use, but that a silver dollar containing more grains of the metal should be coined for our foreign trade. By this time, however, the discoveries of the new silver mines in the Rockies were depreciating, by greatly increased supply, the value of silver as compared with gold, and the demonetization of silver by one of the great European states worked at the same time in the same di-

rection. It was stipulated in the larger part of our bonded indebtedness that both principal and interest were payable in coin. Disregarding the fact that coin had, since 1853, meant practically gold, a very large party now rapidly formed itself which demanded the free coinage of silver as legal-tender money at the existing legal ratio between it and gold, and the payment of all our indebtedness requiring coin payment with such coin. It was argued by both the greenback and free-silver adherents that in no part of our bonded indebtedness was there any mention of gold, but of coin, and that silver was lawful coin at the time of the creation of the debt, and had always been coin in the United States down to 1873, when it had been demonetized in the unjust interest of the creditor class. They claimed that the United States would not only fulfil every legal and moral obligation by paying its stipulated coin debt in silver, but was bound to do so in the interest of our own people, because the great mass of our people belonged to the debtor class. They pointed out that the laborer and the salaried man, who constituted the vast majority of the people, received their

pay in greenbacks, while the bondholder received his interest in gold coin, and they demanded that there should be *one* and the same currency for the laborer and the bondholder, and demanded it in the name of justice and humanity. The free coinage of silver legal-tender money, at the legal ratio between silver and gold prevailing in 1873, it was declared, would bring about this result and at the same time redeem our pledges of coin indebtedness, and it was maintained that our right to pay our indebtedness in silver coin would not have been questioned except for the monstrous and iniquitous measure of 1873 demonetizing silver.

This reasoning and these representations were so universally embraced by the masses that they produced a veritable craze. Any man who did not accept them was denounced as inhuman as well as immoral, as the defender of the rich against the poor, as the upholder of plutocracy against democracy. The Republican party was accused, and not without reason, of favoring privilege. In 1874 it still held control of both houses of Congress, while the elections of 1874 gave the House of Representatives in the next

Congress, by large majority, to the Democrats. The Republicans now hurried through Congress the famous resumption of specie payments measure at the beginning of the year 1875. This meant the redemption of the paper currency in coin, on presentation at the United States Treasury after a given time, viz.: January 1, 1879. It did not thus affect the silver question, but only the paper-money question, and Mr. Bland was preparing his noted Free Silver Bill at almost the same moment. This Bland Bill was passed by the succeeding Democratic house by an overwhelming majority, and fairly reflected the views and wishes of a vast majority of the people of the country. Add to all this the fact that the situation, political and economic, of the country had produced the great monetary panic of 1873, and the hard times of the years immediately following, with so great a depression in the labor market as to cause great suffering and unrest, and you have sufficient grounds for claiming that in the minds of the great mass of the people the time had come for some radical change in the ordering of our affairs, since otherwise we should find our-

selves entering upon the road of national decline.

In eras of *institutional* collapse the demand is always felt for the leadership of a great personality. The leadership of such a personality is the only way of escape from institutional decadence, followed by social decadence. In the year 1876 the instinct of the American people and of their leaders went out in search of such a personality, and when that instinct is thoroughly aroused and terribly in earnest, it is usually unerring.

The galaxy of prominent men from whom to choose was never fuller. There was the great soldier, the popular hero, who had already administered the government for eight years. But his success as a civil officer had not at all equalled that as a military leader. His choice for a third time would conflict with the American principle against perpetual service. And, finally, his own private character had not entirely escaped the scandal which had borne down so many of his subordinates. It was clear that General Grant was not the man whom the necessities of the hour demanded.

Then there was the sturdy, judicious, prudent Secretary of State, Mr. Fish, who had managed our foreign affairs with such ability, adroitness, firmness, and success throughout a critical period. He was upright and courteous as a man, and without a blemish upon his official character, and, besides his experience in the great diplomatic office, he had made an excellent governor of the great State of New York. But he was now too old to undertake the strain of the presidential office, too much identified with Grantism, as it was called, and too rich and aristocratic to understand the feelings, sufferings, and aspirations of the masses.

Then there was the brilliant, jovial, popular Blaine of Maine, the hail-fellow-well-met in politics as in everything else, the Henry Clay of his generation, idolized by his friends and hated by his foes. But he had had no administrative experience save of a quasi sort as speaker of the House of Representatives. He had been smirched in the Crédit Mobilier matter. And he, too, was thought to be allied with the "interests."

Then there was the arrogant and autocratic Conkling, master of sarcasm and invective,

shrewd wire-puller and politician, feared by many and loved by few, the right-hand man of President Grant in Congress, probably unapproachable with money, but entirely unconscionable in the employment of the bribe of office for the maintenance of party organization. His qualifications for the presidency were not such that they need now to have any disqualifications set off against them.

Then there was Morton, the great war governor of Indiana, a tried and proved politician and administrator, undoubted patriot, and above all suspicion as to financial honesty, one of the chief founders and supporters of the Republican party. But there were rumors about dissoluteness in private life, and it was evident that he was failing physically.

Then there was Bristow, Grant's Secretary of the Treasury, who had made himself noted in the prosecution of the Whiskey Ring, and who was regarded as the one real reformer of the Grant administration. But he was comparatively a new man, and he came from a State south of the Ohio. He had not been sufficiently tried and tested for the great place at this critical juncture.

Then there were Hartranft, the soldier-governor of the great State of Pennsylvania, and the genial Marshall Jewell, of Connecticut, and the wise political manager and compromiser of differences, W. H. Wheeler, of New York, to all of whom failed, in some point or other, the full-rounded life, experience, character, acquirements, and reputation which the exigencies of the period and the critical state of affairs demanded.

But happily for the country, and I may say for the world, there was such a man, and, as had happened before in the history of our country, he hailed from Ohio, the State of great leaders both in war and in peace. He was a native-born son of Ohio, of the sturdy Scotch-New England stock; an orphan from birth on the father's side, and to his mother, therefore, not only a devoted son but a helper and guide; a dutiful and affectionate nephew of the best uncle who ever lived; a loving brother; the model husband of a noble woman, whom he himself designated as "the incarnation of the golden rule," and the fond and anxious father of a household of children, all of whom have, in their

lives and services, rewarded his paternal care; a thoughtful, considerate, and helpful neighbor; a patriotic, zealous, and generous fellow citizen, and a Christian gentleman of blameless life, courteous manners, and universal sympathy. Here was that broad foundation of personal and domestic virtue, of old-fashioned, genuine worth, upon which to build public character, intellectual and moral, of the finest fibre, strength, and firmness. And he had built it continuously, expansively, and successfully. In college he was, I need not tell you, the valedictorian of his class, great especially in logic, philosophy, and mathematics and in oratory and debate — the sterling things, not the softs — always seeking to conquer the difficult and avoiding the effect of the easy. In the law school he was, on account of his mastery of the knotty points and his philosophic view of the whole domain of jurisprudence, a favorite pupil of Story and Greenleaf, and the like. As legal adviser of the government of a large and growing city he had labored always with assiduity and success to prevent graft, check extravagance, maintain harmony of action, and promote municipal wel-

fare. As a member of Congress, although for only a short time, he displayed legislative ability and tact, and acquired the necessary law-maker's view-point of public questions. But it was as an administrator in war and peace that he had manifested his greatest ability and received his most valuable experience and education for the great office which destiny held in store for him. As a brave and efficient soldier throughout the entire Civil War, beginning as major of his regiment and mounting to the position of a general of division, he learned both how to obey and command, how to suffer and grow strong, how to put duty and country above life and self. And finally as three times governor of this great State of statesmen, he schooled himself in the work of civil administration upon a large and exacting scale for the executive leadership of the nation. In all his public acts and utterances, while a stanch Republican from the foundation of the party, he had never lost his balance, had never been touched by any of its excesses or its errors, but had always stood upon its fundamental principles and had known how to apply them correctly to the details of

political and economic life. He upheld loyally the amendments to the Constitution won by the nation's victory in arms, but his manly sympathy for the suffering South was well known. He was also of national reputation as the invincible foe of all graft and corruption in politics, and all heresies in economy and finance. He had beaten on the hustings and at the polls the three most popular Democrats of Ohio because of their unsoundness on the monetary question. If any man in the United States could at that time be called the leader in the struggle for civil-service reform, honorable public finance, and sound money, it was he. Many of the best men of the country were well acquainted with these facts, and had marked him as the coming man.

When the national convention of the Republican party assembled in June of 1876 at Cincinnati the seriousness of the situation was thoroughly realized, and the determination to meet it successfully possessed every mind. This was not so clearly manifested in the platform, but when it came to the nominations, the body threw aside one after another of the candi-

dates, Blaine, Morton, Conkling, Bristow, and the rest, and gravitated surely and continuously, as if driven by a higher power, to the right man, the man who by force of his upright character, unblemished reputation, intelligent and sound public views, judicious management and firm will was called by more than human appointment to lead the Republican party out of its devious ways into a new path of victory, usefulness, and continued supremacy, the noblest son of this noble institution, the valedictorian of its class of 1842, the governor of the great State of Ohio, Rutherford Birchard Hayes.

LECTURE II

THE ELECTION OF 1876 AND THE INAUGURATION

THE law of election of the President of the United States was, in 1876, and still is, a very complicated matter, and understood with exactness by very few persons. It is composed of two elements, the one is State law, and the other United States law. The State law controls *exclusively* the election of the electors of the President, and the United States law controls *exclusively* the election of the President by the electors, but both the State law and the United States law are contained in, or based on, the provisions of the Constitution of the United States.

The power of the State to select the electors is vested in it expressly by the Constitution of the United States. The language of the vesting clause is as follows: "Each State shall appoint, in such manner as the *legislature* thereof

may direct, a number of electors, equal to the whole number of senators and representatives to which the State may be entitled in the Congress." The power of the State as to the manner of selecting the electors is thus vested by the Constitution of the United States in the *legislature* of that State, and there is, therefore, no power in the State to limit or control its legislature in the slightest degree in regard to that matter, or to order the manner of selecting the electors to be fixed by any other body. Even an article of the State constitution directing otherwise would be of no force or effect whatsoever. The Constitution of the United States itself lays only one limitation on the power of the State legislature to control absolutely and exclusively the manner of selecting the electors, and that is a disqualification of any member of Congress, or any holder of a United States office of trust or profit, from being appointed an elector, and that is not a limitation of the *manner* of the election, but as to the qualification of the electors. Under this power, vested by the Constitution of the United States in the legislature of each State, the legislature may appoint the

electors itself, or designate the body which shall appoint or elect them, and shall determine how that selection shall be effected and determined.

It is, therefore, possible to have as many ways of selecting the presidential electors as there are State legislatures. In fact, down to the outbreak of the Civil War, the selection of the presidential electors in all the States had not been uniform, not even as to the body selecting the electors. At the time of the election of 1876, the practice of electing the electors by the voters had become *uniform* in all the States, but not the method of determining how the choice should be exercised by the voters nor how the choice should be declared. For example, in the States upon which the election of 1876 turned, viz.: Florida, Louisiana, South Carolina, and Oregon, the State law was not uniform. In the first three States, the respective legislatures had created canvassing boards, and vested in them not only the power to count and declare the result of the vote, but also the power to throw out the returns from voting precincts in which, according to the belief of the said board, there had been fraud, violence, or intimidation,

actual or threatened. On the other hand, the legislature of the State of Oregon had made the Secretary of State of the State the ultimate canvassing officer, with the power to declare the result of the vote, but had not vested in him the power to throw out the returns from any precinct for any reason.

To *whom* the declaration of the result of the vote for the electors should be made and who should give the official certification to the persons chosen were points not included in the power vested by the Constitution of the United States in the State legislatures. These were, therefore, points to be fixed by United States law, and as the constitutional law of the United States did, and does, not fix them in detail, it had to be done by a Congressional act. The then existing Congressional act (U. S. Revised Statutes, Secs. 137-140) designated the governor of each State as the person to whom the ultimate State canvassing officer, or board, should make declaration of the result of the election of the presidential electors, and laid upon the governor the duty of issuing his certificate of their election to the electors, and upon the electors the duty of

enclosing this certificate of their election with the report of the votes given by them for President and Vice-President to the president of the Senate of the United States. Back to this point, then, the national body vested by the Constitution with the power of counting the vote of the electors for President and Vice-President might go, but no further. That is, this body could, according to a sound interpretation of the Constitution of the United States, go behind the governor's certificate in determining who the true presidential electors from the particular State might be, but not behind the report of the State canvassing officer, or board, to the governor. The governor, in giving his certificate to the electors attesting their choice, was acting under United States law, and his act could, therefore, be inquired into by the national organ for counting the vote of the electors. The State canvassing boards or officers were, on the other hand, acting under State law, and their reports must be received with the effect prescribed by the respective State legislatures, as provided by the Constitution of the United States itself. Any sound constitutional lawyer

could have had no doubt upon that point, even before the elucidating discussions of the winter of 1876–7.

