

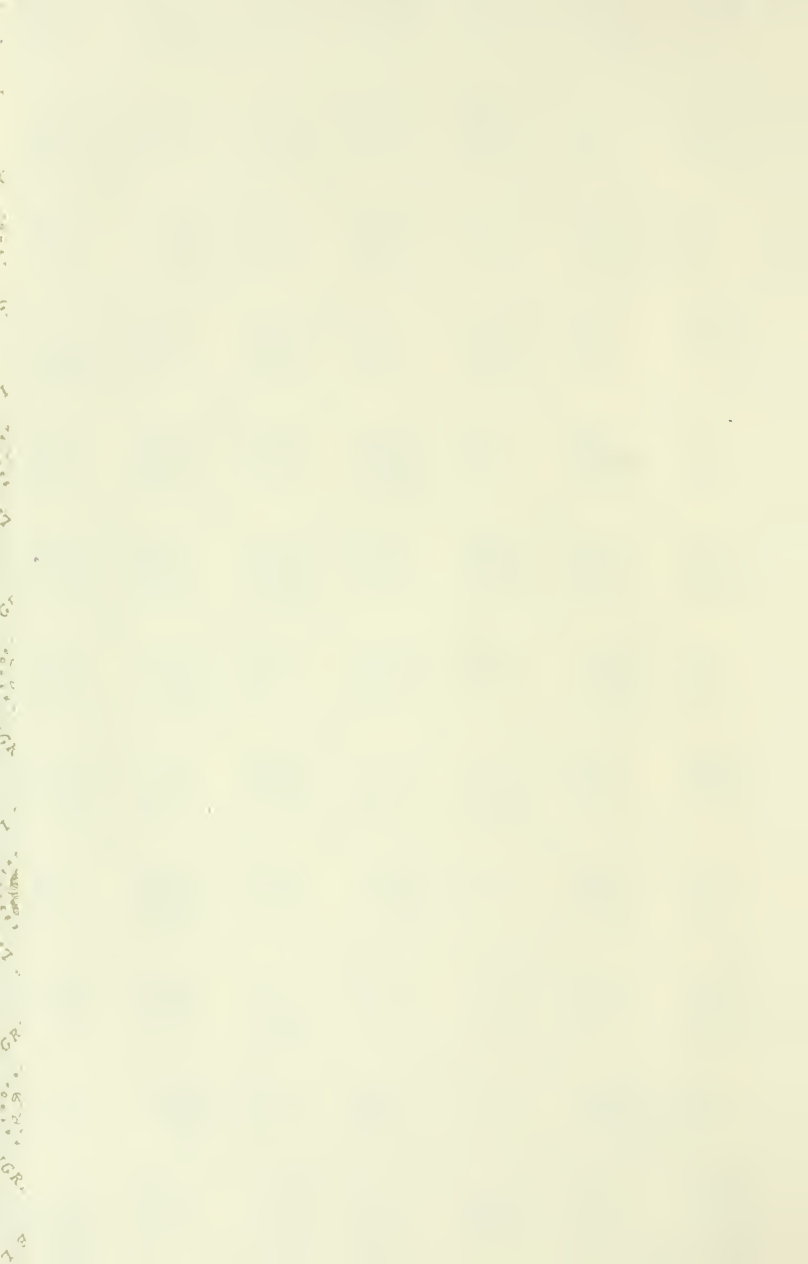
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# LIFE AND SPEECHES

OF

# HAMILTON WARD.

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## PREFACE.

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For the better part of three years the preparation of my father's biography has occupied my spare moments and I feel myself viewing its completion with regret because the task has been a pleasant companion from whom I am loath to part.

Much pleasanter, indeed, would it have been could we have ransacked attic and scrap-book, newspaper file and public document together in this work as I had hoped; then the dry and disjointed array of facts which I have gathered would have glowed with his vigor, sparkled with his humor and told a story which would have described more correctly his active and eventful life.

Nevertheless, as that was not to be, I have endeavored to set down from such scattered and in many cases unsatisfactory sources as I could command the following narrative which is written, not for wide publicity or in response to any public demand, but for the family and for the few old and dear friends who would take pleasure in recalling, through these pages, once familiar occurrences.

And above all else it is written for the purpose of preserving in permanent form the record of a life whose every event and circumstance I love to remember.

He was devoted to his home and village and much local history has crept in because it was so closely associated with him.

I have set forth his speeches at much length for they were typical of him and grew with his growth; and the episodes of his congressional career will deepen with interest

as the passing years teach us the true importance of that great period toward which the future will turn for precedent and inspiration.

The Hendryx case is set out in full as it illustrates his industry and mastery of detail and the summing-up is, I believe, a good example of forensic eloquence; and I have gone at some length into the history of the Manhattan litigation as that was the greatest trial that ever befell my father and the test of a man is the way he meets adversity.

I have not endeavored in the following pages to do much more than to set out his work and that, I fear, has been done imperfectly, as the personal knowledge possessed by myself and my brother, whose assistance in this matter has been of great value to me, extended over only the last ten years of his life; before that we were too young to know more than that he was our best friend and companion; that he was always just and absolutely without deceit or pretence.

He counceled us in our boyish troubles, shared our secrets, furthered our plans, taught us our sports and as we grew older we were even closer to him; he entered with keen zest into our studies and early professional struggles and told us of his own plans and efforts. He was more than a parent, he was our inspiration, our advisor, our best friend, whose pleasure and approval were our highest aims, and upon whose judgment we implicitly relied.

Genial, keen and vigorous his death seemed most untimely; but he died at work with his natural powers unabated and perhaps he would have had it so.

He sleeps on the brow of a little hill to the west of the village of Belmont which for half a century was loyal to his fortunes and to whose every inhabitant he was a friend.

HAMILTON WARD, JR.

April 14, 1902.



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## CHAPTER I.

### Family History.

In the year 1879, Hamilton Ward was "stumping" the State of New York as a candidate for Attorney-General, and on the 9th day of October, of that year, was in Boonville, Oneida County, N. Y., where he delivered an address. After the speech he was asked by a young man present to go to call on James Ward, who the young man said, desired to see him. He did as requested, and found an old man over ninety years of age, who informed him that he was his great uncle, and from his lips he took down the history of the family in America, which is as follows:

"My grandfather's given name was Peter. He was born near the line that divides England and Scotland, on the Scottish side. He was part Scotch and part Irish. He came to this country before the Revolution, and settled in what was called Long Pond, N. J., about thirty miles from New York City. He was a farmer. His son, my father's given name was also Peter. He was bound out to a tanner. He was a large man with black hair and dark blue eyes. He was a very active man. He was born at Long Pond, now Ringwood. He was all through the Revolutionary War. He entered as a private and was promoted to captain for merit. He died in 1812, aged fifty-seven. He settled in Camp Gaw, N. J., right after the Revolutionary War. He was a great politician and a Federalist. He was a member of the Senate and Assembly of New Jersey for twenty years—most of the time in the Senate. He had a good farm.

My mother's maiden name was Nancy Mead. She was born in Holland. Her father's name was John Mead, who emigrated from Holland before his daughter's marriage, and settled in Camp Gaw. My parents had five sons, Peter, the oldest, John, Thomas, James (myself) and William, and three daughters, Jane, Catherine and Mary.

Peter was born at Camp Gaw. When he was married he settled there. He had a farm of a hundred acres and a distillery, and was doing a good business. He was three months in the war of 1812. He was brigade major of the militia, and was stationed at the Narrows. In the flush times, during the war, he bought property at high prices, and it ruined him. He made an assignment of his property to his brother, and moved to this place (Boonville). Losses and troubles made him deranged and he wandered off, his family knows not where, and died on Long Island. He was a very smart man. Short in stature with black hair and eyes. He was a great politician and like his father a Federalist.

My sister married Isaac Bogart of Camp Gaw.

Catherine married Stephen Sloat of Sloatsburg, N. Y.

Mary married Abram Dater of Rockland County, N. Y.

Nothing is known of the family prior to its emigration. The records of the State of New Jersey show that Captain Peter Ward was appointed a recruiting officer for Bergen County in 1781, and was captain in the State Militia during the Revolutionary War. That he was a Captain of Light Horse in Major Hayes' Battalion of State Troops is set forth in a book entitled "Officers and Men of New Jersey in Revolutionary War," compiled by William Styker. He was born in 1755 at Ringwood, N. J., and died at Camp Gaw, March 15th, 1812. His wife, Nancy Mead, was born in Holland in 1763, and died at Camp Gaw, May 16th, 1806.

Concerning the history of the other children no information is at hand, and this chapter will concern itself principally with the immediate stock of Hamilton Ward.

Peter Ward, the eldest son referred to in the statement of James Ward, was born at Camp Gaw, in 1781, and married Maria Colfax in the year 1802. She was the daughter of Robert Colfax, and niece of George William Colfax and second cousin of Vice-President Schuyler Colfax. Major Peter Ward served under General William Colfax in the war of 1812, and was stationed at Bergen Heights and Sandy Hook.

Peter Ward and Maria Colfax had twelve children, of which the oldest was Robert Colfax Avery, born in 1803,

and the second, Peter Hamilton, born at Camp Gaw, N. J., Sept. 24th, 1804, the middle name being given contrary to the family custom in honor of Alexander Hamilton, of whom the father and grandfather had been warm admirers, and family tradition says, although there is no documentary proof, that Major Peter Ward was present at the famous duel between Hamilton and Burr. There was one other son, John Jacob, and nine daughters, Sarah Ann, Harriett Colfax, Jane, Mary, Catherine Sloat, Lucy Prince, Peyrna, Maria Colfax and Elizabeth Salter. Neither Robert nor John left sons.

Peter Hamilton Ward had an only son, Hamilton, who is the subject of this book.

Owing to the reverses of Major Peter Ward, referred to in the statement of James Ward, the family removed to Oneida County, N. Y., in 1819, then almost a wilderness, and took up the battle of life as pioneers.

In 1828 Peter Hamilton Ward married at Saulsbury, Herkimer County, New York, Eliza Cleveland, who was the daughter of Daniel Cleveland, and was born Nov. 27, 1811, and on July 3rd, 1829, their first child, Hamilton Ward, was born, at Saulsbury, on the farm where Peter Hamilton Ward then resided.

When Hamilton Ward was five years of age the family removed to Green Spring Plantation, near old Jamestown, in James City County, in the State of Virginia. This plantation was owned by Robert and John Ward, who had become men of some property, and who also owned a line of schooners which ran from the plantation and other ports in Virginia to New York City; it was sold by Robert in 1886. There was also a considerable number of slaves owned by the brothers.

Green Spring was a historic spot. It had been the home of Sir William Berkely, the bloody royal Governor of Virginia, and of a number of his successors. Famous men of the Colonial period were buried there, and the great brick house had seen many a gay concourse and grave assembly of men and women who made the early history of this people. Old Jamestown was but four miles distant, and Williamsburg

but eight miles. It was one of the first and best plantations of the colony and contained three thousand acres. The irony of fate has recently located upon the site of old Sir William's house a postoffice called Bacon, after the man who so successfully resisted the Governor's authority and conducted the famous Bacon Rebellion.

The silent and historic places, the solemn forests, the great lonely river left an indelible impression on the boy's youthful fancy. He learned, too, to love the sea and often sailed to and from New York on his uncle's schooners, and he gathered from the negroes around him the songs of the South, which he always remembered.

Four years later the family removed to the County of Chemung, in the State of New York, where Peter Hamilton purchased a farm about a mile west of the village of Horseheads, and remained there until 1849, when he returned to Virginia, and again took up his residence on the Green Spring Plantation. His wife, Eliza Cleveland, died on the 5th day of December, 1849, and was buried on the Powhatan Plantation, in a private burying ground in James City County, near old Jamestown. She left one other child besides Hamilton, a daughter, Harriett Elizabeth, born January 23rd, 1838.

Eliza Cleveland's grave is marked with a marble head and foot stone, upon which her name is inscribed. The plantation on which it is located is about seven miles southwest of Williamsburg, and was formerly owned by Dr. Martin.

It is now the property of Charles E. Dean, of Williamsburg. An iron fence has recently been erected about the grave.

Eliza Cleveland was a woman of most sweet and lovable disposition. The early papers and journals of Hamilton Ward are full of tender remembrances of her.

Peter Hamilton sold his Horseheads farm in 1853 and removed to Belmont, N. Y., in 1859. There he purchased a farm about two miles outside of the village, and remained there with his son in the village until 1867 when, having sold his farm, he removed to a farm owned by Mary Adelia Chamberlain, the wife of Hamilton Ward, in Waterloo, N. Y. He worked this farm until his death, which occurred



on May 4th, 1880. He is buried in the "New Cemetery" in Waterloo, N. Y., and his grave is marked with a headstone. His daughter, Harriett Elizabeth, never married. She resided with him up to the time of his death, and then went to live in New York City with a niece of her mother's, Mrs. Eliza Angevine, where she still is.

Peter Hamilton Ward was a careful, industrious and extremely conscientious man. He was a member of the Episcopal Church, and a Whig in politics. When the Whig party went to pieces he became a Democrat, and remained such until the time of his death. So strong were his party convictions that on one occasion when his son was a candidate for Congress, he accompanied him to the polls, and cast his vote for his adversary.

He was known for his fair dealings and honest, kindly heart, and all those who recall him do so with pleasure. He never accumulated much property nor does it appear that he ever cared for it. After his wife's death he was for a time shattered in health, but his later years found him active and useful.

The deepest affection always existed between him and his son, as is shown by the letters which they exchanged and the references to him in his son's journal.

He was opposed to his son's course in actively participating in politics, and when his son informed him that he intended to leave the farm and study law he replied that "he had hoped that his only son would be an honest man." To do right and be just was his highest ambition and as near as possible he attained to it.

## CHAPTER II.

### **Boyhood, 1829 to 1849.**

Hamilton Ward was born in Saulsbury, N. Y., on the 3rd day of July, 1829.

His mother was a woman of intelligence and force of character, and he received from her most of his early education.

When he was five years of age the family removed to Green Spring Plantation, on the James River, near old Jamestown, in Virginia, and remained there four years.

While in Virginia he attended a private school, where he boarded; however most of the recollections he had of that period of his life were of negroes on the plantation, their songs and customs, and of the schooners which his uncles owned, and which conveyed to New York wood cut by the slaves. On these schooners the boy often sailed, and in the heat of the summer the family sometimes returned on them to Camp Gaw, N. J., where relatives resided.

In 1838 the family removed to Horseheads, in Chemung County, and there Hamilton Ward attended the public schools of the village of Horseheads, near the city of Elmira. Most of the old schoolmates and friends are dead, and but little data remains which will throw light on his boyhood.

Benjamin Marriott, now of Corning, N. Y., lived on the next farm. He says that Hamilton and himself attended school at Horseheads during the winter months until his father, mother and sister removed to Virginia again, when he went to school for one winter in New York City. Marriott says:

“As a pupil Hamilton was always at the head of his class. He was fond of debating, and was regarded as one of the best in the school. In his youth he was an ardent Whig,

and at the age of nineteen years he was engaged by the Whig County Committee to deliver political speeches at points within the county during the Presidential Campaign. Many dark and stormy nights I have gone with him to some little school house where he would deliver a political speech, and we would arrive home during the small hours of the morning. He always gave satisfaction to the Committee and to his party, who listened to him, and acquitted himself with credit. He was firm in his convictions, and always stood by what seemed to him to be right."

Marriott further says that when the old Whig party broke up, and Hamilton became a Republican, it was in opposition to his father's wishes, who sympathized with the Democratic party on account of his pro-slavery views, owning as he did at that time, in connection with his brothers John and Robert, many negroes on the Green Spring Plantation, and that many arguments occurred between father and son on the subject of slavery.

In the Blossburg Industrial Register, under date of July 31st, 1879, appears an article on the class of 1847-48, which met in Old Masonic Hall in Horseheads, under Prof. W. S. Minier, who later became a Circuit Court Judge in the State of Oregon; in which the name of Hamilton Ward appears as a member of the class. There was also a teacher in rhetoric to whom Hamilton paid much attention and whom he frequently recalled—an absent minded old gentleman whose head was filled with declamations, which he constantly repeated. It was his custom to call every Sunday night on a certain maiden lady and tie his horse to a post in front of the house. On coming out he always walked home leading his horse, reciting aloud. To test his absent mindedness on one occasion Hamilton and other boys of the school removed the horse, and as the tale goes, the old man dragged the bridle home unconscious of the fact that the horse was not attached to it.

Hamilton's first attempts to make public speeches were opposed by his father, who was a quiet man and cared little for such things, and he has often spoken of a certain occasion upon which he was invited to address a Whig meeting

in the then flourishing village of Elmira. He was called for by the Committee of Citizens in a carriage. They inquired for Mr. Ward, and his father went out to meet them. They said they wanted the Mr. Ward who was going to make a speech that night, and the old gentleman replied that there was no such person, and that his boy, who was the only other one of the name in the neighborhood, was in bed. The carriage drove off, but Hamilton dodged his father, caught up with it, and attended the meeting.

He had a full beard at nineteen, and was several times sent as a delegate to conventions before he was of age.

It does not appear that he traveled much, except that he made several journeys to and from Virginia and to and from the city of New York and points in New Jersey, where his relatives were living. He attended school in the city of New York the winter of 1847-48, and boarded with his aunt, Elizabeth Lydecker—the study which most interested him being rhetoric. As a boy he was very fond of poetry and history and there is still in existence his much thumbed and marked copy of Lord Byron's poems. He often went into the woods to deliver speeches, and the neighbors' boys used to follow him and listen, and when discovered a fight would immediately pursue.

The haymow was his favorite study, and there he kept some of his books. The barn on his father's farm was an old fashioned one, with doors opening on both sides through which the wagon loads of grain and hay could be driven. It is said that on one occasion when he was driving a load of grain into the barn to be unloaded he became so interested in a discourse which he was delivering to an imaginary audience, that he drove through the barn and back into the fields again with his full load, where his more prosaic father promptly recalled him to his duty. He was an intense lover of nature, a trait which he always retained, and the daily phenomena of heaven and earth seemed to him an endless source of wonder and beauty.

He was subject at times to depression, and, especially after his mother's death, he would wander in the fields and woods, seeking comfort and consolation from their solitude.

## CHAPTER III.

### **The Law Student.**

In the spring of 1849 Peter Hamilton removed with his family to Virginia, leaving young Hamilton alone on the farm, which he worked during that summer and fall.

In the fall he resolved to carry out his cherished ambition, and entered the law office of Aaron & W. P. Konkle of Elmira, N. Y., as a student, boarding in the city and maintaining himself chiefly from the proceeds of the farm.

Here he was elected Secretary of the Lyceum, or debating society and frequently spoke in public on temperance, and other subjects, discussed at that time.

The law students of the city, of whom there seems to have been a considerable number, formed a class where all assembled almost daily and studied and discussed some particular legal question.