What the *national* organ was for determining who, in case of conflicting returns, were the true presidential electors chosen in each State, and for counting their votes for President and Vice-President, was not so clear. The national Constitution simply provided that the electors chosen in each State should sign, certify, and transmit sealed to the president of the national Senate the lists of their votes for President and Vice-President, and that the president of the Senate should, in the presence of the Senate and the House of Representatives, open these documents, and that the votes should then be counted. Down to 1876 the president of the Senate had, through tellers appointed for the purpose, cast up the reports from the electoral colleges in the different States, and announced the result, for although there had been instances of conflicting returns, they were not sufficient to affect the result, however counted, and no necessity had, therefore, been felt for determining which were the correct returns, or for deciding

what organ was vested by the Constitution with the power of determining which were the correct returns. Since the election of 1864 there had existed a rule adopted by each house of Congress for itself, called the twenty-second joint rule, according to which no electoral vote could be counted from any State, if either house of Congress should vote to reject it. This was, of course, a very crude solution of the question, as it gave the House of Representatives the power to defeat an election by the electors, and then alone elect the President and Vice-President itself, as provided by the Constitution in case of the failure of the electors to make the choice. Consequently the Senate, which was in 1876 Republican, while the House was Democratic, had given notice before the count of the vote of the election of that year came on that it would not renew the rule.

The situation, then, was as follows: It was known that there would be conflicting returns from at least four States, and that the election would turn on the decision in regard to them; that the Senate would not acquiesce in the proposition that the House of Representatives alone

could reject the returns of the electoral vote from any State; that the president of the Senate was a Republican, and might claim to determine, in case of conflicting returns, which set of returns from any State was to be counted; and that the outgoing President, being a Republican, would probably exercise all the powers vested in him by the Constitution to seat the candidate of his party as his successor. The Democrats asserted stoutly that they had won the election, but they did not feel at all sure that, as things stood, their candidates would be counted in. They were, therefore, quite willing to join in the passage of an act for counting the vote, which they thought would commit the Republicans, and could hardly fail to give them, the Democrats, the presidency. In fact, it must be said that they were the chief authors of the act, since it was their votes which carried it through.

This statute was the noted Electoral Commission Act of January 29, 1877. It provided that a commission of fifteen persons should be selected: five from and by the Senate, five from and by the House of Representatives, and five from the

Supreme Court, the justices of the first, third, eighth, and ninth circuits being designated by the act and authorized to select the fifth justice from among the other members of the Court; that where only one set of returns appeared from a State, the votes so given must be counted unless otherwise ordered by the concurrent action of both houses of Congress; that where conflicting returns appeared from any State, the same should be referred to the Commission, and the votes contained in the set of returns, decided by the Commission to be the true returns, should be counted, unless otherwise ordered by the concurrent action of both houses of Congress; and that all constitutional or legal rights of a judicial nature, if any, to question the title of any one thus declared elected President or Vice-President of the United States were reserved.

The principle of this statute was that the power to count the electoral votes from the States for President and Vice-President belonged to the two houses of Congress jointly, and exercising equal weight, and the difficulty overcome by the Electoral Commission contrivance was

the difficulty of two bodies exercising equal weight arriving at a conclusion.

The Democrats needed to obtain only one electoral vote from the four States presenting conflicting returns to elect their candidates. The Republicans, therefore, must obtain every electoral vote from all four of these States in order to elect their candidates. The prospect seemed on the surface fair for the Democrats, and rather desperate for the Republicans. But the sudden and unexpected resignation of Justice David Davis from the Supreme Court, the member of the Court, who, on account of his independence in politics, it was thought would be selected by his colleagues as the fifth judicial member of the Commission, in order to accept the United States senatorship from Illinois, to which he had been elected by the Democratic legislature of Illinois, left four members, all Republicans, in the Supreme Court from among whom the justices designated in the act must choose the fifth judicial member of the Commission. The Commission as finally constituted contained thus eight Republicans and seven Democrats.

The facts in the disputed cases were as follows: The returns from Florida consisted of the report of the regular canvassing board created by the State legislature to the governor that the Republican electors had been chosen by the voters, the certificate of Governor Stearns given to these electors, and the vote of the electors for Hayes and Wheeler; also a paper containing votes for Tilden and Hendricks given by certain persons representing themselves as the electors chosen by the voters, but not accompanied by the report of any canvassing board or officer to the governor designating them as the persons chosen electors, and not certified to by the governor. The returns from South Carolina were in a similar condition.

Those from Louisiana consisted of two complete sets, each containing the report of a canvassing board, appointed by a body claiming to be the State legislature, to different persons, each claiming to be the lawful governor, one report declaring that the Republican electors had been chosen by the voters, the other that the Democratic electors had been so chosen, also the certificate of different persons, each claiming to be

the lawful governor, to each body of electors, testifying that each were the true electors of the State, and the vote of one of these bodies of electors for Hayes and Wheeler and of the other for Tilden and Hendricks.

Finally, the returns from Oregon consisted of two sets; one of which contained a report from the State canvassing officer, the Secretary of State, declaring the election of the Republican electors by the voters, also the vote of this body for Hayes and Wheeler, and a statement of the selection of one member of this body by the others, on account of the fact that one of them selected by the voters held at the time of his election an office under the national government, and was, therefore, ineligible. The other set contained the governor's certificate to certain persons claiming to be the lawful presidential electors, the vote of this body, two for Hayes and Wheeler and one for Tilden and Hendricks, and an account of the selection of two members of this body by one member, the one to whom the governor handed the certificate of election, to fill the places of the two elected by the people, but who had refused to serve with the per-

son having the governor's certificate in his possession, on the ground that he had not received a majority of the votes cast for the electors and was a Democrat, in other words, on the ground that the governor, who was himself a Democrat, had not acted lawfully in giving the certificate to a Democrat who had not received a majority of the votes of the people.

In all of these disputed cases the Electoral Commission gave, by a vote of eight to seven, the electoral vote of these States to Hayes and Wheeler. It was said then by many, and has been said ever since by some, because the eight men voting to do so were Republicans. I have never seen why it could not be said with much more force that the seven men voting against so doing, and voting to give the electoral votes of the first three and two of the electoral votes of the fourth to Tilden and Hendricks did so simply and solely because they were Democrats. They did not have a leg nor a peg to stand upon or hang upon in either one of the cases.

In Florida and South Carolina the self-styled Democratic electors had no certification to their election by any board or officer

authorized thereto by either the legislature of the State or the Congress of the United States. The Tilden counsel before the Commission claimed that the Republican canvassing boards had thrown out returns from certain polling places where the majority was in favor of the Democratic candidates for electors. But these canvassing boards had the right and power to do this, given to them by the respective State legislatures, empowered thereto by the Constitution of the United States, upon the existence of certain conditions of fraud, violence, or intimidation, of the existence of which the said legislatures had made these boards the final judges. The Tilden lawyers also claimed that there had been United States soldiers stationed at the polls, and that this invalidated the election. But they were there by authority of a statute of the Congress of the United States, a statute the enactment of which was undoubtedly within the constitutional power of Congress.

In Louisiana the claimed Democratic electors had certificates from a claimed canvassing board created by a claimed legislature and also from a claimed governor. But the claimed

legislature which created this canvassing board and this claimed governor had never had any legal existence, while the legislature creating the canvassing board which had reported the election of the Republican electors to the governor and the governor who had furnished these electors with his certificate to their election had been recognized as the lawful legislature and the lawful governor of the State by every department of the United States Government. It was also claimed by the Tilden counsel before the Commission that the Republican canvassing board in Louisiana had thrown out the returns from certain voting precincts where the Democrats were in majority, and had thus given the State to the Republican electors, but there was no more evidence that they had done this than that the terrorizing organizations of the Democrats had by intimidation kept the Republican voters away from the polls in these places. Anyhow, the lawful legislature of the State had, in the exercise of a power vested in it by the Constitution of the United States, authorized the canvassing board to do this at its own discretion, in case of fraud, violence,

or intimidation, of the existence of which condition the board was made by the legislature the final judge.

The Electoral Commission could not, therefore, have refused to receive the returns of these canvassing boards, or to count the votes of the electors designated therein for the President and Vice-President, without violating the provision of the Constitution of the United States itself, vesting in the State legislatures respectively the sole power of determining the manner of appointing the electors of the President and Vice-President from the respective States.

The case of Oregon was more complicated but equally clear. The Secretary of State, the ultimate canvassing officer of the State, as designated by the State legislature, reported by regular return to the governor the election of the three Republican electors. One of these, named Watts, held a small post-office, and was thereby disqualified as an elector. Thereupon the governor, a Democrat, named Grover, gave his certificate to the other two Republican electors and to the Democratic candidate for elector, who, after the Republican electors, had

the highest number of votes though, of course, not a majority of the votes cast for electors, in place of the disqualified Watts. This man's name was Cronin, and it was to him, in fact, that the governor handed his certificate for all three. This manœuvre was, of course, for the purpose of placing Cronin in a position to force the two Republican electors, whose names were on the certificate, to act with him, and thus give two electoral votes from Oregon to Hayes and Wheeler and one to Tilden and Hendricks, which, in the condition of the vote in the other States, would have elected Tilden and Hendricks President and Vice-President. The Republican electors refused, however, to act with Cronin, but met by themselves and chose a third man, Watts, by the bye, who had meantime resigned his office, and sent their three votes for Hayes and Wheeler to the president of the Senate of the United States, attested by a copy of the report to the governor by the Secretary of State of the State, the ultimate canvassing officer of the State, of their election as electors. Cronin, on the other hand, chose two persons to act with him, and sent from his body

two electoral votes for Hayes and Wheeler and one for Tilden and Hendricks to the president of the Senate of the United States, accompanied by the certificate of the governor to his own election, but not as to the election of the other two acting with him.

The Electoral Commission went, of course, behind the certificate of the governor who, as we have seen, was acting in giving his certificate under an act of Congress, but stopped, of course, at the report of the ultimate canvassing officer of the State, the Secretary of State, who derived his authority from the State legislature, by virtue of its independent power over the manner of appointing the electors, vested in it by the Constitution of the United States. The right of the two Republican electors to fill the vacancy made by the disqualification of Watts had been settled by the vote of both houses of Congress in previous cases of this nature.

It was not, therefore, a partisan act on the part of the Electoral Commission to give the entire electoral vote of the State of Oregon, and of the States of Florida, Louisiana, and South Carolina, to the Republican candidates for the

presidency and vice-presidency, but a strictly legal and constitutional act. They could not have done otherwise without infracting the Constitution of the United States and invading the power of the State legislatures respectively, vested in them and secured to them by the Constitution of the United States.

No President nor Vice-President had ever had a more complete title legally to his office than did Mr. Hayes and Mr. Wheeler. In Oregon there was no doubt that both legally and morally the Republicans were in the right and the Democrats in the wrong. The Democratic governor had nothing to stand on either in law, precedent, or morality. His act in furnishing Cronin with the certificate of election was sheer partisan arbitrariness. And if there were any grounds in Florida, Louisiana, and South Carolina of a moral nature against the Republicans, they were entirely overbalanced by those against the Democrats. If the Republican canvassing boards had thrown out the returns of certain precincts, it was because, they said, fraud, violence, or intimidation had rendered the counting of such returns unlawful, and they were the

final judges of that question. It all depended upon whether the Fourteenth and Fifteenth Amendments to the Constitution of the United States were to be upheld in these States or not. If they were, then from every point of view, legal and moral, the Republicans were in the right. They have been in large measure set aside since then, but at that time they were regarded as of full force, and no officer either of the United States or of the State would have fulfilled his sworn duty had he disregarded their provisions. Moreover, I am entirely convinced that Mr. Hayes would never have entered upon the office of President had he not known that his title was above all just reproach. He had the means of judging of this matter to the extent not possessed by any other man. His ambition was always subject to his moral sense. The approval of his own conscience stood with him above everything else. This was even more true, if possible, of Mrs. Hayes. There was in his household no woman's immoderate love of place and glory to lead him astray, but a helpmate, yea, a guide in all right-doing.

Notwithstanding all this, the manner of

President Hayes' election was an embarrassment and a handicap to him in many ways, and has served in the hands of designing men to depreciate the great work of his administration. As time goes on, however, and as the partisan hatreds which clustered around the election are lost from view, that work looms larger and ever larger.

Although there had been threats of violence, both secret and open, the inauguration went off quietly and successfully. The inaugural address was a model of sound sense, wise statesmanship, genuine patriotism, and cordial goodwill, expressed in concise, chaste, and elegant language, and pronounced with a manly firmness and grace which impressed most favorably and profoundly all those who heard it and all who read it in the public prints. The thing most significant about it was the conviction which it carried that the new President was firmly resolved to live up to the pledges of the party platform and of his letter of acceptance of the nomination, and not to regard them as mere campaign documents to be ignored and forgotten after the election. While this was

most gratifying and encouraging to the people, it was startling and disquieting to the so-called elder statesmen, Blaine, Conkling, Cameron, Logan, and the rest, chiefly because of the civil-service reform pledges of the platform, which President Hayes repeated with great emphasis in the inaugural and declared himself unalterably determined, in so far as it lay within his power, to fulfil. This would destroy the patronage system in the appointment to office upon which their power rested, and upon which the existing organization of the party depended in very large measure. I dare say that they thought they were sincere in opposing the President in this matter, but the country gave them quickly and sharply to understand that they were out of touch with the views of the plain people in regard to it.

Before going to Washington for his inauguration Mr. Hayes had fixed upon the three chief members of his Cabinet. While he had done this quite independently, he had not done it arbitrarily. He had conferred with a few trusted friends, but he had really consulted the country and had selected the men whom na-

tional, and in one case at least international, reputation had pointed out as the best-fitted men in the land for the positions.

First of all, there was the profound and at the same time brilliant lawyer, Mr. William M. Evarts, equally learned in public as in private law, whose great qualities had been manifested in his great achievements in the impeachment trial of President Johnson, in the presentation of the American case before the Geneva Tribunal, and in the argument of the Republican case before the Electoral Commission. Under all of these supreme tests he had shown himself the most sound and learned constitutional and international lawyer and the most skilful diplomatist which the country possessed. He was a genuine Republican, but not a wire-pulling politician, and not so hide-bound in his party allegiance as to suit the ring-leaders of the party. He knew more of law, history, and philosophy than all of them put together, and such a man is not naturally a follower, but a leader. The principle of natural selection designated him for the secretaryship of state, and Mr. Hayes had fixed upon him for the position

before he made the famous plea in the election case.

He was not, however, the first to be approached by Mr. Hayes in constituting the membership of his Cabinet. The first to whom the formal proposal was made to share in the responsibilities of the administration was the President-elect's long-time friend and fellow Ohioan, Senator John Sherman. Mr. Hayes asked Senator Sherman to take the exceedingly responsible position of the secretaryship of the treasury. In doing this Mr. Hayes had simply taken the man whom the whole country regarded as the soundest man in the nation, next to Mr. Hayes himself, on the monetary question, and the best-equipped man to discharge the great responsibilities of conducting the finances of the country through the period of preparation for the resumption of specie payments to the accomplishment of that result. He had long been looked up to in the Congress of the United States as the highest authority among them on the subject of public finance, and the Resumption Act of 1875 was, in large measure, his work, in much larger measure than that of any other

man. Mr. Hayes not only asked Senator Sherman first and directly to become a member, under the circumstances of the times perhaps the most important member, of his official household, but he availed himself of Senator Sherman's influence in Washington and in the East to secure Mr. Evarts.

The third member of his Cabinet selected by Mr. Hayes was chosen by him more largely upon grounds of personal preference than either Mr. Sherman or Mr. Evarts — in fact, than any other member of the body. I mean exactly by this statement that the general consensus had less part in the selection of this member, and the feelings of the President-elect himself greater part, than in the choice of any other. It was the German-American, Carl Schurz, profound scholar, brilliant orator, brave soldier, wise statesman, independent thinker, great reader, honest man, genial companion, and courteous gentleman. These were qualities which recommended him irresistibly to a man like Mr. Hayes. In fact, the two men were as sympathetic, as similar in their natures, as it is possible for two men of different nationality to be. Politically

it was, in large measure, Mr. Schurz's zeal for civil-service reform and his immense fund of information regarding administrative systems and practices in foreign countries which determined Mr. Hayes to make him his Secretary of the Interior and give him the power to set up the models of improved administrative service in this department, from which all the others might take lesson. Mr. Hayes had settled upon these three men as the leading members of his Cabinet of advisers before he went to Washington to take up the reins of government — in fact, before he had been declared elected — and nothing and nobody could shake him from his determination. And there was not the slightest reason why he should have been. He had selected the best talent, character, and competency which the Republican party and the country at large possessed to aid him in the solution of the three great problems — the pacification of the South, the regulation of the monetary and financial system, and the reform of the civil service — the three great problems which confronted his administration at the outset and claimed by far the largest share of attention and activity throughout.

Mr. Hayes had also before going to Washington considered most seriously nominating General Johnston, the famous Confederate leader, to be his Secretary of War. There was no doubt of General Johnston's technical qualifications to fill the position, and Mr. Hayes desired to give this proof to the South of his sincere intentions towards that section of the country. He thought that it would be the seal of the re-establishment of the union of feeling between North and South in a common nationality. He felt it necessary, however, to consult some of the Republican leaders in the matter, and was immediately made to understand that his generous impulses were not shared by them. With great reluctance he gave up Johnston, for he entertained very high respect for his ability and character. He still clung, however, to his plan of having a Southerner as a member of his official family. After reaching Washington he settled upon Senator David M. Key, of Tennessee. He was a Democrat and had served as a Confederate soldier, but he hailed from a State that had furnished almost as many soldiers to the Union army as to the Confederate army, and he was a genuinely reconstructed

rebel. He had shown this in his attitude upon all questions coming before Congress, and he had exercised a most favorable influence over the Southern members in Congress during the trying session of 1876–7. The selection was a wise one, and Mr. Key proved himself a valuable counsellor of the President in the Southern question as well as an able administrator of the Post-Office Department.

In the selection of the other three members of the Cabinet President Hayes seems to have been influenced in a greater degree by the leaders of the party in Congress, though not by the domineering element among them. He refused to give ear to Blaine, who was anxious to place one of his lieutenants, W. P. Frye, in the Cabinet, but he took counsel of Senator Hoar and selected, with Hoar's advice, Judge Charles Devens as his Attorney-General. The choice was an excellent one. It could hardly have been improved. Desire to show his respect for Governor Morton, the great war governor of Indiana, seems also to have been an element in the selection of Colonel Richard W. Thompson, the brilliant Indiana orator, who had made

the nominating speech for Morton at the Cincinnati convention, as the Secretary of the Navy.

Who or what recommended the selection of Mr. McCrary to Mr. Hayes as Secretary of War is not so certain. Mr. McCrary was an excellent lawyer, but had made no mark as a soldier. I find by looking over the Congressional debates that he was the member of Congress who seems to have first suggested the idea of the Electoral Commission as the means for solving the problem of the contested election. He was an authority on the law of elections. President Hayes probably had him in mind first for the attorney-generalship, and after Devens' name came up for a place in the Cabinet changed him over to the secretaryship of war.

Taken all together, it was the strongest body of men, each best fitted for the place assigned to him, that ever sat around the council-table of a President of the United States. Thompson was the weakest one among them. He came the nearest also to being a political appointment. But his want of equal efficiency with the others was more because of his ad-

vanced age than any lack of original endowment or practical experience.

There was no valid reason why the Senate should have manifested any hesitation whatever in the confirmation of any one of them, except, perhaps, the Democrat, Key. It might have been a question whether a Democrat could conscientiously uphold the general policy of a Republican administration. Senator Key had already informed the President, however, that if he should feel at any time that he could not do so, he would promptly resign his portfolio. Nevertheless, the Senate, under the leadership of the stalwart Republicans, departed from its unbroken custom of confirming the President's nominees of the members of his official family immediately and without reference to any committees and voted to refer them all to committees for examination and report. Even Senator Sherman's nomination went with the rest, although it had always been the usage of the Senate to confirm the nomination of one of its own members to any office immediately and without reference. It was all meant as an attack upon the President for exercising his own

independent discretion in nominating the members of his Cabinet, instead of asking Blaine, Conkling, Cameron, and some others each to nominate a member for him.

The action of the Senate, however, immediately produced a revolt in the country. The press generally disapproved in emphatic language of the departure of the Senate from its immemorial custom in this instance. Especially the Republican press manifested, in many cases, intense indignation at this attempt to discredit and weaken the Republican administration, especially at a time when Republican unity and harmony were most needed. Individual senators were stormed with telegrams and letters from their particular constituents demanding that the Senate recede from its indefensible position. It was on Wednesday, March 7th, that the President sent the nominations to the Senate. By Saturday the battle between the Senate and the country was over. On Thursday the Senate had taken the nomination of Senator Sherman from the committee to which it had been referred on the day before and confirmed it. On Saturday, the 9th, the committees reported

all the nominations favorably, and the Senate confirmed them all immediately and by almost unanimous vote.

It was evident thus from the outset that Mr. Hayes' administration would be involved in more or less of conflict with the elder statesmen of the Republican party, but that it would be sustained by the people, and that, too, in considerable degree, without regard to party. It is true that Mr. Hayes himself was a loyal Republican, a much sounder Republican than either Blaine, Conkling, or Cameron, the men whom General Noyes called "invincible in peace and invisible in war." Mr. Hayes had proved his Republicanism on the battle-field as well as in civil office and in the ranks of the plain citizens. But he understood better than any of them the distinctions between civil rights and political qualifications, and he furthermore understood the difference between the political side and the business side of the administration. In other words, Mr. Hayes was a political scientist and a statesman as well as a party man. He knew the place of party in the system of the Republic. He knew, therefore, where loyalty

to party must give way to loyalty to country. He knew that the exaggeration of party loyalty made the attainment of national unity and the development of a national consensus of opinion in regard to the fundamental principles of rights and policies impossible. With him, therefore, party loyalty must be kept within the limitations imposed upon it by sound political science, constitutional law, and the historic ideals of American policy. He himself expressed the relation which should exist between party and people, the relation which he undertook to establish as the aim and end of his administration, in the famous sentence which has now become one of the most important of American political axioms, viz.: "He serves his party best who serves his country best."

LECTURE III

THE SOUTHERN POLICY AND THE FINANCIAL POLICY

AS we have seen, the Republican platform promised the pacification of the South, Mr. Hayes' letter of acceptance of the nomination for the presidency reiterated it with more emphasis, and the President's inaugural address contained the assertion of his determination to realize it. If any of the statesmen or politicians who framed the platform supposed that they were simply composing high-sounding phrases for the purposes of the campaign, and that these would be allowed to go the usual way of such pronunciamentos by the administration, they had greatly misread the character of the man whom they had helped to make the chief magistrate of the nation. It was observed that during the campaign the Republican managers, writers, and speakers had emphasized the financial question and had allowed the Southern question to fall into the

background. And it must have been something of a shock to the "Stalwarts," the elder statesmen, that the President put the Southern question first in his inaugural and dwelt upon it at greatest length, and then followed it with his earnest appeal for civil-service reform, thus indicating to the country that his administration was to be devoted most especially to the solution of these two great problems, and to that of the Southern situation first of all.

At the time of the election of 1876, all the Southern States, except Florida, Louisiana, and South Carolina, had, partly through means of doubtful legality, indeed, freed themselves from carpetbag-negro domination. Of these three the situation of Florida was most favorable. The final determination of the State elections in this State was a function of its supreme court, and happily there was one universally recognized court in Florida — and but one. This court sat in judgment on the State elections of 1876 and decided that the Democratic candidates for governor and lieutenant-governor had been elected. The Republican candidates simply protested, but did not resist forcibly nor

demand the support of the Washington government. The question as to Florida was thus solved by the State law and State administration, and Florida was reclaimed by its own white citizens.

The situation in Louisiana and South Carolina was, however, quite different. The legislatures of these States as well as that of Florida had, as we have seen in the previous lecture, constructed returning-boards as the final authority in the counting of the votes of the suffrage holders, with the power to throw out the returns of the election officers from precincts and districts in which fraud or force had been practised. This was entirely regular, as we have also seen, in regard to the election of the electors of the President and the Vice-President, because the Constitution of the United States vests this power in the several State legislatures, and there is no other body or organ in the State which can lawfully interfere with the legislature in the exercise of this function, not even the people of the State themselves.