In March, 1850, Hamilton began to keep a journal, and from this many interesting facts are drawn.

A typical day is as follows:

March 26th, Tuesday.

I arose at seven. Breakfast at eight. Shaved. Went to the recitation room at nine. Spent two hours with the class. Had some warm discussions in the class upon law topics. Went to the office at eleven. Read some portions of last evening's Tribune in reference to the trial of Dr. Webster for murder. Returned to my boarding place at twelve. Read thirteen pages of the law. Dinner at half past one. Started for the office. Arrived there at 2 P. M. Read thirty pages of Greenleaf on Evidence, referring to the best of evidence and hearsay evidence. Conversated some with a Mr. Lawrence upon the respective merits of a protective and revenue tariff. Conversated some with W. P. Konkle, Esq., upon the effects of certain kinds of diet upon the system. Came to the conclusion that the taking of animal food

into the system of an individual that exercises but little is injurious. Conversed with G. A. Burk about the political aspect of the Union. Disagreed with him somewhat in opinion. Returned to my boarding place at six in the evening, returned to my studies; supped at seven. Read fifteen pages of the Common Law of England relative to the injuries to personal and real property. Settled up an account between myself and G. R. Posts. Read a number of pages in Gibbons' Decline and Fall of the Roman Empire. Felt very much fatigued during the evening. Retired at 11 o'clock."

To his fresh, strong mind everything was new and interesting, and each event made its impression, and above everything else, the high ambition to improve himself is constantly manifested.

On March 30th he writes of a conversation with a friend "about the evil effects of mingling too much in the society of the gay," and on March 22nd he says "spent the day without much study or improvement, which I very much regret."

He took long walks in the fields, and by the river, and on April 3rd, in speaking of a walk on Charles Island in the Chemung River, says: "I made to the age-marked trees and rushing waters a speech upon the influence of natural scenery upon the mind."

Of high hope and lively imagination, he experienced frequent depressions of spirit, and on April 7th he writes: "The world looks dark and ominous, the waters of my destiny seemed to be fouled, the starlight of hope died away in my soul. The prospect before me was a bleak and cheerless void. I felt friendless and alone. I knew that no kind hearts were beating for me, but the troubled one of my father, and that of my dark eyed sister, and they were far away. I tried to read but could not. The thrill of misanthropy curdled my blood, dark disgust for men was paramount in my breast. I threw me on my couch at 12 o'clock; in dreams I visited the grave of my mother and poured my troubles upon that lonely consecrated spot."

Frequent tender references are found to his mother, whose memory comforted him when depressed.

On May 11th it appears that a circus visited Elmira,

which he attended both afternoon and evening, returning home "with the bitter conviction of having misspent the day."

He occasionally wrote verses but they have not been preserved.

The authors most frequently mentioned which he studied were Byron and Shakespeare.

On June 14th he resolved upon the following system: "To arise in the morning at least by 6 o'clock, to read during the day, besides my writing and other business, at least 40 pages of the elementary law. To note down the principal facts contained in my reading lesson. To read at least ten pages of law in the evening and take notes of the same, and to transcribe the substance of the notes upon my commonplace book and not retire until midnight or after. To abstain from the use of cigars, and to eat but little animal food."

Elmira was not a large place, but even at this time contained the germs of that activity which has since made it the "home of statesmen." One of the newspapers was called the Republican, and on Aug. 26th it is recorded that Hamilton Ward wrote an article for this paper, entitled: "The star of Empire westward takes its way."

In August and September, Peter Hamilton returned from the South, and during those months was engaged with his son in gathering the crops from the farm at Horseheads.

On Sept. 17th a momentous event was recorded—The first client appeared, charged by the trustees of the village with selling liquor. He was defended by the young law student—with what result is not known. After this there was an occasional client.

On Sept. 21, 1850, he was a candidate for delegate to the State Convention at the County Convention held at the village of Horseheads. He was defeated but was elected a delegate to the Congressional Convention. On the day before this he was evidently engaged "in fixing his fences." and remarks in the journal that "he spent the afternoon in running around and looking at folks as big fools as myself."

He made some speeches for the Whig Ticket during the



fall, and the journal passes to the month of March, 1851. The period passed over is reviewed March the 11th as follows:

“The winter of 1850 and 1851 has been spent studiously and profitably. I have spent less time at my books than I am wont to do during that period, but have learned as fast as I otherwise should have done, had I studied more and recreated less. I have been as much a recluse as ever but have settled my mind upon my business more, enlarged the sphere of my reflection and observation, thoughtless of paltry triumphs, and the fleeting vanities which so much gratify a boy’s ambition. I have spoken less than perhaps I ought during that time. Have given no public lectures or addresses, and participated in but few debates. My limited knowledge of the law has enlarged considerably, much that was then dark and intricate now appears plain and consistent. I have practiced a little in a Justice Court during that time, but only enough to convince me of my utter incompetency to practice, yet, with credit to myself and justice to my client.”

On April 1st he worked all day at the polls for the unsuccessful Whig ticket and says: “It was all fool’s day and I was as big a fool as any, time, money and happiness all spent to gratify a mushroom enthusiasm and the grasping spirits of ambitious partisans—folly—folly.”

As the journal proceeds an improvement in the style is manifest, an undoubted result of unremitting effort with voice and pen. During this winter and the last it was frequently recorded that his health was not good, attributable probably to his hard work, late hours and lack of accustomed exercise.

During the summer the journal was abandoned, but on September 21st, 1851, appears the following, which best tells its own tale:

Sunday, September 21st, 1851.

I open again the journal of my life. I have had it shut too long. Some of the most important events of my life have transpired since I closed its pages that only exist now in the memory of the past, and stand unrecorded except in



the great judgment book of the Eternal. To others, intent upon their schemes of life and ambition, the history of a poor, friendless individual like myself, would be of but little interest—it would be but to them a simple rehearsal of the experience, hopes, fears, thoughts, emotions and sentiments of one of many millions that float along the tide of life together to that final terminus—the Grave. But to me it is pregnant with the deepest interests. Every event recorded there stands out in bold relief as a monument of bygone days, recalling some cherished memory and hallowed incident which in the hustle and distractions of the world had being veiled beneath the pall of forgetfulness, but reappear when events of co-temperanous date are recalled; by the principle of association.

Each man's life is a volume of itself, of great importance to his soul and fervid interest to himself, a book of destiny containing instructions vast, and lessons deep. Whoever the man may be, high or low, rich or poor, elevated or debased, his history is worth perusing, at least by himself. It is human nature that is written there. The voice, the heart, is heard in every transaction. The working of human sympathies, love, hate, ambition, insatiable desires that haunt the heart and disturb the pillow, the ever recurring circumstances which please or annoy, the constant longings after change, and a betterment of our condition, which are common to us all, are written there. It is chiefly interesting because it is a truthful delineation of life, written down with an active and trembling hand, often when the heart is tumultuous with excitement and the strongest feeling of our nature are in the ascendant. It is no cold preparation for the public, it is not cut and garbled and robbed of its beauty, warmth and simplicity to gratify the fastidious eye of criticism.

I have had many changes and experienced much since I deserted my journal, more than three months have sought the misty vault of past ages since that time, and as I look back upon that period how speedily it seems to have fled,

but in that short time I mark a long array of broken resolutions, foolish resolves, follies, inconsistencies and faults. The ghost of misspent time emerges with upbraiding features and dusty vestment from the shadows of oblivion, precious hours that might have stored my mind with wealth of an immortal hue have fled past me forever. There is no recalling it, they are gone "Glimmering among the dream of things that were, a school boy's tale, the wonder of an hour." I will not lament over the past but aim to do better in the future. Regrets are only useful so far as they serve to instruct us and warn us against pursuing a similar course in future. I will write my experience down every day. I will waste no more time foolishly in politics.

Since I left you, my dear journal, some things of remarkable interest have transpired. I commenced studying desperately on the 1st of May, 1851, night and day I bent constantly over my books, severe was my toil, but great the objects I had in view. I expected to be examined for admission to the bar early in July. I deserted society and shut myself up in solitude and silence, away from the clamor of the world, my exercise I took ere the sun peeped above the eastern hills, and when King Morpheus reigned over the senses and energies of the world. Nothing of interest or note transpired to break the dullness and monotony of my study. Night succeeded morning and day after day stalked into the oblivious vault of the past until the last suns of June warned me that the fierce and long dreaded ordeal was at hand. I had studied but eighteen months and of course felt illy prepared to meet the searching eye of legal criticism, and station myself in those learned and swarming ranks of forensic power, that overshadowed the land and struggle fiercely with each other for the mastery.

On Monday, the 30th of June, I took my departure from Elmira to Cooperstown, Otsego County, where the General Term of the Supreme Court would sit next day. After a pleasant journey I arrived at Cooperstown at 1 o'clock P. M. on the day of my examination. It was a lovely day and a long ride of twenty-six miles on a fine plank road and nine miles of the distance besides Otsego Lake, as beautiful a

sheet of water as one would like to see, had much refreshed me. I went straightway to the Court House and found that we were to be examined at 5 P. M. of that day. I exercised until the time came by walking, running, riding, and with a fine companion cheered and excited my spirits. When the time came I hastened with a nervous tread and beating heart to the place appointed. As I entered the Court House and saw it crowded with all classes of men awaiting the examination, the bar filled with the learned and dignified of the profession, the bench occupied by three judges, looking as solemn and awful as a Roman Senate, and my companions in distress arranged like so many culprits on a line of chairs stretching from one side of the bar to the other, and faced by three dignified examiners who looked all sort of wisdom at the shrinking wretches before them, my heart shrank into a little measure, the animal energy my exercise had aroused fled from my limbs and I sunk with a sensation of faintness into a seat afforded to me by the humane and gentlemanly clerk of the Court, Mr. North, I believe his name was.

The examination soon commenced and the first question asked me was one on the practice, which I knew perfectly well, but was so embarrassed that I blundered over it shamefully, but at last got right, the next I got right after a great deal of difficulty, and the next I missed; at length the Judges took hold of it and got it in a department of law I was perfectly at home in, and then I did admirably. I answered two questions that went all around the class, recovered my confidence and self-command and went far to retrieve the character I had lost in the outset. I got through after an examination of three hours in length, satisfied that I had done as well as most of the class. The Court broke up and we repaired to the tea table, where we relished an excellent supper.

That night I could not sleep. The Judges informed us they would announce their decision as to what they would do with us in the morning, so I was cast upon a sea of uncertainty and speculation as to what my destiny would be.

I was too nervous and excited to seek repose, so beneath the sweet, mellow, harvest moon I strolled down to the beach, where the solitary waters of the sweet lake were dashing melodiously. A light bark was heaving on the gentle swell nearby. I obtained permission to use it of its owner, and soon with paddle in hand was skimming over the glassy surface of the lake with the swiftness of the arrow.

I soon found myself, as I judged, a mile from shore, and sitting down in my boat, my paddle thrown by my side, I gave myself up to thought, of strange and mingled character. The night was so pure and beautiful, the sky was so calm and cloudless, the air so sweet and balmy, the flow of the waters around me so soothing to my heated brain that I fell into a soft and delicious reverie, not deep enough to preclude stern reflections, nor stupifying enough to sweep away the ascendancy of reason, but sufficient to send a halo and a glow and beauty to the sternest realities of life; like all young men my thoughts wandered to the future and the long array of years that stretched out before me, and like the ever varying landscape a sunset first gloomy in the full blaze of the vanishing illumination, then darkened by the gathering shadows of night, so looked my future prospects, at one time bright and beautiful, beckoning me on to a glorious destiny, where bright and happy ones awaited and warm and generous friends extended to me the hand of friendship and of love. And again it would look sad and dreary, cold, dark and inhospitable, and a sensation of solitude and gloom would creep over me, and as I sat alone in my frail bark, remote from humanity and love, with nothing to keep me from the depths below, but a little tiny bark, so I was alone in the world, poor and friendless, disconnected from society, with but half-got learning to secure me the necessities of life; those bound to me by the ties of blood were away, dead or cold and neglectful, the home of my youth was broken up, its sacred halls were desolate, the companions of my youth had all started out in different directions upon the great journey of life, and I, awaiting my fate at the hands of three stern men who knew nothing nor cared nothing for my situation, thoughts and reflections.

For hours I sat upon the bosom of the waters, watching the gentle ripples that flashed about the bow of my little craft, and the stars as they twinkled in the broad blue curtain that shut out heaven appearing and fading by turns as though swayed by the wand of a mighty enchanter whose throne was the vault of night, and the full moon careening over wave and woodland, lake and hillside and valley; her impress was in the water by my side, her ray was glistening on the mountain top, dim in the distance, piercing into dells misty and ravines deep and solitude profound.

The morning gray dawned upon me and I had drifted several miles from shore. I aroused myself and paddled back with a keen appetite and vacant eye. At eight A. M. we again repaired to the Court House to learn our fate. The Judges were there. I took my seat and in a moment a deep voice issued from the bench, saying "Hamilton Ward will step forward and take the required oath." I did it. The oath was administered to support the National and State Constitutions and to maintain the dignity and purity of the profession of the law; it was done. I withdrew with bounding heart and in silence. I was thenceforth a member of the bar. That day I started for New York, arrived at Albany that evening, stopped at the Delevan House and remained there until the 3rd of July, 1851, which was the anniversary of my birth. I was then twenty-two years of age. I spent the day in the Legislature, which was in extra session. My friend, reporter Perkins, gave me an excellent seat and showed me many kindnesses which I shall always recollect with gratitude and pride. That night I embarked on board the beautiful steamer Isaac Newton for New York City. Procured a state room, and after a splendid night's rest upon the breast of the unrivaled Hudson found myself landed in the city on the morning of the 4th of July, that day so dear to the hearts of freemen, so consecrated in the annals of American history. Amid the thundering of artillery, the roar of the mighty population, alive with interest and patriotism and the rush of men, I threaded my way as far as 88 Varrick Street, and pulled the bell, was issued into a neat

little parlor and in a moment was clasped in the arms of my sweet and gentle sister, the only one God ever gave me, with her dark braids falling over my shoulder, and her warm kisses on my cheek. Dear girl, how I love her. I hope her future path will be strewn with flowers. I spent a week in my journey, and returned home on the 8th of July. I then commenced looking about me to obtain a place to settle in and at last fixed my eye upon a little village in the County of Allegany, State of New York, and named Phillippsville. It was a place containing 600 inhabitants, with vast natural resources and a fine prospect ahead; there was no other lawyer there, so after considerable preparation on Friday, the 29th day of August, 1851, I landed at my new home, and on the Monday following opened an office in that place. I have been here now for more than three weeks, have had little to do, like the people very well, think I shall have more business by and by, employ my time in reading and fitting myself for business, if I ever get any. The society is small but good. I get the blues sometimes, but shake them off. Had a visit from my dear father, who spent a week with me. God bless my father.

So my dear journal I have endeavored to give you a slight sketch of what I have been doing since I left you and in future I will keep you posted as to my whereabouts."

The County Court House of Allegany County stands on a knoll in the center of the village of Belmont, formerly Phillippsville, and when Hamilton Ward came to Phillippsville, at the point where the steps of the Court House now are, a great pine stump stood. Upon this stump he climbed, and looking over the beautiful valley to the north and south of him, decided to remain, and when the Court House was built he persuaded the Commissioners to locate the steps on the spot occupied by this stump.



## CHAPTER IV.

### **The Young Lawyer.**

The first client that came to the young lawyer was Robert Tucker, at that time a man of some property, who resided near the village. Some dreary days had gone by. There seemed to be no business. He had but little money left and one afternoon he resolved to return to Elmira. His books were packed, and he was sadly contemplating the few empty shelves when Tucker came in, gave him a note to sue, and what was more important, hope for the future.

Mr. Ward has often told of his first action in a Court of Record. This was on a note signed "Wm" and many anxious days were spent in trying to decide whether to sue the defendant as "Wm" or "William."

Angelica at this time was the county seat, the home of most of the bar, and the center of political influence. Here resided the famous Martin Grover, afterwards a Judge of the Court of Appeals, and as well known for his disregard of his personal appearance as for his legal ability. At this time he was the leader of the bar and did much of the business. When Mr. Ward attended his first court in Angelica he sat inside the rail with the other attorneys. He saw a dirty, ragged man with a tobacco stained face come in, and to his surprise take a seat beside him. The stranger placed a grimy hand on his knee, and in a nasal voice said: "Young man who be you?" Proud of his new position as an attorney, and conscious of the dignity that the only suit of "store clothes" in the Court Room leant him, Mr. Ward intimated that it was none of the stranger's business. Whereupon great consternation fell upon the attorneys present; Mr. Ward was speedily informed of his mistake, but Grover was unforgiving, and for years some feeling existed between the two men, and when finally in 1858 the county seat was removed to Belmont to some extent through Mr. Ward's efforts, Grover always spoke of him as the "red headed ban-

tam from the Burg," referring to his abundant red hair and beard, and his stature, which was 5 ft. 6 in., his weight being about 130 pounds.

Mr. Ward's warmest friends while in Elmira were Charles G. Fairman (afterwards editor and proprietor of the *Elmira Advertiser*) and C. Boardman Smith, who succeeded him in Congress and afterwards became a Justice of the Supreme Court.

During the year 1851 Mr. Ward wrote a series of five letters to Fairman, then on the *Elmira Daily Reporter*, describing Phillipsville, his experience and impressions. The letters explain themselves, and are as follows:

Letters from Phillipsville—No. 1.

#### THE JAUNT.

Dear Charley—It was on a dull, foggy morning, in the latter part of August, 1851, that a young man, diminutive in size, and with a dejected air, was seen wending his way to the railroad depot in Elmira. He was tolerably well burdened with luggage, and frequently heaved a heavy sigh, which one would hardly know whether to attribute to his load or his thoughts.

Strange thoughts were passing through his mind, as he threaded his way, regardless of what was passing around him. He was embarking into a new and untried course of life—among strangers with whom he felt no kindred feelings and sympathies. He was leaving the home and associations of his youth, which time had taught him to regard with peculiar affection every object that he passed, and every countenance he beheld.

He felt a little nervous withal; and as the announcement of railroad importance burst upon his ear, a something like a shudder passed over him, and the future suddenly turned grey and dim before his excited vision, and the strong resolution he had taken to rend asunder the ties that bound him to the home of his childhood, were momentarily shaken. But no time was left for regrets; none for retraction. The "Iron Horse" was stamping, pawing and whinnying vociferously—he could not retract if he wished. And the impatient pawing of the highly mettled animal disturbed the spirit of the wanderer's day dreams, and told him he must be away. These infernal engines have no sympathy with a man's thoughts and feelings, however bitter.

The edict was issued—the decree had gone forth—it was too late to return. How often in the journey of life we halt, irresolute whether to ad-



vance or recede, and, in the midst of our perplexity, some propelling circumstances push us sternly forward.