Whether these returning-boards were, how-

ever, the final authority for counting the votes of the suffrage holders for State officers and the members of the State legislatures was quite another question, and depended for its solution upon the provisions of the constitutions of the respective States.

In the States of Louisiana and South Carolina these returning-boards had assumed to act in both capacities, and had returned the Republican candidates for governor — Packard in Louisiana and Chamberlain in South Carolina — as elected, and also the Republican candidates for the legislature in sufficient number to create Republican legislatures in both States. The Democrats, on the other hand, claimed that the returning-boards created by the legislatures had, according to the State constitutions, no authority over the returns of the election officers of the precincts and districts, and claimed on the face of the returns the election of Francis T. Nicholls as governor of Louisiana, and Wade Hampton as governor of South Carolina, and of a sufficient number of candidates for the legislature to constitute the lawful legislature in each of these States.

Both Packard and Nicholls had set up State governments in Louisiana, and both Chamberlain and Hampton had set up State governments in South Carolina, and each was supported by a legislature claiming to be the lawful legislature of the State. In Louisiana there were also two supreme courts, one attached to each government. The Republican governors and legislatures were installed in the regular State House in each State, and were defended by detachments of United States troops within the buildings, or encamped around them. The Democratic governments had, on the other hand, occupied fixed quarters, and were in potential if not actual command of the State militia and were sustained by voluntary contributions from the taxpayers. The jurisdiction of the Republican governments, finally, was recognized over only a very limited area in the two States, while that of the Democratic governments was pretty generally recognized throughout the same.

It was clear that matters had reached a crisis in the Southern problem, and that the danger of insurrection was extremely imminent. One of the great questions which the President had to

determine in his own mind was whether he could trust the white leaders in these States to secure the constitutional rights of the blacks. Nearly twelve years had passed since the close of the Civil War, and it was pretty clear to any far-seeing, unprejudiced mind that the régime of the carpetbaggers and negroes, supported by the United States soldiery, was a dismal failure and a lasting disgrace, and that matters could not be made much worse by any change which could be fairly conceived. The Republican Stalwarts tried to hold the President by the argument that the titles of Packard and Chamberlain, and that of the legislatures acting with them, rested on the same basis as his own, viz.: the decisions of the returning-boards; but he was constitutional lawyer enough to know that, while these decisions were lawful and binding in his case, by virtue of a provision of the Constitution of the United States, they were subject to revision by higher authority in State elections, if so ordered by the constitution of the State concerned. He saw clearly that he was not compelled by law, or even by reason of consistency, to give the military power of the

United States to the maintenance of the Republican State governments in Louisiana and South Carolina against the Democratic State governments, unless the contest between the two governments in each State should lead to domestic violence, and the legislature or legislatures thereof, or the executive or executives thereof, should apply to him for protection, in which event he would have to determine which was the real government of the State, and extend military support, if necessary, to this one.

President Hayes was thoroughly convinced that the time had come to test the assurances of the responsible white men of these States, whether they had been engaged twelve years before in rebellion against the national government and sovereignty or not, that the rights, both civil and political, of all classes of the population would be equally upheld and protected, if the United States would withdraw its military power and leave to the States their constitutional autonomy; but he was wisely mindful to do this in a manner and with such preparatory steps as to make sure that when he withdrew the troops the contention between the

rival governments would settle itself by the immediate subsidence of the claims of one of them in each case, and not lead again to insurrectionary movements, such as might require the reintervention of the military power of the United States.

With this in view President Hayes took up the question as related to South Carolina first, and for two reasons: primarily, because there was only one supreme court and only one set of judicial organs in South Carolina, and therefore there could be no conflicting decisions of the State courts in regard to the State elections or anything else, which could not be overcome simply by appeal to the one universally recognized supreme court from the lower courts; and, secondly, because the high and patriotic character of the Republican claimant to the governorship in South Carolina encouraged President Hayes to believe that a personal appeal on the part of the President to Mr. Chamberlain would meet with a generous response, and probably with disinterested co-operation. On the 23d of March, not quite three weeks from the day of his inauguration as President, Mr.

Hayes caused to be addressed to Mr. Chamberlain and Mr. Hampton invitations to come to Washington for a conference with him regarding the political condition of the State of South Carolina. The notes of invitation contained the following significant paragraph: "It is the earnest desire of the President to be able to put an end as speedily as possible to all appearance of intervention of the military authority of the United States in the political derangements which affect the government and afflict the people of South Carolina. In this desire the President cannot doubt he truly represents the patriotic feeling of the great body of the people of the United States."

With this the two gentlemen claiming the governorship of South Carolina were not left in doubt in regard to what they would have to face in Washington. The Republican Chamberlain went to meet the Republican President unheralded and depressed, while the Democrat Hampton's journey was like a triumphal procession. On March 29th they were both in the national capital. The President went patiently and thoroughly over the whole question with each

of them, during the course of which conversations he became even more thoroughly convinced that the time had come for leaving the States of the South to themselves in their own local affairs. Able and persuasive as Mr. Chamberlain was, his arguments only revealed the more clearly that his claim to rule could be sustained only on the principle that the State of South Carolina was not a State of the Union but a military province. The time had passed for that.

On April 3, 1877, after due consultation with his advisers, the President took the momentous step. By a formal note addressed to the Secretary of War, he gave the renowned order which settled the Southern question and ended the conflict between the North and the South. It read as follows: "Prior to my entering upon the duties of the presidency, there had been stationed by order of my predecessor in the State House at Columbia, South Carolina, a detachment of United States Infantry. Finding them in that place, I have thought proper to delay a decision of the question of their removal until I could consider and determine whether the

condition of affairs in that State is now such as either to require or justify the continued military occupation of the State House. In my opinion there does not now exist in that State such domestic violence as is contemplated by the Constitution as the ground upon which the military power of the national government may be invoked for the defense of the State. There are, it is true, grave and serious disputes as to the rights of certain claimants to the chief executive office of that State. But these are to be settled and determined, not by the executive of the United States, but by such orderly and peaceable methods as may be provided by the constitution and laws of the State. I feel assured that no resort to violence is contemplated in any quarter, but that, on the contrary, the disputes in question are to be settled solely by such peaceful remedies as the constitution and laws of the State provide. Under these circumstances, in this confidence, I now deem it proper to take action in accordance with the principles announced when I entered upon the duties of the presidency. You are, therefore, directed to see that the proper orders are issued for the removal of said troops from the State

House to their previous place of encampment."

At midday on April 10th, the United States soldiers marched out of the State House to their barracks. Mr. Chamberlain made no resistance to the occupation of the State House by Mr. Hampton, except the publication of an address asserting the justice of his cause, and complaining of the desertion of it by the national government. The two legislatures became one by the action of the proper State authorities in determining the questions of State elections. All the State, county, and city officers recognized the rightful authority of the Hampton government. The courts, as we have seen, were already in harmony with it. It required but a few days to restore peace and order and good government, government by its own people, by its own best people, to the long-suffering State. And but a few months had passed when the President's course, so stoutly opposed by the Republican Stalwarts and the radical Negrophiles at the outset, was approved so universally as having stood the practical test, that nobody of any importance could be found lifting a voice in further criticism of it.

The situation in Louisiana was somewhat more difficult to deal with. There were two governors, two legislatures, and two supreme courts, and each governor had a military force; the Republican claimant, Packard, had the metropolitan police of New Orleans and the United States soldiers, and the Democrat claimant, Nicholls, had the State militia. Moreover, Packard was a genuine carpetbagger, with none of the moral fibre and real patriotic spirit of Chamberlain.

After much reflection President Hayes determined to send a commission to Louisiana to examine into the situation, and report to him a plan or suggestion for settling the problem of the double government in the State of Louisiana in accordance with the constitution of the State, and "without involving the element of military power" in the settlement, and he instructed the commission to try to secure the universal recognition of one government, as a whole, if possible, and, if not, to try to get into a single body a majority of the persons holding certificates of election to membership in the legislature under each set of electoral returns, so as to constitute a single legislature from which, as a base, to

work out the unification of the other branches of the State government. The President gave the commission most particularly to understand that they were not to investigate the State elections or the State procedures for counting the votes for State officers and the members of the State legislature. That had been already done by Congressional committees.

According to the report of the commission, the following situation was found to exist on the date of the arrival of its members, April 6th: "Governor Packard was at the State House with his legislature and friends and armed police force. As there was no quorum in the Senate, even upon his own theory of law, his legislature was necessarily inactive. The supreme court, which recognized his authority, had not attempted to transact any business since it had been dispossessed of its court-room and the custody of its records, on the 9th of January, 1877. He had no organized militia, alleging that his deficiency in that respect was owing to his obedience to the orders of President Grant, to take no steps to change the relative position of himself and Governor Nicholls. His main reliance was upon his alleged legal title,

claiming that it was the constitutional duty of the President to recognize it and to afford him such military assistance as might be necessary to enable him to assert his authority as governor.

"Governor Nicholls was occupying the Odd-Fellows' Hall as a State House. His legislature met there, and was actively engaged in the business of legislation. All the departments of the city government of New Orleans recognized his authority. The supreme court, nominated by him and confirmed by his Senate, was holding daily sessions and had heard about two hundred cases. The time for the collection of taxes had not arrived, but considerable sums of money, in the form of taxes, had been voluntarily paid into his treasury, out of which he was defraying the ordinary expenses of the State government. The Nicholls legislature had a quorum in the Senate upon either the Nicholls or Packard theory of law, and a quorum in the House upon the Nicholls, but not on the Packard, theory. The Packard legislature had a quorum in the House on its own theory of law, but, as already stated, not in the Senate, and was thus disabled

from legislation that would be valid, even in the judgment of its own party.

"The commission found it to be very difficult to ascertain the precise extent to which the respective governments were acknowledged in the various parishes outside of New Orleans; but it is safe to say that the changes which had taken place in parishes after the organization of the two governments, January 9, 1877, were in favor of the Nicholls government."

Under these conditions the commission soon found it impossible to bring the two claimants for the governorship to any arrangement, and turned to the task of bringing together in a single legislative body a sufficient number of members holding their certificate of election under either theory of the election law to form a quorum. In a number of cases the election officers had returned the same persons as members of the Nicholls legislature as were certified by the Republican returning-board as members of the Packard legislature. These persons had first qualified in the Packard legislature. But if they could be induced to go over into the Nicholls legislature, they would bring up the member-

ship of the Nicholls legislature to a legal quorum in both houses, and leave the two houses of the Packard legislature without a quorum, on either theory of the election law, in either.

On the 20th of April the commission sent a telegram to President Hayes, advising the immediate announcement of a date by him when he would order the withdrawal of the United States soldiery from the support of the Packard government. By this time the Nicholls legislature had secured a quorum of members in both houses whose elections had been certified by the election machinery of both governments, and the Packard legislature had been left without a quorum in either house, under any theory of the election law, and the commission had also reached the conclusion that Packard's government outside of the precincts of the State House had no existence, and never would have any unless held up at every point by the national army. The commission had also reached the conclusion that the withdrawal of the United States troops would not result in any insurrectionary movements, but that their retention would probably, almost certainly, do so.

The President issued the order for the withdrawal of the national military from the support of the Packard government, and on the 24th of April it was executed, and the final step was taken in restoring all the States of the South to their full membership in the Union, as self-governing bodies within the limits of the Constitution. Packard protested, but yielded more easily and gracefully than had been expected. Wade, Blaine, Garrison, Phillips, Butler, and all the rest of their kind poured upon the President their vials of wrath, some in the language of sorrow and pity for the backsliding President, and others in the language of abuse and vituperation for the treacherous man in the White House. I have no doubt that they were all, except perhaps Blaine, entirely sincere. But they were all wofully mistaken. No violence followed the withdrawal of the troops anywhere. Peace and prosperity and contentment were restored. The State government became honest, efficient, and economical. And the rights of the negroes were more perfectly realized than ever before. Some of the disappointed ones undertook to blacken the President's character

by claiming that the President's action was prompted by an agreement made by him, or for him, by two of his Northern friends, with prominent Southerners, in order to secure their acquiescence in the Congressional canvass of the electoral vote. But the President and his advisers demanded immediate publicity as to every item of the charge, and it was at once manifest that he had given no assurances privately that were anything more than a reiteration of his public statements, and that his friends had made no promises for him, and had done nothing more than express their own private opinions that President Hayes was a man of his word, and would undoubtedly undertake the realization of the policies announced in his letter of acceptance of the nomination to the presidency, and in his inaugural address upon induction into office.