The young man shook a long good-bye, with a few friends that were near, stepped aboard the swift runner, and in twinkling the scream of progress was thundering thro' the valley, and your friend waved a long adieu to Elmira.

The first place of any importance we passed through was the Junction, about four miles above Elmira, a large and flourishing place, which, by the by, will in time prove a formidable rival to the latter place.

I think the population as set down by the "Little man with the Big Book," was one; but since that time there has been 300 per cent. increase. The lonely man who was patient enough to switch out a whole train of cars, has surrounded himself with the sweets of domestic life and as he maintains his nightly vigils at the iron confluence has the cheering reflection that a gentle wife, and noisy little ones are sighing or brawling for his return.

In a moment after we reached the prettiest valley in the world; and in the distance I saw a little weather-beaten shade surrounded domicil, that overlooked the whole. That was the theatre of my boyish sports, sorrows and triumphs.

Oh how I longed to spring from my seat and bury myself beneath its redundant shade! I gave it a single glance—a single thought came swelling from my heart, pregnant with the memory of years—a whole life was crowded in that moment. Visions of other times clustered thickly around me. My indulgent father, angel mother, and dark-eyed sister—the companions of my youthful hours—passed in rapid review before me. All now dead or gone! and those sacred halls now desolate, echoing to the tread of strangers! It faded from sight; hills and valleys were between, but memory lingered there, and I thought not of the field, the glen, or the wildwood we were passing.

"Our early days, how often back,  
We turn, on Life's bewildering track,  
Where over hill and valley plays,  
The sunlight of our early days."

The shriek of the whistle aroused me, and I looked about, and a wood colored, dingy-looking village presented itself, and the noisy breakman cried out "Big Flats." Rightly named—every thing looked big but decidedly flat. The farms around bespoke good cultivation and an excellent soil; but the village presented rather an inferior aspect. We were off in a moment; our steed grumbled terribly at being compelled to stop, and disregarded entirely every rule of gallantry and good breeding by leaving a lady in the lurch, who had come a *leelle* too late.

Corning stuck out on a post when next we halted, the smoke pipe was

a moment quiet for a rarity, and the ambitious rival of Elmira, turned to view; it is a thriving town and deserves success. The burning element only seems to have heated its energies for a fierce struggle, to outstrip its competitors of the Southern Tier.

The Tocsin again sounded, and we sped through a beautiful farming country, stopped long enough at Painted Post to discover that she too has unquiet longings after greatness, and looks with eye undaunted upon the long line of larger villages that stretch to the Eastward. Addison is decidedly the loveliest place I saw on my route. It is one of those quiet and beautiful spots we would naturally seek when retreating from the noise and bustle of the world.

The fog that surrounded us all the morning began to dissipate before one of those suns at the end of summer, that makes us wish that summer would always last. The forerunners of Autumn had gathered the sere about the edge of the foliage, as the manly brow around which are sprinkled the first whitened evidence of coming age.

The Canisteo rolled by on one side, tranquil as sleeping innocence. There was melody in its quiet march toward the sea. Humility in its unpromising murmuring, the voice of its waters was peace, the prayers of nature to its God.

The valley through which we wound grew less and less, and the mountains closer and closer together, and the little space between was filled with a beautiful mist, sparkling in the sunbeams, as the sand that render glorious the Fairy Realm of the El Dorado.

I saw but little tillable land, and that seemed to be poorly cultivated, occasionally a patch of potatoes and a spot of arid stubble, relieved the monotonous wildness of the scene; many of the farmers were in the midst of their harvests, the shadows of the tall trees had made it late.

Cameron, Rathboneville, and Canisteo are little places, just springing into existence, the railroad is dragging them from their obscurity and opening to them the markets of the Emporium. They will ultimately be *some*.

We stopped at Hornellsville to change horses, our leader had grown tired, with a run of sixty miles in two hours and a half. This is a very stirring place, and seems to be quite a favorite with the company.

We stopped at a number of small places between Hornellsville and Phillipsville, a description of which would trespass too much upon your valuable time and attention, and I will content myself with passing them over in silence, and drawing this long letter to a close.

The scenery as we passed along was truly beautiful, the majestic mountains towering on either side to the sun, imbedding the roots of gigantic trees, whose lofty branches held communion with the clouds, and ever and anon points of high projecting rocks would thrust their moss bound heads out over us, "gray with the mist of age."

And often as we glided on the head would swim, when looking down we saw glens so dark and deep, that the Scots Novelist would call them the abode of "Elves and Fairies" or "Goblins foul and Spirits dark."

The Oriental had wained a half hour past the Meridian when I landed at Phillippsville, and I was henceforth a resident of my new home. H. W.

For the Republican.

Letters from Phillippsville—No. 2.

#### THE SETTLEMENT.

Dear Charley—I left you at Phillippsville without much ceremony in my last, but will now resume the thread I dropped at the Depot.

I soon found myself jostling among the crowd that hemmed in a wooden structure bearing a close resemblance to some of those Irish domicils that adorn the outskirts of Elmira, and give such salubrity to the atmosphere in that vicinity. This bore the dignified appellation of depot. Boxes, iron wheels, barrels, hencoops, individuals of all classes and sizes and conditions, from the stately landholder of thousands, to the tattered starvling of five years old were jumbled together.

Taking the small portion of this world's goods I have a personal claim on, I removed my "corporeal presence" from this motly mass, as fast as my peregrinations would carry me, and soon found myself at the store of a quondum editor, who has seen the folly of his way, and turned to an occupation more congenial with a good conscience and a full pocket. And here let me remark Charley (in a confidential way), That you will enjoy but little here below, nor enjoy that little long, if you obstinately persist in clinging to a business incident upon which are so much tall ingratitude and poor pay. Those things affect a sensitive man like yourself very much, to which we can attribute the sallow and care-worn look, silent manners, modest appearance, and general down-fall of standing collar, that mark your deportment. Our mutual friend B. escorted me to the room designed for the accommodation of myself, and a very uncertain and severe set of men usually denominated clients.

First impressions are everything, and usually last the longest, especially when of an unpleasant character; mine upon entering the theatre of my future exploits were exceedingly so. A high pile of shavings rose to a pyramidal height in the centre of the room, a long gaunt looking work bench bounded the southern extremity, a large quantity of boards and blocks obstructed the passage to the windows. The sides and ceiling were ceiled up with unpainted siding, with a slat running over each crack to beat back the force of the wind, and keep the snow flakes at bay.

I was a little astonished at this vast array of lumber, but soon set-

led down into the conclusion that it was symbolical of the region around, and furthermore that this was a "wooden" as well as a "great country." I set resolutely at work, clearing out this rubbish, and 'ere the sun had sought his sapphire couch among the western hills, the coast was clear, and I sat comfortably seated among a confused mass of books and papers, watching the golden tinted clouds, that were swimming athwart the azure blue, reckless of their course, and marking the lengthening shadows gathering 'round, prophetic of approaching night:

And such a night, the crescent moon followed fast in the burning wake of the "God of day," with less of heat and more of beauty, dissipating the sultriness of the day, and cheering with its gentle rays the wayfaring wanderer on the dusty road of life. A gentle breeze chimed with the running of the waters at my feet, and was borne away upon the wings of the evening into the dim and dusky distance, which the vision strove to pierce in vain. All around could be seen frowning, the primeval forests, that had withstood the storms of years and now stood up in magnificent array to salute the "mistress of the tides." And ever and anon would be seen a mellow light, glimmering through the wood marking the spot where the hardy pioneer of the wilderness had reared his rustic roof.

Novelists and poets have lavished volumes of praise upon Italian nights, the moonlit scenery of the Bay of Naples and the soft and dreamy realms of Greece and Spain. But man will never look upon a lovelier, purer, sweeter scene than I did from my little office window, the first night of my stay in the sequestered little village of Phillippsville. The night passed and a restless one it was for me. In my broken slumbers I dreamed of home.

An unpretending sign made its appearance in the village next day, and many were the curious passersby, who looked at it and passed off, with a "pish, a lawyer in town."

I was early at my post the next morning and had a call from a strange visitant. I had sat in solitude and silence for nearly three hours when I was startled by a loud rap at the door. It surprised me as I had heard no steps upon the stairway indicating the approach of any one. I opened it, however, and shuddered at what I beheld, a fiendish looking being stood before me, his long meagre form towered almost to the ceiling, his face was sallow and swarthy and almost fleshless and the skin seemed drawn tightly over the bones of his face, his mouth was broad and cannibalistic which when opened resembled the receiving tomb of Greenwood Cemetery, arms and unpared finger nails hung lank and loose by his gaunt sides, his hair reaching in snarly mops down his neck, resembling the lion's mane, from his eye shone a demon glare, which had borrowed its lustre from the bottomless pit. I endeavored to shove the door full in his face, but it encountered a sudden obstacle in the loathsome object I have endeavored to describe.

The door flew open wider than ever; he came in with a quiet and stealthy tread, and with a serpent smile folded me to his polluted breast.

Resistance was in vain, he held me with a giant grasp, I felt extremely wretched—darkness gathered around me, and in my agony I exclaimed, "who art thou foul tormenter," and a putrid breath saluted my nostrils with the element of contagion and death, and a voice deep and devilish like a moan from the city of the dead replied, I am the curse of, and invariable visitor to young lawyers, they always make their debut in my society, I am the offspring of solitude, ambition and poverty, and am known in common parlance as the Blues.

Necessity is the mother of invention, and the terrible predicament in which I was placed prompted me to discover some means of relief.

A bright thought at last popped into my head. It was a Havana, I had some of Nick's best, which had accompanied me to this part of the world, I applied a match to the delicate fibres of its extremities and in a moment it was in a "full glow." The Blues faded away, his hold grew weaker and weaker, and at last he had disappeared in smoke, and I was left "alone in my glory," wrapt in a vast cloud of fragrant smoke, that curled, and twined, and rolled in volumes away.

Ah glorious antidote for the solitude and sadness of the stranger, it "drives dull care away," it relieves the dreary monotony of his desert and barren life, when the future looks dark and lowering, and the isolated soul turns to prey upon itself, to watch the curling mass as it takes its upward flight, or gather in blue phantasies around your heated brow; in which your imagination, forming sweet images of the past, present and future, brings relief.

You are in an atmosphere of your own creation, which forms a barrier to the outer world. You are in your own smoky castle, into whose precinct no enemy dare intrude, and each well regulated puff bears away the accumulation of heavy thought that burdens the brain. Moralists may protest, valetudinarians may condemn, delicate, sensitive people may consider it loaferish, but when sad and lonely, friendless and unknown, when the blues haunt the heart, take a cigar.

H. W.

For the Republican.

Letters from Phillipville—No. 3.

#### THE PLACE.

Dear Charley—I was sorry your compositor in my last made so many blunders with it, and got so many words misspelt and so many wrong words in the place of right ones:

But your worthy self had gone to Rochester to swell the editorial

through there; and the boys at home I'll venture had a "time of it" in the absence of the "Boss," and being hard pressed with business rushed the paper through without examining the proof.

Methinks, as the aforesaid gentlemen peruse, they will answer, you might have written it better: I might, perhaps, but when I write home letters my hand trembles and the syllables blend together, as my thoughts do, when the busy memories of the past rush upon the brain.

Our little place is unknown to "Song or Story." It has never been the Theatre of Giddy Romance, or the wild dreamland of poets, but it is a spot where nature has lavished its rarest blessings. It is situated in a lovely valley, about a mile in width, and running either way in length north and south, many miles. This valley is very fertile, and capable of producing any kind of produce that the Empire State can boast of in great abundance. A large share of this valley is cleared, and fine farms are issuing from the wilderness, as quiet harbingers of civilization, and demonstrative of the activity of our yeomanry. Yet many of them retain the evidences of the former forests that overshadowed them, in the monstrous stumps that seem to claim an hereditary right to the soil, and enforce that right by clinging obdurately to the Mother Earth with their long and deep delving roots. The soil is mostly a sandy loam and has a dark rich color. The country is mostly covered with vast forests very thick and the trees are very large, and yield vast quantities of lumber of the best quality, being principally white pine.

Thousands of acres stretch away in all directions from the village, mostly untouched by the axe of the woodman, and now by means of the iron link that unites the Atlantic Ocean with the great west, it is but 15 hours' ride from the markets of New York. Hitherto this lumber has been comparatively valueless, it was shut out from the eastern markets, and found only a place of sale many miles west, at Pittsburg or Cincinnati, after traveling through sundry small streams and canals until it got upon the Ohio; as a consequence of this Allegany has always been in the background, she could neither get to the ocean nor the lakes, but had to compete with western markets after a long and expensive journey of a thousand miles.

Allegany has been the butt of much taunt and ridicule, as being the county of Leeks and Onions, and behind the rest of the world, but all these slurs will be swept into the shade, along with the authors, ere many years roll around. She can export and import now, and her natural resources and latent wealth, must place the county second to none in point of wealth, intelligence and importance in the Southern Tier.

Phillipsville is situated in the very heart of the county, upon the line of the N. Y. & Erie Railroad. It has an immense water privilege capable



of running a thousand mills and manufactories. And I hope you will not deem me visionary when I prophesy that this will in time become the Lowell of the State.

Nature has been very sparing of such gifts as these, and but very few places in the Union can boast of as good a water power.

An enterprising company with an eagle eye have seen all this; and have grasped the golden opportunity thus presented; they have made a large purchase, and erected a saw mill capable of manufacturing 30,000 feet of lumber in twelve hours; they have also built a large foundry covering a small farm, which will be furnished and controlled by our old and valued friend of Dr. Leach, one of the colony sent out by Elmira to these wooden regions. The company have also dug out of the bowels of the earth a small lake, to supply their buildings with water, covering 25 acres, and capable of holding 25,000 logs. Into this pond a large portion of the Genesee can be turned or not, at the option of the proprietors. This company consists of T. R. Brayton, who has settled in our midst, and A. S. Diven and Andrus & Langdon of your place, which I think (by the by) is a pretty strong crowd.

The village has about 700 inhabitants, be the same more or less; it has six stores, two groceries, two blacksmith shops, two taverns, three or four mills, two churches, Methodist and Presbyterian, and two ministers, three physicians, and last though not least two lawyers.

There are two things we greatly stand in need of to complete our village, and these are an oyster saloon and a homeopathic doctor.

All branches of business flourish with us, the people are generally quiet and moral, we have but few rows, and no dog fights.

The Pugilistic shade of Mose has never descended upon our "valley of peace."

The society is good, though limited.

And now Charley, things wear a more familiar aspect, the chill of the strange land has departed, sounds and sights are around me I have seen and heard before, and my affections, thoughts and hopes are hovering round this place, and consecrating it as home.

H. W.

Letters from Phillipsville—No. 4.

#### THE FIRST CLIENT.

Dear Charley—Everything of historical character is classified, marked and remembered by epochs' such as the beginning and the end, and important events ad interim; the past is all a matter of history, whether it be of nations, communities or individuals, and in the history of each are epochs upon which hang their destiny.

In the life of man we find them unnoticed perhaps by the world at large, but nevertheless of the greatest importance to him.

The physician's first patient, the mechanic's first job, the minister's first sermon, the artist's first piece or appearance, and the lawyer's first client, are to each of these individuals epochs long remembered.

And I have witnessed that event at Phillippsville, and it is yet warm and fresh upon my recollection as I write.

I had been alone three days; long dreary days they were, Charley. The sun rose and set on me alone. I poked the fire, read home letters, arranged and re-arranged my books and papers, wound up my clock. That dear old family clock, which had presided over my mantelpiece for many years, and had ticked away my infancy, my boyhood, my happy hours of early innocence and joy, and was ticking yet, measuring the sad hours as they rolled heavily away.

It was the only old friend that I saw. I had purchased it from the wreck of our household goods, when my mother died, and preserved it as an heirloom to keep alive the memories of the past, so I wound it up. I walked to the window; strange faces were passing below, strange voices grated harshly on my ear. I would hear footsteps on the stairway beneath that led to my office. I would listen attentively, they would grow nearer, my cheek would flush a little, and my heart would bound, I would compose myself to a charm in the grave attitude of a counsellor. But alas, the steps would soon die away, and grow fainter and fainter as they threaded their way up another stairway that led up over my head.

How strange and conflicting are the feelings of a young attorney at this particular juncture of his life. He is young and inexperienced, and is ambitious to enter into a heavy and lucrative practice. Yet shrinks away from the task of life before him, instinctively feeling himself incompetent, he distrusts his own ability and shrinks from public criticism.

A question is put to him by an imperious and intelligent man, who eyes him with a keen severity, as though he would look into his very soul, and sound and weigh him in a moment. Perhaps the question is a difficult one, involving much research to arrive at a correct conclusion. He wishes to appear ready before his haughty interrogator, and also to give him correct advice, as his professional reputation not unfrequently hangs upon that; he halts a little in this dilemma whether to tell he don't know or to guess it out: The love of seeming learned in law usually predominates and he jumps at a conclusion, too frequently wrong.

Necessity forces him to action, he must be up and doing, the world is whirling and rushing past him, all around him he hears the sounds of activity and life, he has got his profession at an enormous expense, his shingle is waving in the breezes of heaven. His friends are waiting with a trembling interest his progress, a stranger community is standing back and waiting for his debut to see how he works before it gives him business. And perchance there are but few pennies in his pocket, and want, starva-



tion and disgrace hang out upon the banners of the future unless he "puts money in his purse." The stern realities of life sink heavily around him, all his early dreams of greatness are fading away. The cares and inconveniences of the world are dissipating them forever; he must be up and doing.

Away with dreams fancy and hollow expectation, take hold of life as it is; go to work. Tread the thoroughfares of life with an unflinching step, it may be stern, it may look black, all may give him the cold shoulder, he may have no sympathizers, save congenial wretches perhaps poorer than himself. He appears in court; experienced lawyers, flushed with confidence and success, may sneer at him; a swelling, pompous court with a look of inexpressible dignity may peer through his ancient spectacles at him as much as to say, "Sir, you are very young; have you got any friends." Never mind all this, struggle on.

Thoughts of this character were revolving through my mind when the door opened and a tall man entered. He slightly bowed and leisurely took a chair, he was rather thin also, nature had provided him with a plenty of bone, but with a meagre quantity of flesh; he was a strong man and every movement indicated vigor and energy, his chin and face were embalmed in a monstrous pair of black whiskers, which gave a little sternness to the expression of his face. He probably had seen 35 winters and was kind looking, his eyes were of a genial blue into whose clear depths you could see the workings of a noble and generous heart. Are you the lawyer, said he, breaking the silence. I am a lawyer, I replied. I have a case for you, he continued. I felt a little thump at the bottom of my heart, a slight shade wandered athwart my vision, that was all; I gave him the nod of attention, his lofty form towered in a moment to the ceiling, I saw his hand wandering impatiently into his breeches pocket, when he extended a bundle of papers; take them, said he; they will tell you all; follow the rascal until you see me again. "You intend to practice law in our midst do you, well success attend you, you have a hard and unscrupulous set of attorneys to war against in Allegany,

But Fight it Through;

You may be solitary, young man, in this strange place; if so, call at my bachelor residence a mile from town; you are always welcome; my name is \_\_\_\_\_."