No braver, wiser, or more patriotic thing was ever done by any occupant of the presidential chair than President Hayes' work for the pacification of the South. He disregarded entirely the arguments of the Stalwarts that his own title to the office was nullified by his failure to

sustain that of the Republican claimants in South Carolina and Louisiana, and that he was destroying the Republican party in the South and betraying the freedmen. He saw through the sophistry of all this and disregarded entirely any effect which his action might have upon his own personal political fortunes. His only thought was for justice and the welfare of the whole country, and he held as the first article of his political faith the principle so happily formulated by himself: "He serves his party best who serves his country best." In the solution of the Southern problem President Hayes showed himself to be a statesman of the first order and of the broadest national type. The problem itself, however, was not one of great intricacy. It was rather one of plain and elemental justice, one in which the way of solution selected by him was supported by a majority of the people at the North. It was against the Stalwart faction of his own party and a few fanatics that he had to exercise his firmness of purpose. The liberal faction of his own party, the Democrats of the North, and the whites of the South were with him. The greatest strug-

gle which he had with himself over the subject was the question whether he was deserting the just cause of the black man and delivering him back to servitude. Had he not been able to convince himself that his policy of restoring the autonomy of the State governments in the South would not lead to this result, he certainly could never have followed it, no matter how unanimous the approval of it may have been.

On the other hand, the financial question was distressingly intricate, and the solution of it required broadness, acuteness, and originality in economic reasoning. It seems to me that it was in the handling of this question that President Hayes manifested, in highest degree, his superiority as an independent thinker and also his uncompromising devotion to principle.

As we have seen, the monetary situation at the time of the accession of Mr. Hayes to the presidency was most unsatisfactory. The country had not recovered from the panic of 1873, and it was pretty generally believed that the chief cause of all trouble was the scarcity of money. We had nearly three hundred and fifty millions of greenbacks, *i. e.*, of irredeemable

legal-tender paper of the government in circulation, and about as much more of national bank-notes secured by government bonds and greenbacks, and a bonded indebtedness of nearly fifteen hundred millions of dollars, upon about half of which we were paying six per cent interest, and upon the other half five per cent. We had a law for the resumption of specie payment, *i. e.*, for redeeming our paper money in coin on and after January 1, 1879. We had also the law of 1873 suspending the coinage of the silver dollar, which virtually made coin to mean gold coin, as in fact had been the case since 1853.

It was in the face of this situation that President Hayes said in his inaugural address: "Upon the currency question, I may be permitted to repeat here the statement made in my letter of acceptance that, in my judgment, the feeling of uncertainty inseparable from an irredeemable paper currency, with its fluctuation of values, is one of the greatest obstacles to a return to prosperous times. The only safe paper currency is one which rests upon a coin basis, and is at all times promptly convertible into coin. I adhere to the views heretofore expressed

by me in favor of Congressional legislation in behalf of an early resumption of specie payments, and I am satisfied not only that this is wise, but that the interests as well as the public sentiment of the country imperatively demand it."

Notwithstanding this warning, the State conventions of the Democratic and Greenback parties which occurred in the summer of 1877 declared in favor of a repeal of the Resumption Act, and of the passage of an act rehabilitating silver as full legal-tender money on a par with gold, and providing for its free and unlimited coinage at the old rate of 16 to 1, and the State conventions of the Republican party west of the Alleghanies pronounced themselves in favor of the remonetizing of silver.

In the special session of Congress in the autumn of 1877, the Bills for both purposes passed the House of Representatives in November by tremendous majorities. The Senate, which was still Republican, as to the majority, took up the Silver Bill, referred it to its finance committee, and on report of this committee placed the Bill on its calendar. The special session of Con-

gress was now near its end, but the Silver Bill was in position for consideration by the next regular session, which would open almost immediately, *i. e.*, on the first Monday of the following month.

This was the situation which moved President Hayes to incorporate in his first annual message, of December 3, 1877, a discussion of the monetary question which has never been surpassed, if equalled, for correctness, conciseness, and exhaustiveness anywhere in our economic literature.

Naturally a mind like his would regard the subject from a moral as well as an economic point of view. The scrupulously honest fulfilment of all financial obligations on the part of the government and on the part of individuals was, of course, the first article of his financial creed. Upon this part of the subject his words were as follows: "The policy of resumption should be pursued by every suitable means, and no legislation would be wise that should disparage the importance or retard the attainment of that result. I must adhere to my most earnest conviction that any wavering in purpose or

unsteadiness in methods, so far from avoiding or reducing the inconvenience inseparable from the transition from an irredeemable to a redeemable paper currency, would only tend to increased and prolonged disturbance in values, and, unless retrieved, must end in serious disorder, dishonor, and disaster in the financial affairs of the government and of the people. The mischiefs which I apprehend, and urgently deprecate, are confined to no class of the people, indeed, but seem to me most certainly to threaten the industrious masses, whether their occupations are of skilled or common labor. To them, it seems to me, it is of prime importance that their labor should be compensated in money which is itself fixed in exchangeable value by being irrevocably measured by the labor necessary to its production. This permanent quality of the money of the people is sought for, and can only be gained, by the resumption of specie payments. The rich, the speculative, the operating, the money-dealing classes may not always feel the mischiefs of, or may find casual profits in, a variable currency, but the misfortunes of such a currency to those who

are paid in salaries or wages are inevitable and remediless." And again: "I respectfully recommend to Congress that in any legislation providing for a silver coinage, and imparting to it the quality of legal tender, there be impressed upon the measure a firm provision exempting the payment of the public debt, heretofore issued and now outstanding, from payment, either of principal or interest, in any coinage of less commercial value than the present gold coinage of the country."

The honest dollar for honest labor and the financial honor of the country were placed by him above all interests, in fact were the highest interest. When these things were secured, then and not till then would he consent to consider the subject from the point of view of economic policy purely. And when he came to this side of the question, he manifested in his treatment of it a soundness and foresightedness not equalled by any of his contemporaries and not surpassed by any who have come after him. He said: "In adapting the new silver coinage to the ordinary uses of currency in the every-day transactions of life, and prescribing the quality of

legal tender to be assigned to it, a consideration of the first importance should be so to adjust the ratio between the silver and the gold coinage as to accomplish the desired end of maintaining the circulation of the two metallic currencies, and keeping up the volume of the two precious metals as our intrinsic money. It is a mixed question for scientific reasoning and historical experience to determine how far, and by what methods, a practical equilibrium can be maintained which will keep both metals in circulation in their appropriate spheres of common use. An absolute equality of commercial value, free from disturbing fluctuations, is hardly attainable, and without it an unlimited legal tender for private transactions assigned to both metals would irresistibly tend to drive out of circulation the dearer coinage, and disappoint the principal object proposed by the legislation in view. I apprehend, therefore, that two conditions, one, that of a near approach to equality of *commercial* value between the gold and silver coinage of the same denomination, and the other, that of a limitation of the amounts for which the silver coinage is to be a legal tender, are

essential to maintaining both in circulation. If these conditions can be successfully observed, the issue from the mint of silver dollars would afford material assistance to the community in the transition to redeemable paper money, and would facilitate the resumption of specie payment and its permanent establishment. Without these conditions I fear that only mischief and misfortune would flow from a coinage of silver dollars with the quality of unlimited legal tender, even in private transactions."

It is probable that these wise words of President Hayes had some effect in preventing the passage in the Senate of the House Bill repealing the Resumption Act, but they did not prevent the passage of the Silver Bill. A large number of the conservative men of the country, of the Republican party as well as of the Democratic party, had become inoculated with the craze. The campaign for free silver became a sort of holy war for the "restoration of the people's birthright." Nevertheless, these publicly pronounced views of the President must have had some effect in imposing conservative action on the Silver Bill in the Senate. Under the leader-

ship of Senator Allison the Bland Bill was modified in several very important particulars. In place of the free-coinage provision on private account, the Bland-Allison Bill allowed only the coinage of silver on government account, limiting the amount which the government might coin to four millions of dollars a month, and fixing the amount which it *must* coin at two millions of dollars a month, and covering the seigniorage into the treasury of the United States. The process intended by the Bill was as follows: The government should purchase from two to four million dollars' worth of silver bullion per month, paying gold for it; coin between two and four millions of dollars per month at the ratio of sixteen ounces of silver to one ounce of gold; allow the deposit of such silver dollars in the treasury of the United States, and issue silver certificates upon them in order to facilitate their circulation. The Bill made these silver dollars full legal tender in the payment of all debts, public or private, past or future, "except where otherwise expressly stipulated in the contract." In this form the Bill passed the Senate, was grudgingly concurred in by the

House, and sent to the President for his signature.

The pressure upon the President to approve it was enormous. It was declared by the press of the whole country that the people by overwhelming majority were in favor of it, certainly the majority of both the Democratic and Republican members in both houses of Congress had voted in favor of it. Even Secretary Sherman, the chief financial officer of the government, and by reputation the soundest financier in the country, favored it, or at least thought best not to oppose it. He thought that the country could keep the two million dollars a month of silver addition to the legal-tender coin money on a par with gold indefinitely. Not so the President. He saw clearer than Sherman, clearer than all the leaders of both parties put together, and clearer than all the people, that this amount of silver dollars could *not* be kept on a par with gold dollars, and that to pay our bonded debt with them would be partial repudiation. He, therefore, vetoed the Bill without any regard to the effect of the veto upon his personal or political fortunes, and although he

knew perfectly well that his veto would be overridden. The Bill was passed over the veto, and we started on the downward course predicted by President Hayes. Year by year, yea, month by month, the gold in the treasury was exhausted to buy silver bullion, to the enrichment of the silver kings of the Rockies, the commercial value of the silver dollars steadily declined as they piled higher and higher in the vaults of the treasury, and in fifteen years the crisis of 1893 came upon us. Then the whole country saw how high above all his colleagues and contemporaries President Hayes had stood in prescience and moral firmness.

The Resumption Act still stood, however, by the unconquerable support given it by the President and Secretary Sherman. By rigid economy in governmental expenditure, and by borrowing gold through bond issues, the administration succeeded in accumulating enough gold in the treasury, despite the enforced silver purchases, to warrant the government in declaring on January 1, 1879, that it would pay coin for paper whenever presented. So soon as the holders of government notes knew that they could

have coin for them on asking, they did not want it. More coin was offered the treasury for notes than was demanded from the treasury for notes. The President foresaw that this would be the result, and not wishing to have anything interfere with the operation of the Resumption Law, he had, in his annual message of December, 1878, recommended Congress to abstain from any financial legislation. By the close of the year 1879, however, resumption was so completely established, and business had so revived, that he could, without apprehension, request further legislation by Congress for improving the financial system.

In his annual message of December 1, 1879, after having referred to the fact of resumption and the prosperity of the country in consequence of it, and to the fact that since the Bland-Allison silver coinage law had gone into effect and down to November 1, 1879, 45,000,850 silver dollars had been coined, of which only 12,700,344 had gone into circulation while 32,300,506 still remained stacked up in the treasury, representing just that much depletion of the gold reserve and consequently just so much money

withdrawn from circulation, he went on to say: "I would strongly urge upon Congress the importance of authorizing the Secretary of the Treasury to suspend the coinage of silver dollars upon the present legal ratio. The market value of the silver dollar being uniformly and largely less than the market value of the gold dollar, it is obviously impracticable to maintain them at par with each other if both are coined without limit. If the cheaper coin is forced into circulation, it will, if coined without limit, soon become the sole standard of value, and thus defeat the desired object, which is a currency of both gold and silver, which shall be of equivalent value, dollar for dollar, with the universally recognized money of the world." The President saw clearly then that we could not keep a volume of silver dollars, increasing by two millions of dollars a month, on a par with gold; that we should exhaust our gold to pay the mine owners for the silver bullion, and that we should soon be left on a monometallic basis of silver. He was in favor of coining all the silver money which could be maintained in circulation on a par with gold, but not a dollar more, and he

saw in the piling-up of the silver dollars in the treasury the unanswerable evidence that we had already gone too far.

The President said further: "The retirement from circulation of United States notes, with the capacity of legal tender in private contracts, is a step to be taken in our progress towards a safe and stable currency, which should be accepted as the policy and duty of the government and the interest and security of the people. It is my firm conviction that the issue of legal-tender paper money, based wholly upon the authority and credit of the government, except in extreme emergency, is without warrant in the Constitution and a violation of sound financial principles."

Had Congress heeded the advice of the President and taken then the steps recommended by him, the finances of the country would have been placed upon a perfectly solid and enduring basis, and we should have been saved all the loss and trouble which we have since suffered upon that subject.

The President waited anxiously another year for Congress to show some response to his ap-

peal, but in vain. He knew, however, that he was right, and he had the courage of his convictions. Undauntedly he made a final effort in his last annual message to move Congress to complete the good work done by his administration in what we may call the financial reconstruction of the Union.

He said: "There are still in existence uncancelled $346,681,016 of United States legal-tender notes. These notes were authorized as a war measure, made necessary by the exigencies of the conflict in which the United States was then engaged. The preservation of the nation's existence required, in the judgment of Congress, an issue of legal-tender paper money. That it served well the purpose for which it was then created is not questioned, but the employment of the notes as paper money indefinitely, after the accomplishment of the object for which they were provided, was not contemplated by the framers of the law under which they were issued. These notes long since became, like any other pecuniary obligation of the government, a debt to be paid, and when paid to be cancelled as a mere evidence of an indebtedness no longer

existing. I, therefore, repeat what was said in the annual message of last year, that the retirement from circulation of United States notes, with the capacity of legal tender in private contracts, is a step to be taken in our progress towards a safe and stable currency, which should be accepted as the policy and duty of the government and the interest and security of the people."

Upon the silver question he said: "At the time of the passage of the act now in force requiring the coinage of silver dollars, fixing their value, and giving them legal-tender character, it was believed by many of the supporters of the measure that the silver dollar, which it authorized, would speedily become, under the operations of the law, of equivalent value with the gold dollar. There were other supporters of the Bill, who, while they doubted as to the probability of this result, nevertheless were willing to give the proposed experiment a fair trial, with a view to stop the coinage, if experience should prove that the silver dollar authorized by the Bill continued to be of less commercial value than the standard gold dollar.

The coinage of silver dollars, under the act referred to, began in March, 1878, and has been continued as required by the act. The average rate per month to the present time has been $2,276,492. The total amount coined prior to the 1st of November last was $72,847,750. Of this amount $47,084,450 remain in the treasury, and only $25,763,291 are in the hands of the people. A constant effort has been made to keep this currency in circulation, and considerable expense has been necessarily incurred for this purpose; but its return to the treasury is prompt and sure. Contrary to the confident anticipation of the friends of the measure at the time of its adoption, the value of the silver dollar, containing four hundred and twelve and one-half grains of silver, has not increased. During the year prior to the passage of the Bill authorizing its coinage, the market value of the silver which it contained was from ninety to ninety-two cents as compared with the standard gold dollar. During the last year the average market value of the silver dollar has been eighty-eight and a half cents.

"It is obvious that the legislation of the last

Congress in regard to silver, so far as it was based upon an anticipated rise in the value of silver as a result of that legislation, has failed to produce the effect then predicted. The longer the law remains in force, requiring, as it does, the coinage of a nominal dollar which in reality is not a dollar, the greater becomes the danger that this country will be forced to accept a single metal as the sole legal standard of value in circulation, and this a standard of less value than it purports to be worth in the recognized money of the world." The President then besought Congress to "repeal so much of existing legislation as required the coinage of silver dollars containing only four hundred and twelve and one-half grains of silver, and in its stead authorize the Secretary of the Treasury to coin silver dollars of equivalent value, as bullion, with gold dollars."

But Congress still refused to listen to the voice of reason. The majority in both houses were Democrats, nearly all of whom were wedded to both the greenback and free-silver heresies, and many, nay most, of the Republicans were laboring under the same delusions. Even Sher-

man was still undecided about the retirement of the greenbacks. President Hayes was, however, entirely clear in his mind upon these subtle and complicated questions. He was wiser than any or all of his colleagues and contemporaries in regard to them. Taught by bitter experience, we have taken one of the steps which the President recommended, viz.: the suspension of the coinage of legal-tender silver dollars, but the other menace to our monetary system, the three hundred and forty-six millions of greenback currency, still remains, making our currency rigid instead of flexible, redundant at times when it should be curtailed, and insufficient at times when it should be plentiful. Every sound financier knows that they ought to be retired, but the Congress and the voters are still not educated up to the adoption of such a measure. As to this, President Hayes still remains the prophet ahead of his time, but the true prophet whose time will surely come and whose teachings upon this subject also will surely prevail.

I cannot, however, close this short account of President Hayes' great services to the financial

development of his country without referring briefly to the great success of his administration in the refunding of the public debt and the great saving, in interest payment, to the nation. During the first three years of his term a saving of some fifteen million dollars per annum had been effected in this manner, and he and his able Secretary, Mr. Sherman, had matured a plan and proposed it to Congress, which in the last year of his term would have saved the country twelve million dollars more per annum. The Democratic Congress, however, loaded the proposed measure down with wild amendments which, Mr. Sherman said, would have made "the execution of the law practically impossible."

Among these amendments was one which the President believed would prove most destructive to the national banking system. Its effect would have been, as he thought, and rightly thought, to have concentrated the banking facilities in the relatively few large cities to the great disadvantage of the smaller cities and towns and the mass of the people, especially in the agricultural communities. Much as it

would have gratified him to have been able to say that the financial operations of his administration had saved the country, in the single matter of the refunding of the debt, over twenty-five millions of dollars in annual interest, instead of fifteen millions, he, nevertheless, decided that he must forego the glory of this statement to do his country the greater, though to the people far less apparent, good of preserving the national banking system against monopolistic tendencies and later monopolistic development. He therefore vetoed the bill and thereby prevented its enactment into law. This was his last great service to the cause of sound public finance, and it manifested not only his deep insight into this intricate subject, but his singleness of purpose and his great power of dealing with everything touching his public duty entirely objectively, and without any regard whatsoever to the effect of his decisions upon his personal or political fortunes or to the glory of success.

LECTURE IV

THE RE-ESTABLISHMENT OF THE GOVERNMENT UPON ITS CONSTITUTIONAL FOUNDATION

THE Civil War had subordinated all departments of the government to the executive as the commander-in-chief of the armed forces, and the period of reconstruction had carried the pendulum to the other end of the arc, and made the legislature supreme. It remained for President Hayes' administration to restore the constitutional equilibrium of independent co-ordinate departments, each acting within its own constitutionally prescribed sphere and all co-operating in the constitutionally prescribed manner.

President Hayes' activities as directed toward this end may be distinguished under three categories. First, his doctrine as to the presidential term. Second, his opposition to parliamentary government as unconstitutional and

as irreconcilable with the principles of the Republic. Third, his reform of the civil service.

First. It was President Hayes' firm belief that the admissibility of a second term in the presidential office furnished temptations dangerous to, if not absolutely incompatible with, the most effective discharge of the duties of the great office. He was convinced that it was too severe a draft upon human nature to expect that any man under the temptation of securing a second term would not have his thoughts, time, and energies diverted, in a greater or less measure, from the discharge of his official duties to the work of bringing about his renomination and his re-election. He also believed that the policies and official activities of a President under such a temptation would be, more or less, tainted with selfish considerations, which would blind his vision and demoralize his conscience. And, finally, he was clearly convinced that any reform in the official service, in middle and lower instance, could be secured only by emancipating the chief executive from any prospective political obligations to these officials or anybody else.

We find, consequently, in Mr. Hayes' letter of acceptance of the nomination to the presidency by the national convention of the Republican party, his firm and unalterable declaration that he would not accept the nomination for a second term, and in his inaugural address the proposal that a constitutional amendment should be adopted forbidding a re-election to the presidential office and extending the single term from a period of four to a period of six years. Nearly forty years have now passed since President Hayes made this wise recommendation, and it is not yet realized. I have no doubt that it will be finally realized. I am almost encouraged to think that it is nearer realization now than ever before. Men were inclined to regard it then as a far-fetched ideal for transcendentalists to amuse themselves with. Now it is taken seriously and is a plank in the platform of one of the great parties. Come to it we must, if we would have a President of the whole country, with all his thought, time, and energy devoted to his official work, and an official system capable, efficient, and incorruptible.

Secondly, President Hayes' wise and courageous struggle against the attempt to foist parliamentary government upon our country was much more immediately successful. The Constitution of the United States provides that all bills for the raising of revenue shall originate in the House of Representatives. Out of this power of the sole initiative of tax measures, the House of Representatives sought to develop a control of the entire budget, both of income and appropriation, such as that exercised by the British House of Commons, and then to use this power for forcing the consent of the Senate and the President to legislation contrary to their judgment and wishes. The course entered on by the House of Representatives for the attainment of this end was to tack the legislation, which it undertook to force through against the opposition of the Senate and the President, to the appropriation Bills for the support of the government, and hold up these until such legislation should be agreed to by them. It was not exactly a new thing at the time of the accession of Mr. Hayes to the presidency, but it had never before come to be so

manifestly a struggle between two systems of government, the parliamentary system and the check-and-balance system. The struggle began in the session of Congress of the year 1878–9.

The Democrats had the majority in the House of Representatives, and the Republicans in the Senate. The Democrats from the Southern States held the balance of power in their party. They were determined to abolish the acts of Congress relating to the disqualification of those who had taken part in the rebellion to act as jurors in the courts, and to the employment of the army of the United States to keep the peace at the polls, and finally to the control of the national elections by national officials. The Democratic House attached provisions repealing these laws to several of the most important appropriation Bills. The Republican Senate refused to pass the Bills with the riders, and the House refused to pass the Bills without them. The session closed on the 4th day of March, 1879, without having made any provision for the support of the most important branches of the administration.

President Hayes was, therefore, compelled to summon the new Congress, now Democratic in both houses, to extra session for the purpose of passing the appropriation bills. His message of summons was concise and to the point, and contained no argument in regard to the attitude of the late Congress, and no criticism upon it. It assumed that Congress would do its duty. It made a good impression upon the country, and the President started in with a fair field for the battle. The Congress passed, first, the appropriation Bill for the army, and tacked to it the repeal of the law authorizing the employment of an armed force to keep the peace at the polls. The President sent his veto of this Bill to the House of Representatives on April 29, 1879. The President objected to the provisions of the Bill against using an armed force to keep the peace at the polls, on the ground that it left the civil officers of the elections without protection in case of riot, and without physical power to enforce the laws. But his chief objection to the whole Bill was that, by the tacking process, it undertook to force the executive into submission to the legislature in a way not

provided in the Constitution. His position was stated in the following words:

"On the assembling of this Congress, in pursuance of a call for an extra session, which was made necessary by the failure of the Forty-fifth Congress to make the needful appropriations for the support of the government, the question was presented whether the attempt made in the last Congress to engraft by construction a new principle upon the Constitution should be persisted in or not. That principle is, that the House of Representatives has the sole right to originate bills for raising revenue and, therefore, has the right to withhold appropriations upon which the existence of the government may depend, unless the Senate and the President shall give their consent to any legislation which the House may see fit to attach to the appropriation Bills. To establish this principle is to make a radical, dangerous, and unconstitutional change in the character of our institutions. That a majority of the Senate now concurs in the claim of the House adds to the gravity of the situation, but does not alter the question at issue. The new doctrine, if maintained, will result in a consoli-

dation of unchecked and despotic power in the House of Representatives. A bare majority of the House will become the government. The executive will no longer be, what the framers of the Constitution intended, an equal and independent branch of the government. It is clearly the constitutional duty of the President to exercise his discretion and judgment upon all bills presented to him without constraint or duress from any other branch of the government. To say that a majority of either or both of the houses of Congress may insist on the approval of a bill under the penalty of stopping all of the operations of the government, for want of the necessary supplies, is to deny to the executive that share of the legislative power which is plainly conferred by the second section of the Seventh Article of the Constitution. It strikes from the Constitution the qualified negative of the President. It is said that this *should* be done because it is the peculiar function of the House of Representatives to represent the will of the people. But no single branch or department of the government has exclusive authority to speak for the American people. The most

authentic and solemn expression of their will is contained in the Constitution of the United States. By that Constitution they have ordained and established a government whose powers are distributed among co-ordinate branches, which, as far as possible, consistently with a harmonious co-operation, are absolutely independent of each other. The people of this country are unwilling to see the supremacy of the Constitution replaced by the omnipotence of any department of the government.