He vanished as he came, without noise or parade, "every inch a man," and left me with my head leaning on the package and pondering over his words, "Fight it through."

H. W.

For the Republican.

Letters from Phillipsville—No. 5.

#### THE BACHELOR CLUB.

Dear Charley—My letter starts with a singular title, and I greatly fear you will not find it a very interesting one! but visions of Home haunt me to-

night, and I will write you notwithstanding, as I believe your generous nature will readily indure a tolerable nuisance for the sake of an old friend.

Man is but best a gregarious animal, and herds as much with species as the wild bison of the prairies or the sea gull of the tropical ocean. This is the secret of the stability and perpetuity of all associations and communities, without which they would not exist an hour.

Isolated and remote as we are, this principal is at work at Phillipsville, and has formed an association of the unmarried men, greatly to the consternation of the spinsters in the neighborhood, of which your correspondent is a member in good standing, although considered rather youthful, and not exactly past that critical age when the heart bounds at the sight of a pretty face, and the memory long retains the lingering glance of a dark eye; but my exemplary conduct in the ville had inspired them with confidence, and after a searching examination the honorable degree of M. B. C. of P. V. was conferred upon me.

The club numbers 10 in all, and its avowed objects are "peace and good will toward men," and nothing in particular toward women. Marriage is not expressly forbidden but whoso is adventurous enough so to do, has an ominous mark across his name upon the muster roll, his vacant seat is covered with a dark veil, a dirge is chanted, the doors are closed against him forever, and the club goes in mourning three days: we have secret dresses and symbols which of course I cannot explain.

On the evening of the 8th of December, '51, there was a great gathering of the B. C., a stray newspaper had got here some way or other, and informed us that Kossuth had landed upon the shores of America.

Immediately the tocsin was sounded, and the elect were called to a "high festival" to welcome on the part of the fraternity the illustrious Magyar.

#### Dresses and Characteristics of the Evening.

Amin Bey, in full Turkish costume.

(John Bull), America a century ago, with tights, knee buckles, ruffled shirt and cockade hat.

American Sailor Boy in full rig.

Kossuth in Polish Habillaments.

General Scott in complete uniform, Captain La Fitt, with long mustache, peaked hat, striped vest, and a belt containing a brace of pistols, and a dirk, giving him decidedly a piratical expression.

Brother Jonathan with outgrown trousers, cowhide boots, and a hat "leetle out O fashin."

#### Proceedings of the Evening.

Music by the band; instruments, flute, tin whistle, jaw bone, piano forte, stove pipe. Air, Hail Columbia.

March, under command of General Scott.

Initiation of a member into the profound mysteries of the B. C. Music,

Hail to the Chief.

Supper announced at 11 P. M.

#### BILL OF FARE.

Turkey .....	Oysters
Oysters .....	Turkey
Turkey, Oysters.	

Immense variety, six different dishes.

Amin Bay, taking his seat at the head of the table remarked that as a Turk he thought it was fit he should enter Turkey, and immediately made an onslaught upon the highly graniverous nation before him. Jonathan, whose ideas of dissolution had been considerably aroused by the recent slavery agitation, exclaimed; to see the Turk who dismembers Turkey it is downright treason I swow, but was quieted by General Scott's remarking that as we were all hungry, therefore we love Tarky.

#### Toast by John Bull.

Kossuth: The champion of the old world's liberty, may he twine the Stars and Stripes with the Tricolors of Hungary, and lead on the crusade of the free, to accomplish the liberty of all mankind. This was received with great enthusiasm and followed by a tremendous attack upon Turkey. The moments sped rapidly on, and a heavy stillness hung over the scene, disturbed only by the clattering of knives and forks, and an occasional ejaculation from the company, until Turkey was no more. Nothing being left of her magnificent proportions but a few long wrecks, that were strewn about the table, Whereupon Kosiosko gave a toast,

Hungary; Betrayed but not undone, the dawn of the 20th century will behold her standing proudly in the list of Nations.—(Tremendous applause); Jonathan's voice was soon heard above the tempest, clubbing with his hand upon his depository of food, I fear not, I feel from the bottom of my heart that Turkey has destroyed Hungry.

The oysters came and went, how or where I will not pretend to say, but they were gone, and John Bull was called upon for a speech. I will not pretend to report all he said, but content myself with giving such extracts as I remember; he seemed to forget himself and launched out like a true blooded American. It was something as follows:

"Gentlemen of the B. C.:

"We have met to celebrate a thrilling and interesting event. The winds and waves of the Atlantic have thrown upon our shores the "foremost

man' of all this world.' [Cheers.] A refugee from the wiles of treachery, and the bloodhounds of despotism, he came, bearing with him the accumulated sufferings of 5,000,000 of people, scourged by the rod of tyrants. The victims of merciless persecutions; all their lofty national pride, their soul-stirring aspirations, their time-hallowed institutions, rights and privileges, trailing in the dust.

Their altars desolate, and their temples echoing to the sacriligious tread of a ruthless soldiery, their homes laid waste, and the monuments of their former grandeur blasted by the shock of war.

Where stood the sanctuary and waved the corn, stands the gibbet and lies the blackened corpse, the land bewails liberty departed, and the soil is fattening with the blood of her defenders.

But the Leader is free. [Cheers.] God has reserved him for a great work to emancipate his country, and strike the shackles from the oppressed of Europe (immense cheering with an ocean of shouts, God wills it, God wills it). Hungary is low but her blood cries to Heaven for justice, and it will come. [Cheers]. The handwriting is upon the wall of St. Petersburg, and passing away is written upon the throne of the Hapsburgs. Corruption and blood hold together its rotten foundations, and it must fall. [Cheers].

And He, the wandering star of a people's hopes, we bid him welcome. [Renewed cheering]. Around him we twine the Stars and Stripes, and consecrate to him a lofty niche in the Temple of Heroes. [Loud cheering]. How the splendor of ancient conquerors shrinks into insignificance when compared with him.

He comes not with the arm of war, with banner and spear, but with resistless eloquence upon his lips. The burden of his song is freedom, and the spirit of his prayer is humanity, and 25,000,000 people rise up to greet him as one man and invoke the blessings of heaven upon his head and cause. How he roused the fires of liberty in his native land; how he led on the brave to triumph and glory; how he shook to its centre the Austrian Dynasty; how he swept back the increasing herds of the Don Cossacks; how victory perched upon his banner, though hemmed in by the slavish millions of two mighty empires, until

'Treason like a deadly blight comes o'er the councils of the brave and blasts them in hour of might.'

And the Traitor Georgey sunk his country's sun in gore, and the demon Haynau vented his fiendish cruelty upon the murdered and betrayed.

But the night of depotism is passing away, and the land of Kossuth will take its place in the family of nations. [Cheers]. This is no idle prophecy; the progress of the age, the march of steam, lighting and intelligence presages it. The reign of absolutism is ended, and the chant of Liberty will echo from valley to hill top all the world round. Thrones and potentates will sink into their 'merited oblivion,' and upon the battlements

of the eventful future I see occupying the most exalted region in the estimation of mankind, two names, outrivaling all others in splendor, and hailed by all coming generations as the deliverers of the world,

Washington and Kossuth,

(Three times three for them).

The thunder subsided, and the Sailor called for a bumper on the following:

"The Hungarian Banner,"

Soon may its bright folds wave over the Fatherland, as unpolluted by the touch of despotism as the Stars and Stripes of our own glorious Union,

(Hot Coffee flourished High),

with a waving of banners, the Star Spangled, the Tri-colored, the Union Jack and the Crescent.

The night had crept into the "small hours," and the Club broke up with a march after the sort of Yankee Doodle—Jonathan losing all control over himself at the sound, and terribly disarranging the starched ruffles of John Bull.

Among the Club I recognized L. J. B., R. T. F., A. J. H., B. F. M., and H. W., formerly from Elmira, and it was unanimously resolved that the Elmira papers be requested to publish the proceedings of the meeting.

H. W.

The journal records the slow beginnings of a country law practice. Showing him to be sometimes impatient, sometimes despondent and yet slowly gathering force and confidence.

On October 4th he was appointed attorney for the Philippsville Plank Road Company, and on the 16th of that month was elected a delegate to the Whig County Convention.

On the 24th he was defeated in his first trial. Martin Grover and Wilks Angel being opposed to him, and resorts to the lawyer's remedy, viz: "Swearing at the Court."

From the journal and from those who remember those days it appears that his industry was most unremitting. All day long and late in the night he was to be found in his office hard at work, with but small financial results, as his joy recorded in the journal over a \$3.00 fee witnesses.

On November 15th he described a visit to Elmira and Waterloo, and confesses that he is in love with the girl

whom he subsequently married, Mary Adelia Chamberlain, of Waterloo.

From this time the journal in principally devoted to her.

However his business rapidly increased until by the beginning of 1853 he had a considerable country practice.

In 1853 is recorded the fact that the first Episcopal service held in the town occurred on February 13th.

In this year Hamilton took a journey which in those days was interesting and somewhat difficult. Its singular results and curious events are best related in an article reprinted in the Allegany County Republican, in 1880 or 1881. The term "Stalwart Act" is a reference to the regular organization of the Republican party, to which Hamilton Ward belonged at that time. The interview is true to life, and the article in full is as follows:

#### HAM. WARD'S STORY.

##### INTERESTING SCRAP FROM A CONGRESSMAN'S DAIRY—A "STALWART ACT."

A correspondent of the Syracuse Herald caught Attorney General Ward in a sociable mood after dinner the other day at Albany, and between the puffs of smoke from a choice cigar, the following scrap of experience was drawn out of him. It "sounds" just like Ham, and his hundreds of Allegany County friends will read the narrative with keen relish:

"Soon after graduating at a law school in the central part of this State, I was given a large claim to collect from a wealthy planter living in Tennessee. It was before the day of railroads, and the swiftest way to get there was by the sea. I went to New York, sailed down the coast, landed at Charleston, S. C., and traveled across the State toward Tennessee. They were having the cholera South that year. I caught it and was laid up at Columbia two weeks. I din't have much money with me at starting, and the sickness about used it up. I was so weak when I again started on my journey to Tennessee that I could hardly walk. At last I reached Greenville—my money was all gone and I presume I looked like a tramp. As I reached the place the church bells were ringing, but my shoes were so worn out that I was ashamed to go upon the ground floor. So I crept into the gallery at one of the churches, and sat among some of the prettiest girls I ever saw in my life. (Ham., it thus appears, was at this early age a great admirer of female beauty! and we doubt if he heard a word of the sermon that morning!—Ed. Republican). I told Andy Johnson about it,

years afterward, and he said that indeed they did have a lot of pretty girls in Greenville at that time.

"The next morning I started for my destination, 30 miles up in the mountains. I had to foot it every inch of the way, and on arriving there I found that my man had died and that his will was disputed. So I skirmished around and discovered that one of the men who was contesting the will was rich, and lived some four or five miles out of the town. He was one of your Southern barons, had several hundred negroes, scores of horses and some bloodhounds. I tried threatening him; he set the dogs on me. I killed one with a billet of wood and escaped to the town. Well, there I was, without a cent—a poor wretch, with no person of property in the North who cared about me, to whom I could send for assistance. I made my way back to Greenville, somehow, and resolved upon a bold stroke. I went into the first lawyer's office I came to and said:

"My name is Ward; I came from New York State to collect a claim; the man has died and his will is disputed; I would like to sell you this claim for \$50. I want money to go back to New York."

The lawyer was a kind-faced man. I remember he asked me why I didn't send for money to New York, and I owned up that there was no one there I could remember who would send it to me. He finally said:

"Well, I will go and see a friend about this."

He brought his friend back with him and they agreed to lend me \$50. I signed a paper and they gave me the money. Then I put my hand deep in my trousers' pocket and hauled out a gold watch (we infer Ham., had already "planted" his gold chain! ha! ha!—Ed. Rep.) I said:

"Gentlemen, I want you to take this watch and keep it as a sort of security for what I owe you. The first money I earn I promise you it will be sent to you to repay you."

They wouldn't take the watch at first, but I forced them to. I got home, and when I had scraped together \$73 I sent it to them. They took out their principal and interest and sent me the watch and the money that was over. And so apparently my connection with the Greenville man ended.

Twenty years passed, and I was a Member of Congress from this State. It was the time of Reconstruction, and as a Radical Republican I was a member of the Reconstruction Committee. I had special charge of the reconstruction of the State of Tennessee. One day there were a lot of Tennesseans before me in relation to the affairs of the State—Horace Maynard, W. L. B. Stokes, Roderick R. Butler, and others. That evening, at home, in glancing over the papers I saw that Johnson had nominated a man named Milligan for Judge of the Court of Claims. It was at a time when Congress was having its fierce war with Johnson; so fierce that the Senate would confirm none of his nominations, no matter how good they might be.



I thought this man Milligan would have no chance, and then turned to my wife and said:

"Do you remember a man named Milligan?"

She did not.

"Well," said I, "is there any circumstance of my life in which I have been connected with a man of that name?"

She did not remember.

The following morning, at the committee room I turned to Maynard and said:

"Who is this man Milligan that Johnson has nominated for Judge of the Court of Claims?"

He replied, "Oh, he is a lawyer living at Greenville, Tennessee—one of Johnson's chums."

"Was Milligan a Union man during the war?" I then inquired.

"Yes," said Maynard, "and such an outspoken one that the rebs stripped him of all his property. He is now as poor as a church mouse."

"Is he a good lawyer?" I next asked.

"One of the best in East Tennessee," replied Maynard.

"Then," said I, rapping the table with my fist, "By God, Sir,

*He shall be confirmed.*" They were all amazed, and inquired what earthly interest I had in Milligan. I didn't tell them; but went over to Conkling in the Senate and told him the entire story I have told you, of how this man Milligan helped me when I was in sore trouble. Then I went about the Senate getting votes for Milligan. I pestered Maynard night and day to get his consent, and the end of it was that

*Milligan Was Confirmed.* Johnson sent for me and thanked me. The news of the confirmation got down to Tennessee, and Milligan started for Washington. He came from the railroad train to the Capitol, still wearing his duster. Roderick R. Butler brought me out to him and introduced us. Milligan was then betwixt sixty and seventy and had a wife many years younger than himself. He said to me:

"Mr. Ward, what was it that caused you to interest yourself in a stranger's fortunes? I was looking forward to an old age of misfortune and poverty. This appointment is like manna from Heaven for me."

I replied—

"Do You Remember Lending \$50 over twenty years ago to a poor, cholera-stricken wretch of a lawyer that had come down to Tennessee to collect a claim, and spent all his money?"

Milligan said, "I do."



"Well—that was me!"

Well, if you would believe me, we all had a crying spell over the way things turned out.

Allegheny was at this period a new country. The Genesee Valley was a mighty forest of White Pine, and the river furnished the power to saw it into logs. The Erie Railroad, then but a few years old, supplied the transportation, and business was most active.

As the first practicing lawyer in Phillipsville, Hamilton Ward found his practice steadily growing, and for some time he was the only attorney in the village. Later one, J. W. Duell, came, but he remained only a short time, and removed to Oramal, Allegheny County, and in 1857 Edward W. Chamberlain, a brother of Mrs. Ward's, was admitted to the bar, and began to practice in Belmont, where he resided until the time of his death, which occurred March 6th, 1900. For the first few years of his practice he was in partnership with Hamilton Ward.

Mr. Ward's first office was in the Bush Building, on the south side of Schuyler Street, opposite Wells Lane. After the fire he rented the three rooms over Jesse Sortor's grocery store, on the north side of the street, which office he always thereafter occupied. He maintained an excellent library, but in other respects his office was plainly appointed.

He always enjoyed the best practice in the village, although A. J. McNett, Wilkes Angel and Rufus Scott were worthy competitors.

The village of Belmont was incorporated February 21st, 1853. This project, which was enthusiastically supported by Mr. Ward, was strongly opposed by some of the older residents, especially Alvin E. Parker, who was the rich man of the place, and who objected to the increase of taxation. Parker was routed at the town meeting after Mr. Ward had compared him to the unprogressive Scotchman, who objected to harnessing the "wind of the Lord" in a fanning mill.

Two miles southeast of the village a wood-crowned hill lifted its green head several hundred feet above the valley, and Mr. Ward, on this account, selected the name Belmont.

which was approved and adopted. The postoffice, however, went by the name of Phillipsville until the year 1859, when it too became Belmont.

On August 7th, 1854, Peter H. Ward purchased a house on Washington Street in the village, of Col. Luscian May for his son, and on the 24th day of October, 1854, Hamilton Ward married at St. Paul's Church, in the village of Waterloo, Seneca County, N. Y., Mary Adelia Chamberlain, youngest daughter of John Chamberlain, and Julia Burt, of that place.

Returning to Belmont after a brief wedding trip to Virginia, the young couple went to live in the house recently purchased by Peter Hamilton Ward, which was deeded to Hamilton Ward in 1868.

Hamilton Ward was rapidly developing. He was fond of literature, and a constant study of the works of Byron and Shakespear gave him a style which was extremely well adapted to public speaking. His fancy was strong, and his style would do credit to one of much better advantages. Few of the speeches of these days remain, but a 4th of July oration delivered in Belmont in 1855 is of interest.

It is as follows :

Mr. Chairman and Ladies and Gentlemen:

This is no ordinary occasion that calls us together. No sudden gathering convened by some unexpected necessity or strange unlooked for event of congratulation or peril.

But a single wave of that vast sea of patriotism and love of country which has swept annually over the land for more than three-quarters of a century.

To-day for the seventy-ninth time the freemen of America meet with one spontaneous accord to celebrate an event which ushered liberty into the world and founded on the rock of equality the noblest structure of civil government that ever took its seat in the family of nations or sent its voice thrilling through the counsels of time.

To-day, thank God, we meet as men. No party feuds, sectional dissensions, bitter feelings, animosities, political, social or religious fester in our hearts. No cold formalities, invidious distinctions of caste, class and position smother the better and nobler impulses of the soul.

The rich, the poor, the old, the young and the middle aged, the laughing, bright eyed child, the beautiful gay-hearted maiden, the dignified and

graceful matron, the strong and bouyant youth, the men of care and business, toil and suffering; the son of toil, of wealth and misfortune, of success and disappointment, natural born and adopted, all are here, side by side and united upon the same broad platform of equal rights. All mercenary, selfish feelings are at rest. Stirred up and enlivened with one emotion of patriotism, moved by one throb of sympathy, and rendering one universal homage to the founders and perpetuators of the liberties we enjoy and the government that secures it.

And not only here among the hills of Allegany is this scene transpiring, but the bosom of thirty-one republics linked by one cord of sympathy and purpose, heaves with emotions that come up from the foundations of human action and responds to the sentiments we hear proclaimed.