"The enactment of this Bill into a law will establish a precedent which will tend to destroy the equal independence of the several branches of the government. Its principle places not merely the Senate and the executive, but the judiciary also, under the coercive dictation of the House. The House alone will be the judge of what constitutes a grievance, and also of the means and measures of redress. An act of Congress to protect elections is now the grievance complained of. But the House may on the same principle determine that any other act of Congress, a treaty made by the President, with the advice and consent of the

Senate, a nomination or appointment to office, or that a decision or opinion of the Supreme Court is a grievance, and that the measure of redress is to withhold the appropriations required for the support of the offending branch of the government. Believing that this Bill is a dangerous violation of the spirit and meaning of the Constitution, I am compelled to return it to the House in which it originated without my approval. The qualified negative with which the Constitution invests the President is a trust that involves a duty which he cannot decline to perform. With a firm and conscientious purpose to do what I can to preserve unimpaired the constitutional powers and equal independence, not merely of the executive, but of every branch of the government, which will be imperilled by the adoption of the principle of this Bill, I desire earnestly to urge upon the House of Representatives a return to the wise and wholesome usage of the earlier days of the Republic, which excluded from appropriation Bills all irrelevant legislation. By this course you will inaugurate an important reform in the method of Congressional legisla-

tion. Your action will be in harmony with the fundamental principles of the Constitution and the patriotic sentiment of nationality which is their firm support; and you will restore to the country that feeling of confidence and security and the repose which are so essential to the prosperity of all our fellow citizens."

The houses of Congress were unable to pass the Bill over the veto, and they separated the two parts and passed the rider in a somewhat modified form which, however, failed under the veto of the President. Finally they passed the army appropriation Bill with a proviso that the army of the United States should not be used as a police force at the polls. As this was already the law, the President allowed them to save their faces, in some measure, in this way, and signed the Bill.

In the meanwhile the houses had tacked the repeal of the national election laws, under the form of such a modification of them as to make them almost incapable of enforcement, and of the juror's test oath, to the appropriation Bill for the support of the legislative, executive, and judicial departments of the government. After

the crushing veto of the army appropriation Bill, they separated the Bill for the support of the legislative, executive, and judicial departments into two measures, the one an appropriation Bill for the legislative and executive departments without any rider of any kind, and the other an appropriation Bill for the judicial department, with riders abolishing the juror's test oath and forbidding the use of any of the appropriation for enforcing the existing national election laws.

The President vetoed this latter Bill on like grounds to those contained in the veto of the army appropriation Bill, and the houses were unable to pass the Bill over his veto. They now divided this Bill into two parts, the one an appropriation Bill for the judicial department without any rider, but without any provision for the payment of the United States marshals and deputy-marshals, and the other an appropriation Bill for the payment of these with the rider, forbidding the use of any of the appropriation for the enforcement of the national election laws. The President signed the former and vetoed the latter. The Congressional session

closed without making any appropriation for the payment of the marshals and the deputy-marshals. Under exhortation and encouragement from the President, these kept on doing their duties patriotically without pay. At the next session, that of 1879–80, the houses passed an appropriation Bill for the payment of the marshals and deputy-marshals with a rider emasculating that part of the existing law relating to the employment of special deputy-marshals. The President refused to have his consent to the rider, which he did not approve, forced by the tacking process and vetoed this Bill. The houses finally gave way entirely and passed the Bill without any rider.

The President had won a double victory, and, in both parts, completely. He had vindicated the right and power of the national government to regulate by national law subjects made national by the Constitution and to enforce such national law by national officials, and he had prevented the parliamentary system of government, the system of the sovereignty of the lower house of the legislature, the system which finally extinguishes all of the constitutional immunities

of the individual, from displacing the check-and-balance system provided by the Constitution for the purpose of maintaining and protecting those immunities. This alone would have been sufficient to have made President Hayes' administration immortal. His contemporaries recognized in some, though not in full, degree the value of the great service he had done the country. The President was not unduly elated by their approval. He knew perfectly the fickleness of public opinion, and he had a fight on with the bosses of his party for the reform of the civil service which he knew well would strain the force of his favor with his party to the utmost. He wrote in his diary: "When *The Tribune* can say: 'The President has the courtesy of a Chesterfield and the firmness of a Jackson,' I must be prepared for the reactionary counterblast."

So soon as the President had settled the Southern question by the withdrawal of the troops, he addressed himself to the great problem of improving the civil service. In the early days of the Republic, when the number of officials was relatively small, and before the European

idea of permanency of term had given way to the new American idea of a change of all officers at the beginning of each new administration, it was possible for the President and the heads of the departments to select from among their personal acquaintances proper incumbents for the civil service of the government. After these changes, however, began to have their appreciable and then their full effect, in the sixth and seventh decades of the last century, it became more and more manifest that this was no longer possible. Already in the year 1853 and 1855 laws had been passed by Congress requiring examinations of candidates for office in the national civil service. The character of the examinations was not, however, fixed by these laws, and it soon became manifest that the arbitrariness and favoritism which had formerly characterized the *appointments* had only been transferred back to the determination of the *admission* to examination.

By 1865, and with the great increase in the number of offices in the civil service, the grievance became a crying one, and in 1866 Mr. Jenckes, of Rhode Island, began the agitation for

reform in the House of Representatives, and in 1869 Mr. Schurz, in the Senate. This agitation continued during the next four years, and in 1870 was increased and furthered by the recommendations of President Grant in his annual message of that year. In this message President Grant called the existing system of appointment to the civil offices of the government an abuse, and asked that Congress immediately find the remedy for it. He said: "The present system does not secure the best men, not even fit men, for public place. The elevation and purification of the civil service of the government will be hailed with approval by the whole people of the United States." Under this pressure Congress passed the Act of March 3, 1871, vesting in the President the power to make rules and regulations for admission to the civil service of the government.

The President immediately constituted a civil-service commission with Mr. George W. Curtis for its chairman. This commission adopted the principle of free competitive examinations for admission to the civil service, admitting new men, through these, only to the

lowest grades in the service and promoting from the lower to the higher grades. The hostility of the spoilsmen of both of the great parties, and especially of the Republican, as the ruling party, to the new system of non-partisan, business administration in the middle and lower offices quickly manifested itself. Congress refused to continue the appropriation for the commission, and President Grant let the matter drop. The improvement in the service had, however, been so evident that the country clamored for the continuance of the reform. The national conventions of both of the great parties in 1876 contained civil-service-reform planks in their platforms.

If the writers of these planks intended them simply for political effect, and supposed that the newly to be elected President would ignore them at a sign from the party leaders, they greatly misread the character of Mr. Hayes. In his letter of acceptance, and in his inaugural address, he dwelt particularly upon this subject, and gave strong evidence of his earnestness and determination concerning it. He declared in his inaugural address that the reform must be

"thorough, radical, and complete," and indicated what he meant by this, viz.: appointment on the ground of capacity alone; security of tenure on the ground of honesty and faithful performance of duty; and freedom from any of the requirements of partisan service. It was in this connection that he used the famous sentence which has taken its place among American political maxims, and to which I have already referred: "He serves his party best who serves his country best."

In the carrying out of this reform it was upon Mr. Schurz more than upon any other member of his Cabinet that President Hayes relied. Mr. Schurz was the idealist, with great historical knowledge and a wide, practical experience both in Europe and America. He had the independence of superior knowledge, and the strength and tenacity of absolute uprightness. President Hayes knew well his great worth and gave him unreserved confidence. The President appointed him with Mr. Evarts, at the very outset, as a committee of the Cabinet for formulating the regulations governing appointments. Evidently the President was determined to take the

matter of civil-service reform into his own hands and not wait for the action of Congress. Secretary Schurz immediately reformed his own department on the principles laid down in the President's inaugural address, and made it the model and the object-lesson for all the others and for the entire service. Everything superfluous was done away with, all incompetent or unfaithful persons were dismissed, and honesty, capacity, efficiency, and fidelity to duty became the sole ground of appointment to, continuance in, and advancement in, office. All the departments at Washington quickly followed the example of the Department of the Interior, and a marked improvement was distinctly observed throughout all the offices at the national capital.

The next step was to extend the reform from Washington throughout the country. The most important place in the whole country, outside of Washington, required it most pressingly, viz.: the New York custom house. Two-thirds of the customs revenue of the entire nation were collected there. Two-thirds of the imports of the entire nation passed through its gates. Here, therefore, was the greatest pos-

sible opportunity for political favoritism, incompetency, fraud, and corruption. And this possible opportunity had been well improved. The place was filled with holders of sinecures, pot-house politicians, and incompetents. Graft abounded everywhere, from passing dutiable articles of personal baggage for a tip to undervaluing the imports made by New York City merchants who had sufficient political influence to bring it about. Secretary Sherman appointed an investigating committee with the venerable and upright John Jay as its chairman, who reported the most scandalous condition of affairs and recommended its speedy and radical cure. On the 26th of May, 1877, the President sent Secretary Sherman a written communication approving the recommendations of the committee. He wrote: "It is my wish that the collection of the revenues shall be free from partisan control, and organized on a strictly business basis, with the same guarantees for efficiency and fidelity required by a prudent merchant. Party leaders should have no more influence in appointments than other equally respectable citizens. No assessment for politi-

cal purposes on officers or subordinates should be allowed. No useless officer or employee should be retained. No officer should be required or permitted to take part in the management of political organizations, caucuses, conventions, or election campaigns. Their right to vote, and to express their views on public questions, either orally or through the press, is not denied, provided it does not interfere with their official duties."

Here was the whole system of civil-service reform in a nutshell. The Republican politicians were against it tooth and nail. They saw in it their loss of patronage, and they declared that to deny to the office-holders the leadership in the caucuses and conventions would disrupt the party and doom it to defeat. But the President was neither frightened nor intimidated. On the 22d day of June, 1877, he caused a letter to be addressed to all civil officers of the government containing the following instructions: "No officer should be required or permitted to take part in the management of political organizations, caucuses, conventions, or election campaigns. The right to vote and to express their

views on public questions, either orally or through the press, is not denied, provided it does not interfere with their official duties. No assessment for political purposes, on officers or subordinates, should be allowed. This rule is applicable to every department of the civil service. It should be understood by every officer of the general government that he is expected to conform his conduct to its requirements."

The President thus threw down the gauge of battle to the spoilsmen everywhere. He pursued his course without wavering, but was able to execute his order only in part. His opponents pointed to the Republican defeats in the State elections in the autumn of 1877 as the fruit of his policy of denying to the officials the control of the party organization. He admitted that the first effect of this policy was disorganizing, but contended that this would be speedily followed by a better and purer organization, and he called upon Congress, in his message of December 3, 1877, to revive the civil-service commission, constituted by the law of March 3, 1871, still in existence, by making a suitable

appropriation for its support. Pronunciamentos and recommendations would not, however, solve the question. The order of June 22d must be enforced, and enforced, first of all, against the highest offenders. These were the officers of the New York custom house, Mr. Chester A. Arthur, the collector, and Mr. Alonzo B. Cornell, the naval officer. These men openly defied the order and continued managing the conventions and caucuses of the Republican party. Mr. Cornell persisted in holding his place as the chairman of the Republican State committee of the State of New York. President Hayes first asked these two men to resign their offices. They ignored his request and he nominated Mr. Theodore Roosevelt, Sr., and Mr. L. Bradford Prince to take their places. At the same time he nominated Mr. Edwin A. Merritt to take the place of Mr. Sharpe, whose term as surveyor of the port had expired. As the Senate was in session these nominations went to it immediately for confirmation. Since Mr. Merritt's nomination was to a vacancy, the Senate confirmed it, but Senator Conkling and his spoilsmen colleagues were able, after a fierce

and acrimonious debate, to reject the nominations of Roosevelt and Prince, and keep Mr. Arthur and Mr. Cornell in their places. The President remained, however, undaunted by this defeat. He wrote in his memorandum of events: "I am right, and shall not give up the contest." He waited until the session of the Senate expired, and, it having daily become more manifest that the reforms could not be carried out in the New York custom house with Arthur and Cornell as collector and naval officer, backed by Conkling and the spoilsmen, he suspended them from office and appointed Mr. Merritt, the surveyor of the port, to the collectorship, and Mr. Silas W. Burt, the deputy naval officer, to the surveyorship. Of course, these names had, according to the existing Tenure of Office Acts, to be submitted to the Senate for confirmation upon the reassembly of the body, *i. e.*, in December of 1878. So soon as this was done, the contest broke out anew and raged for nearly two months. At last the President, judging the moment opportune, sent a message to the Senate, enclosing a letter from the Secretary of the Treasury which exposed the scandals

of the custom house so thoroughly that many of the senators saw that the courtesy of the Senate for Mr. Conkling could no longer withstand the popular displeasure. On the 3d of February, 1879, the Senate confirmed the President's nominations, and the great battle was won.