From the Canadas to the remotest Florida, from ocean to ocean on every mountain and in every dale, in the city and in the country, beside every stream and in every place, palace or hamlet hearts are beating, and shouts are rising from 25,000,000 of people in unison with yours to-day. And not alone upon the soil consecrated by the ashes of our fathers and the blood-bought heritage transmitted to us but upon every ocean, in every harbor, capital and port throughout the civilized world the representatives of our government and commerce are assembled, and the same banner which is yonder unfurled to the breeze is waving, the shout that swells up from our grateful souls is echoing even 'neath the glories of tyrants and the prestige of thrones.

Aye, too! far over the sea where the slave of domination is toiling; his averted eye is brightened and the great heart of the masses is heaving silent and pure in unison with yours, and upon every breeze that is wafted to your embrace, even where the prison fetters gall and liberty is treason, is the deep and mighty invocation of down trodden nations for your safety and preservation. And there the blood cemented thrones long standing, and crime engendered despositions, are tottering. The votaries of pomp, position and pride are humbled and silent and there steals upon their terrified ears from all this the sure and solemn prelude of their fall, but now while our banner floats on land and sea amid the acclamations of our countrymen, while joy lights upon every face and beams in every eye, while six thousand years all looking down upon us and the spirits of departed generations communing with us, let us pause and render to the God of the Universe our deep felt gratitude and profound appreciation for all these blessings and privileges which he has showered upon us.

And now the scene and occasion throng us with thick memories that reach far back into the ages that are gone and drag from the mist of the past facts of which history is almost mute, and leads us to inquire the cause of those events that have rolled over the world for the last century, and we

may obtain some clew as to the reason for this day and the vast combinations of causes that first wrought the discovery of that vital principle of liberty so dear to the hearts of us all.

And secondly the direct and immediate agency by which that principal was asserted and maintained on this side of the Atlantic until its full development brought forth this proud structure of civil government. The perpetuity and magnificence of which we are commemorating on this occasion.

The principals upon which our institutions are based are eternal. They are founded in the very nature of things, in the natural and inalienable rights, embodied and so beautifully exemplified in the memorable declaration just now read. Truthful as is that instrument it is no new expression of the principals it sets forth. These principals and the causes of their adoption in this country existed long anterior to the discovery by Columbus or the landing of the Puritans. We catch glimpses of them as far back as history carries us until we approach that doubtful period, the boundary of chronicaled events when fact and fancy hold a disputed empire over the public mind. In the early ages we find them overthrowing dynasties, carrying away thrones and monarchies, systems and dependencies like the sweep of the magician's wand until Rome, Greece, Carthage and an innumerable number of lesser republics arose from the night of barbarism and assumed in turn such all controlling positions in the scale of nations.

We see these republics flourish even amid the darkness that envelopes them, and as long as they were true to freedom and themselves their arms were triumphant in every land, their names were terrible in every capital, nation after nation bowed the tributary knee and their rulers and ill-gotten wealth adorned the triumphal march of their successful conquerors. The principal of liberty was taught by Socrates, written by Lycurgus, proclaimed by Cato, thundered by Cicero and Demosthenes, illustrated by Cincinnatus, and beloved by every Roman and Grecian heart. For it Leonidas fell and Brutus perished. Virtue, stern virtue and integrity, sustained these men and nations and kept in the ascendant this principal until the fascinations of power and the allurements of gold corrupted the simple Republicans, and they tottered and fell like a strong man in dissolution while a rude race from the lands beyond the Volga ravaged the gardens of Greece and the palaces of Italy, and then followed the world's darkest era—all seemed lost and the principal of liberty shut out for ever. But not so—it lingered in a thousand hearts, in the mountain fastnesses, the eaves of darkness, and haunts of silence it lingered, and amid the centuries that followed it nerved many a strong arm, it shone dimly yet inspiringly upon many a rude mind. It lurked in the heart of the poor, the oppressed and forsaken, nerved the soul of the martyr, lifted the prisoner's hopes, in-

inspired the dying brave, dwelt on the lips of the manacled slave, on every home altar which the desecrating tread of tyranny had blighted it kindled a flame.

It had no intelligence to guide, no religion to cheer it, no harbor to receive it, still it struggled on, it knew not why or whither. It saw no broad continent touched by the brine of either ocean, reposing in grand tranquility in the western waters where that principal would be asserted, it scarcely knew a God to which it could appeal in the dark era that followed the downfall of Rome and preceded the reformation. But on it struggled, following its unseen destiny, and handing down from father to son as a precious legacy, as something to be kept sacred and not to be told save to trusty sympathizers, less crime-aged despotism should hear its whisper, but every prayer of the enslaved, groan of oppression, fear of suffering, sign of degradation that were uttered and felt in that long and dismal era of 1600 years ago were silently and surely carving out the fate of the new world. They were treasured in heaven, placed upon the records of eternity and gradually and faithfully, in God's own time, was preparing the way for the emancipation of mankind.

I have said that the light that guided it was obscured; in its restless longings it often took a wrong direction and many things were attributed to it by the crafty and subtle which did not legitimately belong to it. Hence history often records its votaries as rebels, revolutionists and enthusiasts who are charged with committing great excesses, but they were often clogged with obstacles which sprung directly from their association with barbarism. Still it persevered, put on a thousand different phases, adopted itself to the various circumstances in which it was placed. It could not abolish tyranny altogether, hence it was content to abolish it as much as possible. In the church it limited the political supremacy of the Pope by turning against it the monarchies of France, Italy and many of the German states and at length brought out the moral reformation of Luther.

In the state it wrested from the unwilling grasp of King John the charter of English liberties and pitted the barons of the realm against the potentate, established the habeas corpus and trial by jury and in similar manner curtailed the power of the monarchs of France and many of the states of Northern Europe. It established a popular branch in the government I have named where the people could have access. It remodeled and improved the judiciary and otherwise constantly enlarged the liberty of the subject until Louis the 16th of France fell a victim to its inordinate cravings and Charles the 1st of England stooped to the block. It gained a momentary supremacy in the days of Cromwell, but ignorance and perfidy palsied its efforts and gained some petty advantages in other portions of Europe. But the grand drama was opening, the plans of the God of the Universe were at last de-

veloped—to the astonished gaze of liberty's champions. A home and country were revealed to it where liberty would at last repose and be asserted. Long had it traveled from the land of the Pyramids. It had wandered through generations of darkness and blood ever westward until a band of exiles driven alternately from England to Holland through fire and persecution and that which would have been death to many men, inspired by emotions that burn and nerved by a purpose that the fate of humanity had fixed in their hearts, Bid adieu forever "to the land of corpses and slaves, A dreary master of chains and graves," Yet home and all to them with many tears and long farewells these men of iron and representatives of freedom launched upon the boundless deep, and the Mayflower was sailing to the New World.

And there fellow citizens in that small bark, lashed by the foam of the vast ocean, with the blue heavens above and the blue waters beneath, with hardly a compass or guide, this frail bark, a mere atom on the waste of waters, that a single blast might destroy, a single wave submerge, contained the germ of that liberty you this day enjoy, the acorn of that tree that spreads its broad branches over you now where your eagle sits and your stars are blazing.

On the 9th day of November, 1620, the Puritan foot first trod the soil of New England, the first echo of civilization and the mighty events to come, broke upon the wild stillness of centuries. No pleasant fields, glowing landscapes, vernal dykes, no habitation of ease and luxury, no city spires, capacious harbors, welcoming throng, friendly glances or extended palms welcomed these sea tossed, storm lashed wanderers to the new world, but a stern rock bound coast, worn bare by the surf of ages on an inhospitable shore, a howling wilderness, a background of snow and ice, a savage foe skulking near with looks of revenge and implements of death, the howling wolf and screaming panther, extended the grim salute from a continent untamed to the founders of an empire. I will not follow them, their trials, hardships and vicissitudes fill a volume in the heart of every patriot. Their stern integrity, iron perseverance, the hazardous conditions under which they lived, their sufferings, trials and peculiarities and ultimate success, the part which they took in the struggles which ended in securing liberty for this country—are as familiar as "household words" to every school boy. They form the theme of a thousand tales, the inspirations which millions feel.

They had no guide but right, no incentive but freedom; unlike all others they accomplished what no other community ever did, history has no such characters upon its broad margin.

They seemed sent on the especial errand of colonizing the new world, a community of heroes no discouragement appalled, no obstacle thwarted, no influence could sever them from the stern rule of duty their religion



sought, their noble souls embraced, their conscience approved. We see, it is true, about their characters and acts that which the fastidiousness of this age might disclaim (but would to God this period could boast of half such worthy men). Errors marked their career no doubt, but they were errors of the head and not of the heart, they sprang inevitably out of their conditions.

They were an isolated band arrayed against the whole world—they had no affinities of cast with any people under heaven, the governments of the old world were opposed to them in principal, theory and actions and built up foes against them on the very alters they had left.

The hereditary lords of the soil, the wild beast and the much wilder savage were lurking in every nook and beneath the shadow of every tree and thicket to destroy them; from the East came home upon every swell of the broad Atlantic the edicts of political death and social demoralization; from the West came the torch, the scalping knife and the tomahawk; amid such jeopardy they lived, under such circumstances arose, over such obstacles triumphed; is to be wondered at that such brave yet ignorant men were guilty of some absurdities, and guided by their rigid piety, some times bordered on fanaticism?

They banished Ann Hutchison and Roger Williams but inculcated morality and the strictest integrity.

They punished witchcraft but encouraged the arts and sciences, planted the rose in the wilderness, built cities and thriving towns in the trackless waste, brought fertile fields and a flourishing agriculture from the sterile earth and above all kept alive and blazing, pure and unadulterated that vital principle I have been tracing through such a period of blood and disseminated its influence throughout the land; bearded the British lion in his den, sent men of iron with nerves of steel to dispute every inch of ground with oppression until the crowning act of insolence and temerity was done by the assumption of the Mother Country. The Stamp Act was passed. Taxation without representation burst the last tie assunder that linked the Two Hemispheres.

The tea was thrown into the Boston Harbor, the first patriot blood was dying the plains of Lexington, the cannon was booming on Bunker Hill, the electric voices of Adams, Henry and James Otis were calling the masses to arms, the hasty Congress was convened, the Declaration just read, fearlessly published to the world, and the war was actually begun, and what a contest; it has no parallel in the world's history, in significance and importance. It did not involve the paltry fate of an isolated province alone, nor a slight ripple upon the tide of political events, but one that would tell greatly for the weal or woe of the whole earth; it was the gigantic effort of the thralldom of centuries to maintain its dominion. The



first decided stand taken on the field and in the Cabinet for the principle of human liberty since the downfall of Rome, and the advent of Christ. In the balance hung all that is sacred to the heart, dear to the conscience and desirable in life. To be defeated in that contest the patriot felt was the greatest misfortune that could cloud the destinies of the human race; the hope of ages would be crushed, the light of equality extinguished forever, and the world retrograde to a darkness that would be perpetual, no star would peer in upon the general gloom to point out one landmark, reflect one ray of hope or beam of better days upon the sunken heart and galling fetters of the slave. The strong aspirations of men after a nobler and better fate would shrink away from the heart, and the future, every home a chanel house, every mount a tomb, every vale a prison, every bugle a dirge, all men tyrants or slaves. Then or never was the principle to be maintained, ten the crisis. If the patriot conquered our country, Ay the world was free if the usurper and the hireling, the cloak of the fallen and the gown of the downtrodden would cover society to the latest generations. Was there ever such an issue presented to any people?

And what did the present indicate and the future proclaim? Was there even a hope of success? Could the most sanguine anticipate more than entire destruction? Across the sea on the other side stood the monuments of fraud which time had given the prestage of divinity. Great Britain with her countless myriads, upon whose empire the sun never sets, the commercial ruler of the world, the Titan of nations, and whose name chilled the vitals of every antagonistic power, whose arms were the most renowned, whose bounds the most extensive.

Beside her, in active co-operative sympathy, stood every despotic monarchy and principality under heaven, ready to assist her was the combined moneyed interests of the globe, the petty states of Central Europe were volunteering their hireling multitudes to crush Republicanism in the New World, and in fact all those governments whose foundations rested upon the neck of the people were united to effect it, lest the rising light of the west might illumine their ruins.

And the other side what was it? The side of humanity, liberty, heaven. Where the power to confound the mighty influence I have referred to? Who was to raise the sword and marshal the hosts of the right? Who the champion to receive the gauntlet a world had flung down, to combat the aims of a continent, the machinations of its diplomatists, the long arm of its vengeance and omnipotence, and overturn the prejudices time had engendered in the hearts of mankind? Who secure and establish in the face of a hundred despotisms a principle and a government that would sweep them in time from the catagory of nations and hurl them into their merited oblivion?

It was 3,000,000 of people without government, funds, arms, union, discipline, leaders or experience, in whose hearts, cold as they were, lurked many affections for the mother country, many misgivings as to the course they should adopt, thirteen feeble colonies, sprigs of the various trees of Europe planted upon a new coast in the bosom of an untried wilderness girt by the ocean and the savage, pervaded with intestine commotions, jealousies and suspicions that sprung directly from the nationalities that placed them there, in whose very presence and by whose very fireside sat the subtle Tory and the rabid traitor.

This the power to oppose, this to redeem, who would dare to dream of their success, the oppressor smiled as he gazed upon this pitiful spectacle, the philanthropist trembled as he predicted their certain fate, as he exclaimed:

"Dark will their doom be,  
Darker still their immortality of ill."

But the God of Battles presided in their councils. The inspirations of eternity inspired their souls, the destiny of mankind buoyed up their purpose, the pale hand of the unnumbered dead who had perished in their cause was reaching to their hearts through the dim alcove of vanished ages from every patriot shrine and hero's tomb, the crushed spirit of Roman and Grecian independence was whispering in their ears and lifting the curtain of their dreams. Every drop of blood shed, every tear fallen, every sigh heaved to heaven, every groan and hour of suffering lost and fear felt. Freedom from the morning of creations was firing their souls to action, the shades of vanished republics and the fate of untold generations their own posterity, the safety and sanctity of their homes and altars, were moving them on to conquer or to die, and the colonists became united as one man and George Washington was the commander and chief of the American forces.

Let us pause and contemplate that lofty character with whose immortal name the heavens resound and the earth re-echoes. Look at him gazing calmly in the diabolic face of tyranny, world denounced as a rebel, branded as a conspirator with a price upon his head. He wrought order from confusion, substance from chaos, union and discipline from the rude and disorganized masses, many were his trials, dark and gloomy were the clouds that beset his pathway, even his God seemed to desert him and the star of his destiny grew dim and sunk toward the region of perpetual night. Often hope seemed lost as his countrymen crouched in despair at his feet.

He saw their blood upon the frozen earth marking to blood hounds in pursuit where they trod, he heard the howling winds and merciless storms chilling the hearts of his half naked soldiers, the groans of his impoverished and dying comrades loaded every breeze of heaven; he found his repeated

petitions for aid at the public treasury neglected, and it wrung his heart with agony as liberty's defenders were crying for bread. He knew that he was encompassed with foes treble his number, and in his own camp, stabbing at his reputation and endeavoring to alienate from him his own soldiers were the traitor and the spy.

Weak in number, cursed by famine and starvation, goaded by the hisses of tyrants and cries of the oppressed and his country gazing on him and her fate at his disposal, Great God what a position.

But by magic the Delaware was crossed, his cannon was thundering at Trenton and Princeton, the star of the patriots brightened. The wave that threatened to destroy them rolled back to submerge the wretches who sent it.

With a prayer to God and an appeal to his countrymen with efforts that sink into significance all the achievements of ancient or modern times, he came, he saw, he conquered. Cornwallis surrendered at Yorktown. Peace was declared and the principle of man's liberty established at last.

He had no predecessor or model, no equal or successor. History reveals no character in which all that was great and good was so thoroughly developed, so harmoniously blended. He stands alone, occupying an exalted station in the estimation of his countrymen and all mankind, the loftiest niche in the temple of fame. No language can describe his acts and sacrifices or do justice to his name. No man can pronounce his eulogy and far be it from me to attempt it; it is beyond the power of human experience or conception.

That eulogy is pronounced by all we see and hear, by the universal applause of mankind and the deep veneration felt in every patriot's heart. Every monument consecrated to freedom, every town, city, improvement by all the evidences of wealth and prosperity, by the blooming fields, fertile vales, the church, the school house, the thriving community and intelligent citizens in our beautiful land in every fear that quakes the despot's heart, in every acclamation that loads the sky, in our institutions, laws, influence, in the grandeur of our name and the splendor of our destiny, his eulogy is pronounced.

Beside the slumbering Potomac he sleeps—the hero sleeps—his humble tomb is the Mecca of the free, but his name will never die, it will brighten as it descends to the latest posterity, and should our country ever fall, should these pillars of her glory ever pass away, and she disappear from the list of nations, the last gasp of her defenders and the dying watchword of her heroes will be the sacred name of Washington, “first in peace, first in war, first in the hearts of his countrymen.”

And those who fought by his side bore his troubles, rejoiced in his success, wept at his defeats, who watched for every word and obeyed with alacrity every decree that fell from his endeared lips. The heroes of that

war, the bold, hardy men that went forth from the field, the cabin and the fireside to defend this country and purchase the boom of civil and religious liberty, the men who willingly embraced suffering, exposure and death, gave up all the pleasures of home and happiness which we so highly prize, met destruction with a shout of triumph in the cause so sweet and so vast; the 20,000 who perished in that eventful struggle without a stone to mark the spot where their hallowed ashes slumber—who fought, bled and died not for fame, glory or mercenary ends, but for their whole country and nothing but their country, the unrecorded masses whose names do not come down to us, whose deeds are only rehearsed when the grand result is given, what shall we say of them? Too often in our applause for the leaders whose prominent positions gave them a place on the scroll of time, we forget the common soldier, the bone and sinew of the camp, the man of humble life and toil who faced the foe and the red hot missiles of death, who faltered not but sustained the standard of the country where the fight was thickest and the battle hottest, who bore the wounded to his couch, the departed to the grave—of those I would speak. Let us turn our memories back to them, kind friends.

We have read the tale of their glory in our school boy days, our hearts have rendered them a thousand tributes. In the hour when all was young and bright with us we listened to the story of their sacrifices and achievements on the home altar and in the chimney corner from venerable lips and saw grey locks grow young again at the recital.

It is said by a great man that heroes strew the soil of every state from Main to Georgia, aye, their spirits are hovering over this assembly to-day, they are watching us from beyond the clouds, they are clustering in blest communion in the spirit land. Let their example inspire your hearts, be the talisman of your lives, teach it to your children, let it be with and guide you in every act of your life, fill your souls with purity, guide your acts in the Cabinet, in the Legislature, in the primary political meetings and at the ballot box.

Remember it when corruption and demagogism sever you from your duty, stamp it with indelible characters on your soul, and should danger, menace or treason attempt to sap the foundations of our government, let it nerve you with the power and daring of patriots and warriors to strike the reprobate to the earth.

Remember them, for they gave you the privilege of this day, they consecrated the soil on which you tread, transmitted unimpaired to you the responsibilities and the immunities which belong to all men, enjoyed by you alone; they gave you this freedom, nourish and preserve it, keep it pure and untainted, hand it down thus to those who come after you, the memory, the devotion, the deathless gratitude we owe to those who:

"Fell devoted but undying,  
 Their very names the gales seem sighing,  
 The waters murmur of their name,  
 The woods are peopled with their fame,  
 The silent pillar, lone and gray,  
 Claims kindred with their sacred clay;  
 Their spirits wrap the dusky mountain,  
 Their memory sparkles in the fountain  
 The meanest rill, the mightiest river  
 Roll mingled with their fame forever."

These were the days when the American people believed that God had charged them with a duty toward humanity, a duty which the modern spirit of "commercialism" does not fulfill, and the change in our national attitude is well illustrated by our present neglect of the observance of the 4th of July. Then men asked of a stranger who are you? Now the question is: Who do you work for? The day of individuals and the day of combinations—the day of patriots and the day of machines.

Hamilton Ward rapidly grew in consequence in the county, and owing to his genial and unassuming manners made many friends. In 1856 he stumped the county for John C. Fremont, Republican candidate for President.

In this year a new township was erected in Allegany County from parts of the towns of Alfred and Amity by Chapter 807 of the Laws of 1857, passed November, 1856, and the inhabitants of the new township decided to call it Ward, after Hamilton Ward, which name it still bears. It lies directly east of the town of Amity and contains no villages. Out of a population of less than 800 it contributed eighty-seven soldiers to the Civil War.

Mr. Ward frequently expressed the wish that he might some day be able to erect a town hall in this town, and present it to the people, and it is to be hoped that this desire may in the future be carried out.

In 1856 he became a candidate for District Attorney. The political leaders of the county resided in Angelica and most of the lawyers were there. It was an iron clad custom to allow the offices to alternate between two assembly dis-

tracts, north and south, into which the county was divided. The southern district was entitled to the office, and Mr. Ward began his first campaign for himself. He rode over the country and was nominated on the Whig ticket. Josiah Rathburn of Belmont, a Whig leader, rendered him much assistance. His election by a substantial majority followed on the 4th day of November, 1856, his vote being 6,426 to 1,672 for his highest adversary.

Very little record exists of this period of his life. His principal work as District Attorney consisted in convicting a gang of thieves who had taken up their headquarters in the town of Ward. They were known as the Way-Powell gang and were among the last of the frontier ruffians. They helped pass stolen property from other stations, and when caught were preparing an issue of bogus money. Their leader had a singular disguise. His hair and beard were very long and were so trimmed that by tucking them under his collar he appeared like a man with short hair and beard, but when a disguise was required they were pulled out, covering the owners features. This man was sent to State Prison for a long term of years, threatening to kill Mr. Ward if he ever got out.

At the expiration of his first term, the rule of rotation in office heretofore spoken of, being in force, Mr. Ward was not a candidate for renomination.

For some time a discussion had been kept up throughout the county regarding the wisdom of moving the County Seat from Angelica to some point on the Erie Railroad, then and for many years the only railroad in the county. Legislation had been attempted and finally in 1856 the County Board of Supervisors, by a vote of 17 to 11 resolved that an effort should be made to remove the County Seat to Belvidere, a station on the railroad two and a half miles north of Belmont. No legislation was secured and the resolution was renewed in the following year. Finally a commission of three members was appointed by the Legislature to select a new County Seat at some convenient point on the railroad. They visited Belmont, Belvidere and other points and finally decided in favor of Belmont, which became the



County Seat by Chapter 84 of the Laws of 1858. The result was largely brought about by the indefatigable efforts of Colonel Lucian May and Hamilton Ward. The people of Angelica were much dissatisfied with this result, and in 1860, by Chapter 489 of the Laws of that year another act was passed directing that one-half of the terms of the County and Supreme Courts be held in Angelica. This situation existed until 1892 when by Chapter 521 the Act of 1860 was repealed, and the old Court House at Angelica sold to the town.

In 1860 Mrs. Ward's health broke down and she was obliged to spend most of her time in Buffalo under the care of a physician. Mr. Ward's expenses on this account and because of his widening political interests were heavy and he was considerably in debt, and this fact in connection with his wife's illness determined him not to volunteer in the Union Army. However he did all that any man could do at home. He engaged a substitute, although not drafted, and in the fall of 1860 was appointed by the Governor one of the Military Committee for the 30th Senatorial District, and as a member of this committee was instrumental in raising the 130th and 160th Regiments N. Y. State Volunteers. He was always regarded as a friend by the soldiers and his subsequent actions justified this feeling, as will more fully appear.

On the 15th day of February, 1861, on motion of Hon. Alfred Ely he was admitted to the U. S. Supreme Court.

In 1862 the work of the Military Committee became more serious. It was then seen that the contest was not one between the Government of the North and the Government of the South, but that it was a life and death struggle between the people of those sections, and the way in which the people of the North faced and mastered the situation is best shown by the following address to the People of Allegany County by the Military Committee, and the report of the Committee's proceedings:



## ATTENTION, VOLUNTEERS!

CUBA, July 23, 1862.

Editors of The True Patriot:

For the information of the citizens of Allegany, I send you for publication the quota of volunteers required to be raised in the County under the recent call for troops.

The Military Committee for this Senate District met at Geneseo yesterday and recommended Major-General Fullerton as Commander of the Regimental Camp, and by resolution requested the Governor to change its location to Portage, which will undoubtedly be done.

Everything is now ready for the prompt action of the People in the several towns. By the time a sufficient number of volunteers are raised to be forwarded to the camp, the commanding officer will be ready to receive them. The people are appealed to by the highest considerations to respond to this call—not only the claims of patriotism and our imperilled army looking hopefully for aid, but every person capable of bearing arms has a direct personal interest in raising these troops; for at an early day, if not obtained, the liberal bounties offered for volunteers will cease and drafting begin.

Let the prominent citizens of each town go at once earnestly to work. There will no difficulty in persons who raise the requisite number of volunteers to entitle them thereto, obtaining the recommendations of the committee for commissions.

Yours respectfully,

M. B. CHAMPLAIN, of the Com.

PROCEEDINGS OF THE MILITARY COMMITTEE FOR THE  
30TH SENATE DISTRICT.

At a meeting of said committee, convened at the Court House in Geneseo on the 22d day of July instant, at 11 o'clock A. M., pursuant to notice—Hon. Charles Colt was called to the Chair and Hon. J. B. Halstead was chosen secretary.

The following members of said committee appeared and answered to their names:

LIVINGSTON COUNTY—Hon. Charles Colt, Charles H. Carroll, A. A. Hendee, James Faulkner, A. Bradner, McNeil Seymour, Alfred Bell, Gen. W. S. Fullerton, and W. E. Landerdale.

WYOMING COUNTY—Hon. J. B. Halsted, H. L. Comstock, L. W. Thayer and John B. Skinner 2d.

ALLEGANY COUNTY—Hon. M. Grover and Hon. M. B. Champlain.

On motion of Gen. L. W. Thayer, it was

Resolved, That each county have an equal representation on the committee, and that the members in attendance present the names of the additional committeemen for appointment.

After recess of fifteen minutes, the following names to fill the committee from Allegany were presented: Alfred Lockhart, William Colwell, Luman B. Elliott, Hamilton Ward, Jeremiah Hatch and Samuel Swain.

Wyoming County presented the following names: Charles O. Shepard, John B. Folsom, Wm. Bristol, Duncan Cameron, Marcus Willner.

On motion of A. A. Hendee, it was

Resolved, That the committee proceed to recommend a Regimental Commandant to take charge of the camp until the regiment is formed and a Colonel duly appointed.

Upon a viva voce vote, Major-General W. S. Fullerton was duly elected, which election was made unanimous.

On motion of Mr. Grover, it was

Resolved. That the Commander-in-Chief be earnestly requested to change the location of the Regimental Camp from Geneseo to Portage Station.

All the committee from Allegany and Wyoming, and four from Livingston, voted in the affirmative, making ten in favor to four in the negative from Livingston county.

Hon. A. A. Hendee, of Geneseo, was elected corresponding secretary of the committee.

On motion, it was

Resolved, That the committee of each county proceed to select suitable persons in their respective counties for recruiting officers to be recommended for appointment.

It was further

Resolved, That all future meetings of the committee be held at Portage Station.

The committee was ably and eloquently addressed during its session by the Chairman, Hons. M. Grover, J. B. Halstead, M. B. Champlain, L. W. Thayer, Charles H. Carroll, James Faulkner, and others.

The committee then adjourned to meet at Portage Station on the 30th inst., at 12 o'clock, noon.

CHAS. COLT, Chairman.

J. B. HALSTEAD, Secretary.

On a notice to the Town Supervisors in October, 1862, to produce a list of persons enlisted, Mr. Ward's name appears as Secretary of the Committee.

In the fall of 1862 he again became a candidate for the

nomination for District Attorney, and was nominated by acclamation on the "Union" ticket, as the Republican ticket at that time was styled, and was elected by a majority of thirty-three hundred, Nov. 4th, 1862.

Mrs. Ward continued to be an invalid during the year 1863.

In the year 1864, while still occupying the office of District Attorney he became a candidate for Congress in what was then the 27th N. Y. Congressional District, comprised of the counties of Allegany, Chemung and Steuben. The contest was spirited, and was only decided in the convention. The proceedings of the convention were as follows; as appears from the Angelica Reporter of September 28th:

#### CONGRESSIONAL CONVENTION.

The Convention was organized at the Osborne House, Hornellsville, on the 20th inst. by choosing Hon. Wilkes Angel, chairman, and Harlow Hakes and G. McDonald, secretaries.

The following delegates presented their credentials and took their seats:

Allegany County, 1st Dist.—Wilkes Angel, Christopher Jennings, Nathaniel Bell. 2d Dist.—Rufus L. Colwell, Alonzo B. Coon, John L. Russel.

Steuben County, 1st Dist.—E. R. Kasson, J. H. Butler, Owen Riley, Jr. 2d Dist.—S. T. Hayt, William Moore, Wm. M. Sherwood. 3d Dist.—Harlow Hakes, James P. Clark, E. G. Durfy.

Chemung County—John I. Nicks, F. M. Jones, J. McDonald, E. A. Owen.

On motion of E. R. Kasson, the convention proceeded to an informal ballot for candidate for Member of Congress, which resulted as follows:

Hamilton Ward, 7; Tracy Beadle, 4, and A. C. Morgan, 6. Blank 2. Whereupon a formal ballot was taken, which resulted in giving, for Hamilton Ward, 9; Tracy Beadle, 4, and A. C. Morgan, 6.

And after twenty-three ballotings, with the same result, there were finally cast for Hamilton Ward, 13; A. C. Morgan, 6.

The nomination of Mr. Ward was then made unanimous.

On motion of E. G. Durfy, the chair appointed the following committee to report resolutions:

E. G. Durfy, N. D. Bell, and J. McDonald, who reported the following resolution, which was unanimously adopted:

Resolved, That the Convention fully approve of and commend the course pursued by Hon. R. B. Van Valkenburgh, our present representa-

tive in Congress, for the able and honorable manner in which he has discharged his duties as such representative, and the zeal and fidelity with which he has, in the councils of the Nation, sustained the reputation of our district, and the integrity of our country.

On motion, the chair appointed the following Congressional Committee:

C. G. Fairman, Rodney Dennis, George Pratt, George S. Ellas, C. F. Dickinson, A. N. Cole. On motion,

Resolved, That the proceedings be published in the Republican papers throughout the district.

WILKES ANGEL, Chairman.

HARLOW HAKES,

J. M. DONALD,

Secretaries.

Mr. Ward's nomination was secured by the Chemung delegates voting for him.

The Democrats nominated a soldier who had lost an arm in the service, Col. A. J. McNett of the 141st N. Y. V. I., a resident of Belmont, hoping thereby to secure the soldiers' vote and made a strenuous effort, assisted somewhat by a defeated Republican candidate for the nomination, to defeat Mr. Ward, but, after a hot campaign, in which he visited and spoke in almost every town in his district, Mr. Ward carried Allegany County by a majority of 3,438, Steuben by 2,169 and Chemung by 162, running about 300 behind Lincoln.

This Congressional election to a man of but 35 years of age was indeed a high honor, and especially so in those days when every session of Congress determined whether the Government should live or die, when the great questions of State rights were settled once and for all, and the duty of the nation to each and every citizen at length established. In the three Congresses following 1864 the "conflicts of the constitution" were decided and the course and destiny of the nation laid out. How welcome must such an opportunity, as was given by this nomination, have been!

By a strange freak of fate this triumph followed close upon the heels of a great peril and substantial loss. In July, 1864, Hamilton Ward with his wife, undertook to visit relatives in Michigan and to see the wonderful western lakes. After passing through Lakes Superior and Huron they

sailed from Detroit on their return on the steam propeller Racine, a boat belonging to the Western Transit Company, which carried, as did most boats in those days, both freight and passengers. The boat had a deck load of high wines, and some of the crew tapped one of the casks—became intoxicated and forgot to return the plug, with the result that the escaping spirits reached the fires and caused a conflagration which destroyed the ship.

The following statement of the occurrence appeared in the Buffalo Morning Express of Aug. 13th, 1864:

**THE BURNING OF THE RACINE.**—The surviving passengers of the propeller Racine deem it proper to make the following statement relative to the burning of that vessel, that it may be known to the public:

The propeller Racine was one of the Western Transportation Company's boats, running between Buffalo and Chicago, and was returning from Chicago. The boat was heavily laden with produce and high wines. The whole number of passengers, officers, and crew, was 39. The following is a list of the passengers lost, and of the crew lost and saved:

**PASSENGERS LOST.**

Peter Warner, Karp River, Michigan, and two others, names unknown, who took passage at Detroit.

**PASSENGERS SAVED.**

Mrs. Ellen Burke, Milwaukee.  
 Mrs. M. Waldron, Chicago, Illinois.  
 H. Ward and lady, Belmont, N. Y.  
 James Greenwood, Boston, Mass.  
 Wm. S. Wright, New York.  
 Levi Richardson, Detroit, Mich.  
 J. S. Blossom, Burlington, Wis.  
 John Allen, Indiana.  
 S. H. Rubius, Buffalo, N. Y.

**CREW LOST.**

John, Manaher, second mate.  
 Alexander McLean, watchman.  
 Patrick Lynche, deckhand.  
 Thomas Welch, deckhand.  
 Peter Mullen, deckhand.  
 Mike Powers, deckhand.  
 Jack Leary, deckhand.  
 Edward ——(surname unknown).

The propeller left Detroit about 5 P. M., on the 9th of August, took wood at Malden, C. W., and left there for Buffalo at 8 P. M. At 2:30 A. M., on the 10th, when about 12 miles above Roundeau, a fire was discovered near the boiler, just a few feet from the furnace, as near as we can ascertain. Upon alarm being given, the captain and first engineer took measures to extinguish the fire and prevent explosion of the boiler; but it was found impossible to subdue the flames when the officers arrived.

The passengers were then called. A panic immediately seized a portion of the passengers and crew, who, upon their own responsibility, seized one of the yawls—the men jumping into the boat confusedly; and when the boat was near the water, the steamer making eight or nine miles an hour, they cut the tackle and she immediately swamped, and was crushed under the wheel, and all in her lost except the second engineer, who was found clinging to the bottom of the boat. The flames rapidly spread to the upper deck, when the captain ordered the jolly boat to be lowered, and he, with the assistance of the first mate, first engineer and passenger Wm. T. Wright, in the midst of the flames (as the boat was surrounded by the fire) with almost superhuman power at a great personal risk, lowered the boat and brought her forward. The ladies were then put into the boat. The life boat was then lowered. Nearly all the passengers and crew crawled into the boat. By great exertions of the captain and others who remained on the burning vessel after the boats were lowered, such valuables as were in reach and could be safely put in the boats were so placed. Provisions were also placed in the boat for the subsistence of the passengers. The compasses were secured; life planks, doors, stools and other articles that could be of use in case the boats should be swamped, were thrown over. About 250 barrels of flour and high wines were also cast over. All was done that doing human could do to save life and property.

Passengers Wright and Greenwood were cool and active throughout, and did their utmost to assist the officers. The captain at last stood alone on the burning deck; the lurid flames had nearly enveloped him, the jolly boat was attached to the vessel by a single line—in the midst of smoke, fire and ruin, he stood and unfurled the Stars and Stripes, shouted "Freedom for ever," then gliding down the rope and entering the boat he said: "We are afloat, if we perish we will go down under the old flag." We then drifted away over the water. Directions were given to remain as near the wreck as possible, as we would be more likely to be seen in the light of the burning steamer. At about 4 o'clock we saw a light, and soon our ears were greeted by the joyful sound of a steam whistle and shortly after the propeller "Avon," Capt. Frazer Smith, rescued us from our perilous position. From Capt. Smith and the men and officers of his boat we received the utmost attention. They did all in their power to make us comfortable. Boats were sent out and search made for the missing. The burning wreck was

taken in tow and Capt. Smith even exposed his own boat to get the vessel ashore.

We cannot close this painful narrative without paying a personal tribute to our captain. From the first to the last of this trying ordeal he was calm, collected, and stood the master spirit of the scene. Nothing was omitted; the safety of life and property alone seemed to animate him, risking his life in many ways. We have for him the most unbounded affection and respect. At the time of the lowering of the life boat, and saving property afterwards, the captain enforced obedience to orders by presenting a revolver, but no other officer had a weapon, as reported in one of the morning papers. The first engineer, Thomas Haig, nobly performed his duty, showing himself a hero and a man. God bless noble Tom! The boiler did not burst, as at first stated. We say nothing of those who had charge of the machinery, and who were on watch at the time the fire commenced. Some have gone to their long account; others yet live.

We deem it proper to say that as to the origin of the fire, it should have a rigid examination.

Mr. and Mrs. H. Ward,  
Mrs. Ellen Burke,  
Mrs. M. Waldron,  
S. H. Rubins,  
Levi Richardson,  
Jas. Greenwood,  
Wm. S. Wright,  
J. S. Blossom.

Buffalo, August 12, 1864.

Those who escaped lost everything. Their boat leaked, and was with difficulty kept afloat until they were rescued, as set forth, most of the passengers, including Hamilton Ward and his wife being in their night clothes. They were finally landed in Buffalo. They then hurried to Belmont only to discover that in their absence Mr. Ward's law office had been burned, together with other buildings in the village, and that his library, furniture and papers had been totally destroyed. All that was left was a cow, as the residence at that time belonged to Peter Hamilton Ward, and the morning after his return Mr. Ward started for the farm where he had put the cow to pasture on his departure. He found her in a gully, heels up, covered with crows. There was nothing more to lose, and it is said he found comfort in that solitary fact and whistled as he came back to the village.