The President now caused a code of rules to be formulated regulating appointments to, promotion in, and dismissal from, office in the civil service, divorcing the service entirely from politics and basing it on ability, honesty, and efficiency, as determined impartially by competitive examinations and actual work. This code was framed primarily for the New York custom house and post-office, but it was put in operation in all the great administrative offices throughout the country.

It will be seen, however, that the civil-service reform as instituted by President Hayes was one founded on rules issued wholly by the Executive Department of the government, and put in practice by the officers in each department. In a monarchy, that is, in a government where the executive holds his office for life and

by the tenure of hereditary right, such a reform may be, probably would be, permanent; but in a government where the executive is elected and holds for a short term of years, it is exposed to the risk of vicious modifications and even total abandonment. Naturally, therefore, President Hayes sought to give his great work permanence by appealing to Congress to put it on the foundation of organic statutes.

In his annual message of December 1, 1879, he transmitted to Congress an elaborate report by Mr. D. B. Eaton, the chairman of the civil-service commission, who generously served without compensation in that capacity, urged Congress to co-operate with the executive in furthering the reform and in placing it upon the basis of Congressional statutes instead of executive ordinances, and recommended a suitable appropriation for the support of the work of the civil-service commission in extending the reform throughout every branch of the administrative service. Still Congress, composed now in both branches of Democrats in majority, would not heed him. He struggled on another year, doing everything in his power without

the support of statutory provisions and permanent laws. The service was improving all the time, however, and while he was subjected to fierce criticism from the spoilsmen, on the one side, whom he was depriving of patronage, and from the radical reformers on the other, for whom he did not advance fast enough, he nevertheless built steadily the structure, which was never again completely demolished, and which is now at last fairly well established.

In his final annual message, that of December 6, 1880, he made a last vigorous appeal to Congress to give his great work the permanency of law. He told Congress that the stability of the government was threatened by the dangers of patronage, *i. e.*, of appointments upon recommendation by the members of Congress "for personal or partisan considerations," and that these dangers increased with "the enlargement of the administrative service and the growth of the country in population." He implored Congress to meet these dangers and dispel them by laws confirming and making universal the system of competitive examinations for appointment, which he had instituted, relieving the

members of Congress from "the demands made upon them by their constituents with reference to appointments to office, defining the relations of the members of Congress to the same, enabling the officers of the government to safely refuse demands upon their salaries for political purposes, and making regular and sufficient appropriation of funds for supporting and developing the work of the civil-service commission." He also begged Congress to repeal the vicious Tenure of Office Act of March 2, 1867, which had contributed so greatly to the demoralization of the civil service, in high instance, by giving the confidential advisers of the President a power over him, at the pleasure of the Senate, most destructive to the proper order of authority in the administration of the government.

But Congress was as deaf as ever to his plea, and he left the great office three months later with the feeling that the great structure which he had reared rested only upon a foundation of sand. But it was not so. His work had been a great object-lesson to the American people, and it has never again been possible for any subsequent administration to ignore it. He had

builded better than he knew, and it was vouchsafed to him by a kind Providence to see that himself before he was gathered to his fathers.

The settlement of the Southern question, the resumption of specie payment, and the reform of governmental practice and service were the great achievements of the Hayes administration, but other things were successfully accomplished, always with the same sound judgment and in the same high tone. There were serious disturbances with Mexico attending the violent advent of Porfirio Diaz to the presidency of that turbulent people not at all unlike what has been taking place there during the last two or three years. Mr. Hayes was no more pleased with the way Diaz came to the presidency than was Mr. Wilson with the supposed or assumed complicity of Huerta in the killing of Madero, and there were the same violations of, and dangers to, American interests, and the same boundary infractions by Mexican marauders to be dealt with. But Mr. Hayes was a practical statesman, of refined manners, and he had at his council-table in the Department of Foreign Affairs a rather indifferent politician indeed, but

the best international lawyer in the country, and while the administration "waited watchfully" for Diaz to re-establish order at the centre, and threw nothing in the nature of ideal Democratic principles in his way, and extended no aid to his adversaries, it sent General Ord and the soldiers to the Rio Grande and instructed him to protect our boundary and, if necessary, to pursue those infracting it into Mexico and punish them and recapture stolen property, with the result that Diaz became firmly established and universally commanding, and to Mexico was vouchsafed thirty-five years of such peace and prosperity as it had never before enjoyed and, I fear, never will again.

The policy of the President in the Chinese question was no less wise, just, firm, and successful. The Pacific coast was roused to a frenzy of excitement over the influx of the quiet, industrious Chinese laborers, and demanded the instant abrogation, by Congressional act, of our treaty with China allowing the free ingress of the subjects of each country to the other. Congress, under the influence of political pressure, passed the act abrogating the treaty, but the

President vetoed it on the ground that, except under dire necessity, which did not then exist, it would be a violation of international good faith, and the houses were unable to repass it in sufficient majority to overcome the veto. The President then took the matter up diplomatically with the Chinese government and secured by mutual agreement the desired relief.

It was during President Hayes' administration also that the French Republic undertook, through nominally private enterprise, to get hold of the construction and control of the connection by canal of the Atlantic and Pacific Oceans through the Isthmus of Panama, and it was President Hayes who, first of American Presidents, formulated the policy of the United States in regard to such a waterway. In a special message of March 8, 1880, the President declared:

"The policy of this country is a canal under American control. The United States cannot consent to the surrender of this control to any European power or to any combination of European powers. If existing treaties between the United States and other nations, or if the rights

of sovereignty or property of other nations, stand in the way of this policy — a contingency which is not apprehended — suitable steps should be taken by just and liberal negotiations to promote and establish the American policy on this subject, consistently with the rights of the nations to be affected by it."

President Hayes did not live to see the principle which he formulated regarding the Panama Canal realized, but I venture to say that had he been in the presidential chair when the time was ripe for it, he would have acted with no less decision and effectiveness, though perhaps with more impeccable diplomacy, than his successor in office did.

Returning again from the foreign to the domestic field, we must not overlook the great fact that President Hayes' administration found the key to the solution of our long-vexing Indian problem, and advanced that solution many stages towards completion. To his brilliant Secretary of the Interior, the statesman with a conscience and an ideal, President Hayes himself was accustomed to ascribe the success of his administration in the handling of the Indian

problem. But we must remember that it was President Hayes' sound judgment of men that brought Mr. Schurz into his Cabinet against great opposition by the leaders of the Republican party. What Mr. Schurz did also was done with President Hayes' approval and support, and, therefore, while still attributing to Mr. Schurz the initiative in this great work, we must consider it one of the great achievements of President Hayes' administration.

The elements of the Indian policy were simple as all great things are simple. They were, first, the education of the Indians in schools apart from their tribes, and in the practical things of civilized life. Promising boys and girls, judiciously selected, were sent to the Hampton Institute. The cavalry barracks at Carlisle were assigned to Mr. Schurz's department for a school entirely for the Indians, and another school for them was established at Forest Grove, in the State of Oregon. In the second place, the allotment to individuals of small farms in complete separate ownership, under the limitation that they could not, for a term of years, be disposed of by their owners. In the third place,

the sale of the remaining lands of the reservations to white settlers and the devotion of the proceeds to the Indian fund for their benefit and support. And in the fourth place, the training of the Indians to keep order among themselves by the organization of an Indian police force officered by whites.

So rapid was the progress of the Indians under this policy that President Hayes had the great satisfaction of writing in his last annual message: "It gives me great pleasure to say that our Indian affairs appear to be in a more hopeful condition now than ever before. The Indians have made gratifying progress in agriculture, herding, and mechanical pursuits. Many who were a few years ago in hostile conflict with the government are quietly settling down on farms, where they hope to make their permanent homes, building houses and engaging in the occupations of civilized life. The organization of a police force of Indians has been equally successful in maintaining law and order upon the reservations, and in exercising a wholesome moral influence upon the Indians themselves."

We of to-day, the fortunate heirs of the re-

sults of this wise policy, know that we have now no longer a dangerous Indian problem, and we dare not forget to whom we owe our success in preserving to civilization the remnants of a once powerful race, a race which yielded to us the possession of the continent.

Such was, in outline, barest outline, the administration of Rutherford B. Hayes as the nineteenth President of the United States. It is a topic upon which volumes could be easily written, but when we say, in a single paragraph, that when he left the presidential office the country enjoyed profound peace and friendship with every country of the world, that every great internal problem — the Southern problem, the currency problem, the civil-service problem, and the Indian problem — had been solved or put upon the right course of solution, that the whole country was prosperous and happy, and that his party had been restored to power in all branches of the government, we certainly shall have presented proof undeniable of the high success of Mr. Hayes' administration; and when we compare the situation at the end of it with the situation of chaos, confusion, and bad tem-

per reigning everywhere and at all points in the beginning of it, we must conclude that no wiser, sounder, and more successful presidential period has ever been experienced by this country. If Kenyon College had never done anything more for the country and the world than to start Rutherford B. Hayes on the course of his higher education, it would still have vindicated its title to existence and perpetuation and to the respect and veneration of the nation which he served and honored in the highest capacity which can fall to the lot of man.

In estimating the great services of President Hayes to his country, there is, however, one more very important factor to be taken into the account, and I cannot regard this series of lectures upon the administration of President Hayes as complete without a few words upon the administration of Mrs. Hayes. When Mrs. Hayes went to Washington as "the first lady of the land," the society of the capital and of the official circles had reached almost the limit of vulgarity, ostentation, extravagance, and, in many cases, debauchery. Much of the official corruption which then prevailed has been ac-

counted for by the pressure which the men found themselves under in order to provide dress and entertainment for the women. Smoking, drinking, gambling prevailed everywhere. And it is not too severe to say that common taste and bad manners were to be met with in the White House itself. With the advent of Mrs. Hayes as its mistress, everything was changed, changed radically and in the twinkling of an eye. Simplicity, modesty, refinement, unfailing courtesy, incomparable tact, genuine cordiality, temperate living, and high thinking took the place of qualities which patriotism forbids me from properly designating. The very highest type of genuine Americanism, of the genuine American family life, had now, most fortunately for the country and at the most necessary moment, become the model in highest place for the imitation of the nation. The influence of it was felt immediately through the official circles, through the society of the capital, and gradually through the entire land. There was some ill-natured criticism on the absence of wines and alcoholic beverages from the White House entertainments, but Mrs. Hayes' one

experience with them at the banquet given in the second month of her Washington life to a couple of Russian grand dukes was enough to determine her unalterably to banish them from her table. Her entertainments were generous and very frequent, and she kept the mansion full of house-parties, while literary, musical, and artistic functions were preferred above all others. In a word, the White House became, under the administration of Mrs. Hayes, a seat of finest culture for the refinement of the society of the capital and the country. Since her day and after her example Washington society has never dropped back again to the low level of 1876.

But Mrs. Hayes' administration went much further than the social regeneration of the capital, and through it, in some degree at least, of the country. She possessed two qualities which strengthened the character of the President mightily and sustained him powerfully in his work. The one was her passion, I might almost say, for aiding others and making others happy, and the unconsciousness of self which is always the accompaniment of this high virtue. This

more than anything else was the secret of her personal fascination, and it elevated the spirit and character of every human being with whom she came in contact. What an ennobling influence it must have had upon the mind and heart of the man who was privileged to live with her in perfect accord for so many years! The President said of her after her departure had left him desolate: "I think of her as the golden rule incarnate." It is impossible to calculate the value of such a woman, as life companion, to a man in any station, so much more in high station, and so much more still in the highest station. The friends and supporters which, by this quality, she drew to the President were innumerable; but more than all this it was the influence exerted upon the development and refinement of his own character which must be reckoned as of supreme importance.

The second quality was her absolute faith and confidence in her husband, in his ability, his truthfulness, his conscientiousness, his integrity, his singleness of purpose, and his loyalty. Misunderstood, criticised, abused, and maligned, he could always turn to her, not for blind de-

votion, but for intelligent appreciation, wise counsel, friendly advice, and for complete understanding of his purposes. There is no force under heaven so calculated to put clearness and correctness into a man's judgment, courage into his heart, and rectitude into his motives as such faith and confidence on the part of a pure, noble, intelligent, whole-hearted, and unselfish woman, for whose truthfulness of mind and character his respect knows no limits. Under such an influence it is no wonder that the personal and family life of President Hayes was impeccable, and his political life incorruptible. It would have put lofty ideals and exalted purposes into a man of far less original virtue than was President Hayes' heritage. As it was, and taken all in all, the historian can say conscientiously and without exaggeration, that the finest examples of genuine American manhood and womanhood who ever occupied the White House of the nation were Rutherford Birchard and Lucy Webb Hayes.

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