## CHAPTER V.

### **In Congress.**

In the month of December, 1865, Hamilton Ward removed with his wife to the city of Washington, and took up his residence on 12th Street.

Among the famous men of the nation who were members of this Congress were James G. Blaine of Maine, Justine S. Morrill of Vermont, Oak Ames, Nathaniel Banks, George S. Boutwell, Wm. B. Washburn of Massachusetts, Roscoe Conkling of New York, Samuel J. Randall and Thaduis Stevens of Pennsylvania, Rutherford B. Hayes, Robert C. Schenck, John A. Bingham and James A. Garfield of Ohio, Michael C. Kerr, Daniel W. Voorhees and Schuyler Colefax of Indiana, Elihu B. Washburn and Shelby M. Collum of Illinois, William B. Allison and James F. Wilson of Iowa, Philitas Sawyer of Wisconsin and William Windom of Minnesota. Schuyler Colefax, who, as before appears, was related to Hamilton Ward, was chosen speaker against Mr. James Brooks, the Democratic candidate, by a vote of 139 to 36.

Mr. Ward was placed upon the following committees: On Claims, the chairman being Columbus Delano of Ohio; on Accounts, of which Edward H. Rollins of New Hampshire was chairman. He had, however, not waited for the organization of the House to commence to discharge the duties he felt he owed his constituents, coming as he did from a portion of the country that had contributed so lavishly to the Union's cause. On Dec. 11, 1865, he made his first appearance on the floor of Congress and introduced his first bill which provided for the giving of lands and money as a bounty to U. S. soldiers who had served in the late Rebel-

lion. This was referred to the Committee on Military Affairs, to be appointed and ordered printed. It provided in detail that the soldiers who had volunteered or enlisted prior to June 5th, 1863, who had served for not more than three months should receive 40 acres of land, and in an increasing ratio, so that it was provided that those who had served over two years should receive 160 acres of land and \$100.00 in money. And it was further provided that the provisions of the Act should apply to colored soldiers who had not at this time been protected by the constitutional amendments. This bill was the first of the sort introduced and greatly pleased the soldiers and loyal people of the North.

On December 18th, Mr. Ward introduced the following resolution:

"Whereas, Certain inhabitants of the Territory of Utah, in violation of the laws of the United States, have been and still are sustaining the abominable system of polygamy, and the numbers who practice it, and the crime and demoralization consequent thereon, are largely on the increase; and whereas for reasons not understood, the law against polygamy has not been enforced; and, in the judgment of this House, this great and remaining barbarism of our age and country should be swept, like its twin system, slavery, from the Territories of the Republic; and means, adequate to that end should be adopted; Therefore,

"Resolved, That the Committee on Territories be instructed to inquire and ascertain what means, civil or military, may lawfully be resorted to to effectually eradicate this evil from the land, and what legislation is needed, if any, to effect that object, and what reasons exist why the laws against polygamy have not been executed; and also to ascertain whether the United States officials in said Territory are seeking to enforce the laws and to inquire into their conduct generally, so far as relates to the discharge of their public duties in relation to this system, and that said Committee have leave to report by bill or otherwise."

On January 10th, 1866, Mr. Ward introduced the following resolution, which was agreed to by the House:

"Whereas, It is alleged that the form of contract to be entered into between the freemen and their former masters in the State of South Carolina, has been adopted by certain government officials on the one side, assuming to represent the freedmen, and their former masters on the other side, whereby, among other things, it is provided that the freedmen be-

comes the servant of the master for the period of one year; that he shall not be permitted to leave the premises where he is bound to labor, or to receive visits from relatives or friends thereon during said time without the master's consent, nor without such a consent to keep any poultry, stock, etc., during the time; that if said freedman is absent for two days without the master's consent, no matter for what cause, he forfeits his whole year's pay, part of which goes to his master; that if any team, horses, mules, or farming utensils are injured while being used by the freedman such damage shall be deducted from their wages, it not being specified that such liability should only be incurred when the freedman was at fault, and in case of any breach of any of the provisions of the contract by any servant he shall be liable to forfeit all his wages and be dismissed from the plantation; and whereas it is alleged that said freedmen are being induced to enter into such contract; therefore

"Resolved, That the select committee on freedmen be instructed to inquire into the truth of said allegations, and also to ascertain what contracts, if any, are being forced upon the freedmen of other states and to report by bill or otherwise."

On January 12th Mr. Ward submitted the following resolution:

"Resolved, That the Committee on Ways and Means be instructed to inquire into the expediency of repealing the internal revenue tax on paper, and upon all bibles, testaments and religious books and publications, and upon all school books used in schools, academies and colleges." This was immediately passed.

His first speech was delivered on January 25th on the subject of an amendment to the constitution, and is as follows:

"Mr. Speaker, I do not suppose there is a Union man on this floor but desires that some amendment to the Constitution should be secured that shall avoid in future the patent injustice and glaring defect which now exists in the basis of representation in the Southern States.

"The fact that one South Carolinian, whose hands are red with the blood of fallen patriots, and whose skirts are reeking with the odors of Columbia and Andersonville, will have a voice as potential in these halls as two and a half Vermont soldiers who have come back from the grandest battle fields in history maimed and scarred in the contest with South Carolina traitors in their efforts to destroy this Government, cries aloud for remedy, and it depends upon Congress to inaugurate this remedy. And the country expects and demands from the large Union majority here some united action, and not to fritter away our strength in useless divisions and accomplish nothing.

"We must be guided by a spirit of compromise and harmony. No amendment can be presented entirely free from objection, and that may not bear unequally in some respects; but in the spirits of our fathers who framed the immortal instrument we are seeking to change, let us who have a common object at heart strive faithfully to agree, each section willing, if necessary, to yield a little for the general good.

"I am free to say that to my mind that there are serious objections to the amendment reported by the committee. Still, if nothing better can be agreed upon, I will support it upon the principal that it is better than no amendment at all. Numerous amendments have been proposed, many of which I deem so extraordinary as to be entirely out of question. There are, however, a class of amendments that purpose to base representation upon male suffrage simply. Let us examine for a moment the effect of this.

"Those who vote will, of course, in all cases be the direct agents in selecting the representative; but what becomes of that large class of non-voting tax-payers that are found in every section? Are they in no manner to be represented? They certainly should be enumerated in making up the whole number of those entitled to a representative. If that is not done, then, indeed, we have reversed the progress of nearly a century, and the doctrine that our fathers fought against and overthrew in the Revolutionary struggle is at last asserted in this country and made part of the fundamental law of the land, namely taxation without representation.

"The amendment reported by the committee adopts the right principle, and is good enough as far as it goes; but it can readily be seen that if the poor whites of the South, or the blacks, are excluded for any other ostensible reason than that of "race or color," or if no reason is given for the exclusion, and the law excluding them; the same difficulty exists as now, and the object sought to be obtained is defeated. Do you suppose that these "whitewashed traitors" with the infernal ingenuity which maintained the great rebellion against the grandest army and the most mighty power on earth for four long years will not invent some scheme, if the amendment as it now stands prevails, to keep a down-trodden people whom they hate away from power and all means of elevation, and yet, true to their old habit of appropriating the use of these people without compensation, use their numbers as a basis of representation with which to get themselves into Congress? They will readily publish some ground of exclusion from suffrage other than of "race or color." They may require them to read and write, and yet keep alive the black code against disseminating knowledge among them. Indeed, they may require them to have a college education or something else equally absurd. Perhaps the fact of their undoubted loyalty to the government will be a ground of exclusion.

"It is no answer to say that the same ground of exclusion must be applied to whites as well as blacks. This does not necessarily follow. Sup-

pose it were so, what consideration has the Southern oligarchy ever shown for the "poor white trash?" With their contempt for labor, their known desire for landed aristocracy and the privileged class, how ready would they be to exclude the masses by some property or other qualification from power, to the end that they might grasp it all.

"How, then, you ask, shall this be remedied? I answer by simply also excluding from the basis of representation all those who are deprived of suffrage by reason of a property or tax qualification, or any other qualification not heretofore recognized as a qualification of suffrage in the state where the qualification is applied; so that no subterfuge could be adopted to defeat the purposes of the amendment, and so that a state would have the choice simply, as we desire it should, of enfranchising its people or not having them counted in the basis of representation; and thus the tax-payer of the state is not deprived by the Federal Constitution of representation absolutely, as in the other plan I have referred to; but the excepted classes are made dependent upon State action alone, the State having power at any time to remove the disability that the Constitution imposes.

"My amendment consists in adding to the joint resolution proposed by the committee these words:

"And provided further that all persons who are deprived of the elective franchise in any State by reason of a tax or property qualification, or by reason of any other qualification, which (other qualification) was not in force on the 1st day of January, 1866, in the State where the same is applied, shall be excluded from the basis of representation.

"So that the joint resolution shall read as follows:

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: Provided, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation, AND PROVIDED FURTHER, That all persons who are deprived of the elective franchise in any State by reason of a tax or property qualification, or by reason of any other qualification which (other qualification) was not in force on the 1st day of January, 1866, in the State where the same is applied, shall be excluded from the basis of representation.

"I ask the earnest consideration by the House of the amendment. It seems to meet all the difficulties that surround us, and I hope it will prevail.

"It has been suggested that perhaps the loyal States will not pass the amendment. In my judgment the loyal States will pass any article that

we shall propose to them from their adoption, and make it the fundamental law of the land.

"As for the disloyal States, those who stood in a hostile attitude against this Government and have exerted all their power for its destruction during the last four years, I have only to say that they have only the right which the criminal has who pleads before the judge for mercy. They will pass this amendment as they did the former."

The wisdom of this amendment is amply demonstrated by the present course of the Southern States (1898-1900) in establishing educational, property and hereditary qualifications for the voters.

On January 30th, 1866, he addressed the House briefly on the Southern loyalists as follows:

"I concurred with much reluctance in the report which comes from the committee. I felt that the loyal men of the South who have been faithful among the faithless, who have risked all and suffered all, and the wives and children of those who had perished in consequence of their devotion to the national flag, should in a measure be compensated for the losses which they have sustained in consequence of their adherence to the National Government. But, sir, the magnitude of these losses, the difficulty of distinguishing at this time between loyal men and traitors, and the condition of our finances, admonished me that we should not open a door that would let in financial ruin, national disgrace and perhaps repudiation of the national debt. I felt that this class of claims might double the national debt, and so bring about results which all would depreciate—results so deplorable, I am sure, that all would wish to avert them, and none more so than those patriotic men whose claims are so strong, and who have shown by their sacrifices that the national honor is very dear to them.

"And so far as I am concerned I desire to say that I hope that this action will not be regarded as final; that it shall not bind as a precedent those who shall come afterwards; but I hope that at no distant day, when the dark clouds that surround our national pathway shall have vanished, when the difficult work of reconstruction shall be done, when the nation no longer reels under a gigantic national debt, and when these loyal men shall be clearly ascertained, then justice shall be done to these people, and the nation shall reward them as they deserve."

These speeches are self explanatory and cannot be added to by anything that can be said at the present time. They illustrate the zeal with which he took up his new labors, and the breadth and keenness of his mind. A new

member of Congress nowadays to become at once so active would be frowned upon by the older members, but no such sentiment affected the deliberations of the great Congresses of the Reconstruction period, whose members were almost all young men and comparatively new in the public service of a new party, confronting new conditions and compelled to resort to new remedies.

On February 10, 1866, Hamilton Ward made one of the best speeches which he ever delivered, in the House. It is on the question of reconstruction, and is as follows:

#### RECONSTRUCTION.

The House resumed the consideration of the President's message, as in Committee of the Whole on the state of the Union.

MR. WARD said:

Mr. Speaker: I should not thrust myself upon the attention of the House at this time, could I with justice to myself remain silent.

So varied and novel are the schemes of reconstruction and the resolutions upon that subject that are crowded through the House without opportunity for debate, under the operation of the "previous question," that it seems necessary for members who desire their true position understood upon this vexed question to take the opportunity offered for the discussion of the President's message, to do so.

After so many great minds, at both ends of this Capitol, have exhausted so thoroughly all views and phases of this question, it will not be expected that I will advance anything new. I shall only express the earnest, deeply fixed convictions of one of the humblest upon this floor, and you will receive them simply as such. Who can but tremble at the vast responsibility to our country, our countrymen, and to God, under which we rest as members of this Congress.

Never before in the history of nations has a legislative body met charged with such duties and obligations as have been imposed upon us. We are legislating for the present and the future. The effect of our action will not be circumscribed by our time and country alone; it will reach the whole earth and the remotest generation.

Ten million people, emerging from the chaos of war, stand before us powerless, disarmed, without government, without law, save from the strong arm of the military power, awaiting our action, demanding from us the full exercise of the rights they enjoyed in the better days gone by, when, true to the Union, they stood side by side with us upholding the honor of our common flag. What have they done? Why are they knocking thus at the doors of our national councils? Why these vacant seats? Ah! they



have committed the most fearful and gigantic crime known in the records of time.

They conspired to overthrow and blot from the book of nations the Government of their fathers, under whose protecting power they have grown rich, powerful, and enjoyed every blessing, without cause, save the desire to perpetuate human bondage. They conspired against popular rights and liberty. They sought to dishonor and degrade labor.

Governors, Legislatures, judges, municipal officers; the whole machinery of government, State and local; all collective and individual action of the people, were directed with awful power for long and terrible years for the destruction of this Republic.

In the cabinet, on the field, on the ocean, in foreign climes and capitals, with armed men, with the torch, with poison, with fire, by robbery, arson, murder, starvation, pillage, and all the crimes that a fiendish ingenuity could devise and put into execution, they pursued their work of death.

They declared that the Union was dissolved, its mission ended, and that never while they lived on earth, while the last man could grasp the last musket, would they yield this pretension. And well they did their infernal work. They stand before God and man staggering under the murder of three hundred thousand of the noblest men that ever went forth to battle and to death. They have desolated and darkened every home in the land; \$3,000,000,000 of national debt, \$500,000,000 more obligations incurred by States and counties; two million men have shouldered arms for the Republic; one hundred and three thousand pensions upon our bounty caused by the war. These are some of the results of their action. They failed. Such men as were gathered into hosts and marched to the music of the Union and swept the armies of treason from the land were never before given to any country. How we should prize and cherish those who live, bind up their wounds, give them of our substance in their time of need. And those who died, whose precious dust reposes in the soil of every State, let us remember and sanctify their resting places, and guard well their widows and orphans as the nation's treasure.

What is the condition of those States and people? What their relations to the General Government? What shall we do with them?

And now, without resentment or fear or looking backward or trimming our sails to catch some popular breeze, acting under our oaths, and with the desire only to do right as it is given us to "see the right," let us enter upon the consideration of these momentous questions.

All sovereignty rests with the people in this country; by virtue of this sovereignty they have organized States and State governments, and been received as such States into the Union; and subject to the Constitution of the United States and the laws of Congress made in pursuance thereof,

each State, as long as the people thereof have observed their allegiance to the General Government, has been free and independent.

The legal union of the States cannot be broken by the action of the people of any State unless it is accomplished by successful rebellion. The rebellion failed, and therefore all the people who have upheld the Union and still control its Government can insist that the Union is not dissolved, and that territorially the States in rebellion still exist. Sovereignty is still inherent in the people of those States, to be exercised whenever in the judgment of the Government they can do so consistent with the national safety. I do not recognize any authority now existing in these States to represent this sovereignty or to carry out the powers which a loyal people, instituting loyal State governments and sending loyal members to Congress, can do, for the reason that the authorities and people of those States went into rebellion, as I have stated, together with their representatives in Congress, who withdrew from these Halls for that purpose.

Their right to a new State government, to resume their practical and original relations with the loyal States, undoubtedly exists under certain conditions and restrictions. It seems to me that it necessarily follows from the relation of Government and people, which is of allegiance on the one hand and protection on the other, that if a portion of the people refuse their allegiance to the Government and make war upon it for its destruction, and are defeated in the attempt, they have forfeited the right of protection and are at the mercy of the Government. I said they were entitled to resume their original relations under certain conditions and restrictions. Who is to be the judge of those conditions and what shall they be? Shall the red-handed traitor be the judge? Is he to prescribe the conditions of his own return. No one will contend that. The whole practice of our Government under the last Administration and the present has been against it.

Shall foreign nations be the judge? No, thank God, in our darkest hour our Government resented even the advice of some of those nations as offensive and impertinent. And now we stand magnificent and peerless among the nations, which of them shall thrust its judgment upon us? Will the autocrat of France? We say to him that if his intermeddling with affairs on this continent in defiance of the time-honored policy of this country does not cease, the army of blue will again be in motion and Maximilian will be hurled from the throne of the Montezumas.

I shall not perplex myself with abstract propositions or enter into any discussion as to whether the rebel States are in the Union or out of it. No one contends that they have legally severed their connection with the Union. The territorial boundaries of the States still exist; we have the right still to compel their obedience to the Government; they owe allegiance to no other; but as Mr. Lincoln, in his great good sense, in a speech made a few days before his assassination, says

"They are out of their practical relation with the Union."

Practically, they have been out of the Union, and practically in feeling and sympathy they are out still; and ours shall be the task to bring them back, not simply to power without Union, but so to reconstruct as to secure a true Union with power. And while a State, considered as simply a legal institution, cannot be destroyed, still its government can be overturned and its members and people go into treason, so that practically it is destroyed; for after all—

"What constitutes a State?

Not high-raised battlements, or labored mound,

Thick wall, or moated gate;

Not cities proud, with spires and turrets crowned;

Not bays and broad-armed ports,

Where, laughing at the storm, rich navies ride;

Not starred and spangled courts,

Where low-browed baseness wafts perfumes to pride—

No! men, high-minded men."

not traitors.

Where do you get your constitutional power to keep their Representatives from Congress; to organize military tribunals over them; suspend their courts, their Legislatures, their State functions? Ask gentlemen on the Democratic side—you are revolutionary, say they. The land groans under your despotism, they exclaim. These terrible assertions would alarm us did we not "consider the source." These same persons and their party said, when treason's gripe was at the nation's throat, and its guns commanded this capital, and our Government was trembling in the balance, "Oh! you cannot coerce a State!" "You must not make arbitrary arrests!" "You cannot make your Government credits legal tender!" "You cannot legally draft men into the army; you are revolutionary; you disregard the Constitution." They said the war was a failure, at Chicago; they were the first after the war to grasp hands all red with the blood of our slain brothers; and now they are in these Halls still harping on the subject.

They had not long since the Democratic party with three-quarters of the States; and year by year and one by one the people thrust them out as false prophets and guides; and now they have not a State (except a few reconstructed rebel ones in the South) that they can control; and here they are, a lean and hungry band of thirty-five or forty, uttering their notes of discord as ever, and now "crooking the pregnant hinges of the knee" to President Johnson, "that thrift may follow fawning." And they, thus repudiated and disowned, are still repeating their old cry of unconstitutionality. I say to them that they learn nothing by experience, nothing from history, or they would have seen ere this the "handwriting upon the wall,"

and read their own fate in that of the Tories of the Revolution and the Federalists of 1812. They assume to be the special champions of the President, whom not long ago they denounced a "usurper" and "tyrant." Do they think the President anxious to share their fate, to go down with them to a political death from which there will be no resurrection? No, gentlemen; be admonished; the President understands you as he did when the southern wing of your party drove him a refugee from his home and hunted him like a wild beast.

Had your counsel been followed in the time of war the nation would have perished. The people will not listen to you now. When the difficult work of reconstruction is to be done, they will follow the earnest men who have brought them safely through the night now the morning is breaking. Call them radicals, call them revolutionists, denounce the reconstruction committee ordered by Congress as you denounced Lincoln, Johnson, Grant, and the "mercenary soldiery" that scared your rebel friends and rested like nightmares upon your copperhead slumbers, and yet the nation will come up to the great work, Congress will do its whole duty unawed by fear, un-seduced by favor. The people will sustain that Congress in taking all the time necessary to reconstruct our Union on the foundations of immutable justice and equity to all classes and races under this broad flag, and woe to him, high or low, that stands in the way of it.

But I answer you that the Constitution does not provide for its own destruction; it was not so framed as to exclude all things that were needed for its own perpetuity. It provides for putting down rebellion, for the punishment of treason, for securing republican governments to the States; for rules and regulations to govern the Territories and other property of the United States; for raising armies and navies, and for the common defense. These are the grand objects of the Constitution; anything necessary to be done to carry out these objects is constitutional. It is constitutional to do all things necessary to preserve the Constitution and the nation which it founded.

It was constitutional to put down the rebellion; so it is constitutional to do all to prevent a return of rebellion—to provide for the future security of the nation.

You cannot invoke precedents in history to control our action; the situation is new. As there never was such a framework of government—such a people, such a rebellion, such traitors to deal with—we have consequently no guides in the past to illumine our pathway in the future. We must do what is necessary, relying upon our own judgement and sense of duty to complete the work began in the field; for I say to you we are still combatting our old enemy in another form.

Again, the rights we now claim to exercise spring from the war power which is inherent in all governments. When civil governments fail to se-

cure obedience to the Constitution and laws, resort is had to the military power, and military governments are established such as Tennessee possessed under Governor (now President) Johnson, and other States have had during the rebellion; and, since the disloyal armies were overthrown, the war power has still been exercised, and its exercise is still needed in those States. The President has insisted that they should ratify the constitutional amendment, give the freedman a standing in court as witness and party, and that they should repudiate the rebel debt before he would remit them to their civil rights, or advise the reception of their members by Congress. How can this extraordinary executive power be justified except upon the principles I have adverted to?

The only question remaining is, when are these former rebels to be admitted to a share in the Government? That will depend much upon their loyalty and the ability they manifest to take loyal part in the Government.

Thirty years the rebellion was hatching. Have all its teachings gone in nine months? Four years it fought with a desperation worthy of a better cause. Are its resentments, its pride forgotten? The same ministers that preached treason, the same presses that proclaimed it, now lead the people and control their opinions.

It must be remembered that these people are now on their good behavior. Everything that is printed, said, or done is with reference to their getting back into the Government as soon as possible, and so the cloven foot is hidden as much as possible.

But truth will assert itself; in spite of all these precautions facts crop out proving beyond all doubt their continued disloyalty.

Shouts are given for Lee in the loyal Legislature of Virginia. A former member of the rebel congress, once a Speaker of this House, whose lips are steeped in violated constitutional oaths, is elected Governor of South Carolina. Loyal Alabama has a rebel general for Governor.

"Whipped, but not conquered."—Jackson (Mississippi) Free Trader.

"The title of rebel is a proud one."—Petersburg (Virginia) Daily News.

"The southern people have not been guilty of any crime; they have only failed," says a leading southern divine.

"We have a right to elect our military heroes to office. Ought we to give up our cherished notions of policy to swallow a plum?"—Macon (Georgia) Journal.

"We vote for the late Confederate soldiers because they represent the valor, honor, and intelligence of the people."—The South Carolinian.

The Richmond Republic thus illustrates the southern idea of loyalty:

"The other day two young men were talking on a street in a city. They were diving deeply into fundamental principles. One of them asked the other what loyalty was. Ideas have been so unsettled about what it really consists in that an answer did not come very readily to the respondent.

After some deliberation and an anxious, puzzled expression of countenance, the other's face suddenly brightened up. 'Why,' says he, 'I'll tell you exactly what it is; it is swearing to lie.' Did or did not this young man, in the candid impulse of youth, speak the popular sentiment, or describe in a few words the sort of loyalty which is manifested around us?"

See what the Memphis Argus said of Union men during the rebellion:

"The Daily Memphis Argus of December 2, 1861, contained a paragraph headed 'Hang 'em,' and commencing—

"'Hang 'em! yes, hang them every one! Every East Tennessean, every Tennessean found recreant to the will and interest of the State of Tennessee, and known to be actively contriving with the enemies, should be hung, and loftily.'"

See what the Memphis Appeal says now:

"The confederacy is gone, and while we hold in sacred reverence its glorious memories, and treasure in our heart of hearts those 'few in Sardis who did not defile their garments,' the noble breed of men and women who showed most true metal the greater the sacrifices they were called upon to make, and who to the last gave an unreserved allegiance to their country, drinking

"'Love in each life-drop that flowed from her breast,'  
we, bitter rebels as we have been, can give the charity of silence to

"'The slave

Whose treason like a deadly blight

Crept o'er the councils of the brave

To blast them in their hour of might.'"

"Yes, we can give him or her the charity of silence. If he sees fit to live in and seek a competence in the land he has betrayed, why let him eat the bitter bread of remorse in peace, and be assured that if a single element of a man remains within him, that bread will indeed be bitter."

Tennessee loyalists begging to have the military retained for the protection of loyal men, and saying that the rebels there are as cruel, malignant, and insolent as ever! This is indorsed by their Governor, the dauntless Brownlow. What do you think of reconstructed Tennessee?

Five hundred loyalists from the mountain fastnesses of Alabama say the same of that State. "They talk of insurrectionary violence yet in Alabama," says Major General Swayne.

The New Era, a loyal paper, published in Arkansas, sums up the whole situation thus:

"Arkansas, as she stands before the country now, can never be admitted upon a footing of equality with the loyal States, and we fervently trust never will until loyalty shall be supreme in the State. Arkansas is no worse than any other insurrectionary State; on the contrary, she contains a considerable loyal element of the conservative stripe. But that element

is even now in danger, if it has not already done so, of losing the prestige it so far possessed. Certain it is that when once admitted on the floor of Congress, and the military protection of the United States removed, the late disloyal element, which is as much opposed to republican principles as ever, and vastly superior to the loyal element, not only in number but brains, organization, wealth, and everything to make a party successful, will make short work of the present State government, laws, and ordinances.

“Eternal vigilance is the price of liberty;” the rebels are seeking to gain by the ballot what they could not gain by the bullet. Congress alone stands between the re-establishment of the power of the old slave oligarchy and the triumph of Republican and radical Union principles.

“God grant that Congress remain firm and not abandon the principles for the especial vindication of which the Almighty seems to have raised up this nation.”

This is but a type of the whole.

General Grant is sometimes cited as an authority to show that the South is pacified, trustworthy, and loyal. If so he has a queer way of showing it. See what he says in answer to an application from Governor Parsons, of Alabama, for withdrawing the military from that State:

“For the present, and until there is full security for equitably maintaining the rights and safety of all classes of citizens in the States lately in rebellion, I would not recommend the withdrawal of the United States troops from thence. The number of interior garrisons might be reduced, but a movable force, sufficient to insure tranquility, should be retained. While such a force is retained in the South I doubt the propriety of putting arms in the hands of the militia.”

And I might multiply these terrible proofs to any extent. Do you need any more evidence that the “leopard has not changed his spots?” If so, peruse carefully the official report of General Carl Schurz. He found no loyalty there, only bold, defiant treason.

In not a single Southern State have they done justice by the freedmen. In not one have they passed just and equitable laws that will protect him in his rights. The courts are rebel, jurors rebel, Legislatures rebel; the men who fought our flag boast of scars won in behalf of treason as honorable, and receive in reward office, honor, and profit. They do not disguise their hate for Union men; who are excluded from all those honors and privileges because of their loyalty. Freedom of speech, as of old, is a mockery. In the name of God, is such a people entitled to representation on this floor? Are you ready to receive them back now, to make laws for the widow whose husband they have slain; for the orphan whose sire they have murdered; for the maimed and helpless soldier whom they have robbed of arms or legs or eyes, and left him to drag out a miserable life? Is he



to be a pensioner upon their bounty? Are you ready now to leave without protection the loyal men of the South, both white and black, and hand over the whole power of your government in those States to their enemies and oppressors? Who are these loyal white men of the South? They who fled to the mountains and caves; who worshiped the old flag, though it trailed in the dust, with more than eastern idolatry; who suffered loss of home, family, property, all but death, itself, for their country.

And the four million black men who were the slaves and under the control of the rebels, who were away from the Union lines and its protection, who only knew God because they saw Him in the stars and heard Him in the winds—for the Bible to them was a forbidden book—they who had only known the flag from the stripes it gave them and the Union from the chains it bound them with; they who from the first sent their morning and evening prayers to Heaven that the nation might live, who furnished our soldiers flying from captivity and death with guide and shelter, food and fire, while the master let slip bloodhounds on the fugitive's track; who of the four millions betrayed a loyal man? Not one who but exposed the traitor master. This faithfulness on the part of those poor, simple, ignorant men is to my mind one of the grandest phases that the war has developed.

How strange the contrast between the slave in his chains and the master who had been pampered by the Government. The former kissed and upheld the rod that had smitten him, the latter smote the hand that fed him. And yet we are asked at this time to consign these loyal men, both white and black, to the mercy, as I have said, of these rebels and enemies.

I am free to say, Mr. Speaker, that if such is to be the policy of this Government it is recreant to its high duty; it is unworthy of all the blood shed and treasure expended in its cause; it deserves to perish in its ingratitude and be blotted from the face of the earth.

We are told, sir, that they have ratified the constitutional amendment abolishing slavery. Ay, so they have; but their courts have sold the freedmen into slavery the next day under some pretense of punishing him for vagrancy or something else equally absurd.

You say that they have repudiated the rebel debt. Indeed they have, in form; but how long do you suppose it will be after they get their members back into Congress before they will repeal all such legislation? They will have the power to do so; do you doubt their will? Have they done another thing more important; have they given us any assurance that they in conjunction with their obsequious northern allies, will not repudiate the national debt, which they say was incurred in their subjugation?

You say they have given the colored man a standing in court. Ay, so had Robert Emmett before his English murderers! So had the early

martyrs in councils convened to take their lives! So had Jesus of Nazareth in the court of Pilate! A standing in court, with, as I said, hostile judges, jurors, witnesses, church and state all hostile. Such a standing in court is mockery; it is worse, it is insult.

But we are told that these are "honorable men," and will live up to the oaths they have taken. "Honorable men" who butchered helpless women and crushed out the brains of little children at Lawrence, who murdered in cold blood prisoners of war at Fort Pillow, who stood by with infernal malice and saw the flesh shrink month by month, week by week, day by day from the bones of thirty thousand as brave and noble men as ever went forth to save a nation, until their strong frames tottered, their eyes grew dim, and suffering all the tortures of the damned, gnashed their teeth and wailed for food until the mind went wandering back to home and wife, mother and child, and they called on sacred names and laughed the maniac's laugh, and then moaned and cried for bread, and died for want of food. In this land plenty, in the land they had gone to save, on the slimy couch where vermin crawled, trampled into the wet earth or over the "dead line," in tatters, in rags, in awful stench and filth, with dead men in heaps around them, they died, and Robert E. Lee and Jefferson Davis, and all the rest of these "honorable men," stood by upholding the hellish deed. God save the nation from such "honorable men!"

"But what would you do?" says the impatient inquirer. "Are you not weary of war and blood? Are you not for peace and Union?" I am for peace and Union—that peace which will be lasting, that Union which will be just; for the fearful lesson of the last four years will be lost upon us if we have reconstruction without justice—justice to the loyal men, justice to the freedmen. We tolerated injustice to a race until it was wiped out by the blood of a million men. Let us reconstruct now upon solid foundations. We have the power and the right, and it is our highest duty to do so. We should convict and hang for treason the leaders of the rebellion, that all ambitious demagogues hereafter shall be admonished that "treason is a crime" to be punished. Justice, by constitutional amendment fixed beyond the mutations of southern legislation, would give to every class and race of men in those States equality before the law, and all the power and franchises necessary to secure that equality. Justice and a due regard to our national safety would take the government of those States from the hands of our country's enemies and place it in the hands of its friends; and if special legislation is needed to create for the future, as in the past, territorial governments for them to secure those ends, let it be done. And let not an indecent haste to strike hands that are red with our brothers' blood and put on garments that are reeking with the odors of rebel prison pens throw away the opportunity to enforce justice. Take all the needed time to settle these grave issues upon the eternal prin-

ciples of right, build up the new structure on the rock of justice and equality, so that the waves of war and sedition may dash against it unharmed through all the ages that are to come.

We are the judges, I have said, of the condition of their return to power.

Congress, the loyal Congress, is to decide who shall take seats here. Loyal men, I am told, have come here as representatives from some of those States; as such men I take them by the hand. But I would ask them, do you represent a loyal constituency? It is the constituency we are rejecting, not the man. I would ask them what guarantee they can give, that when their brief term here is ended, that men in sympathy with their rebellious districts, who can swear hard enough to take the oath, (for they are a nation of oath-takers and oath-breakers,) will not succeed them. They should remember that they were elected while the war was still raging, while these rebel constituents were in the field; now they have returned to vote at the next election, do they expect a re-election from their hands? Can they assure me that they were not put forward for the present by design, to use their loyalty to edge their districts into Congress, and then to be laid aside (as Governor Holden of North Carolina was) as a cast-off mask when the object is accomplished? Suppose we let them in now, what excuse can we give, having established this precedent, for excluding others?

I will yield to none in my regard for the Union men of the South, but I can do nothing to jeopardize the great questions of the time. I cannot sacrifice principle in my partiality for men. Congressmen and Presidents are but the objects of the day—

“That strut and fret their hour upon the stage,  
And then are heard no more.”

They pass away and are forgotten; but our acts here on these great questions will live forever, for the weal or woe of the Republic. We must make no mistakes, but build the edifice slowly and surely. And when the justice we have demanded is secured, the guarantees we ask for are given, and a returning Union sentiment is apparent, then we would lift no longer the veil or horrors, but consign to Heaven, that rights all wrongs, the guilty of our “misguided countrymen;” and united with the South we would seek to lift it up to a purer patriotism and to the level of the olden time, when together we fought the common foe, cherished common glories and traditions, and reposed beneath the folds of a common flag. And then our country will march on to its imperial destiny, the greatest and the best of all the nations of the earth.

On the 21st day of March, 1866, Hamilton Ward made the following statement in the House in relation to the Ar-

lington Military Cemetery, and presented the letter which follows the statement :

"I desire to make a statement upon a subject in relation to which the public feel a very deep interest. I have received numerous letters from various parts of the country, written by friends and relatives of soldiers who have been buried at Arlington Heights, expressing their solicitude as to the title which the Government holds of those heights. Fears seem to be entertained that at some future time the sacred dust of our heroic dead may become the property of the arch-traitor Lee or his descendents. In order to ascertain the facts I have addressed the Secretary of War a letter upon the subject. His reply I ask to have read."

The Clerk read the communication as follows :

"War Department, Washington City, Feb'y 24, 1866.

"Sir: I am directed by the Secretary of War to acknowledge the receipt of your note of the 15th inst., requesting information with regard to the title of the Government to the grounds on Arlington Heights, occupied for a national military cemetery, and in reply thereto to state that it appears from a report of Brevet Lieutenant Colonel L. G. C. Lee, assistant quartermaster U. S. Army to the Quartermaster General, that at a sale of lands for unpaid taxes on the 11th day of January, 1864, the Arlington estate, including the grounds referred to, was bid in by the U. S. for the sum of \$26,800.00, and was afterwards turned over to the military authorities, and that the certificate of the sale is now in the hands of the U. S. Tax Commissioners at Alexandria, Virginia, but will, as is stated by them, be soon placed on file in the Treasury Department.

"I have the honor, sir, to be your most obedient servant.

"EDWIN L. STANTON."

"Hon Hamilton Ward,

"Washington, D. C."

On April 2nd, 1866, Mr. Ward introduced a petition signed by several hundred citizens of his district asking that the legal day's work on government work be eight hours. This is interesting in view of the advanced position on the labor question (at that time) taken by the 27th Congressional District of New York, which was largely agricultural.

On April 7th of that year he presented a petition from Chemung County wool growers, asking that the tariff on wool be increased.

On April 16th, still befriending the soldiers, he introduced a bill providing the means for the payment of the militia in the State of New York, for their service in the war of 1812. It was referred to the Committee on Appropriations.

On April 30th, 1866, Mr. Ward reported a bill for the relief of Ishmael Day and the proceedings in the Congressional Globe of that day are as follows:

"Mr. Ward, from the Committee on Claims, to whom was referred the petition of Ishmael Day, praying compensation for the destruction of his property by rebel raiders on the 12th of April, 1864, reported a bill for the relief of Ishmael Day, which was read a first and second time.

"The bill which was read provides that, as a recognition of the heroism of Ishmael Day, of Baltimore County, Maryland, and as compensation for the loss of all his property in defending the national flag from an attack by rebel raiders on the 12th day of July, 1864, there be paid to Ishmael Day, annually from July 12th, 1864, during his life the sum of \$421.50 to be paid in semi-annual payments.

"The report which was read states that the petitioner, aged seventy-two years and loyal to the Government of the United States, had his property, consisting of a dwelling house, outhouses and personal property to the value of \$7,025, burned and destroyed on July 12th, 1864, under the following circumstances:

"Early on the morning of that day, as was his custom, he elevated and unfurled the flag of the United States in front of his door-steps as an insignia of his principles. Soon thereafter, while it was waving there, one hundred and fifty of Gilmore's raiders approached the premises, while two of the men in advance of the main squad of the enemy seized the flag staff and jerked it down, cursing and calling the flag "a damned old rag." At this juncture old Ishmael Day rushed instantly up stairs, where he kept two guns loaded, seized one, shot and killed the traitor who had insulted the national flag, and immediately, with the other gun, he pursued the remaining rebel, who succeeded in making his escape. Very soon the whole party of raiders came upon the old man, threatened his life, and burned and destroyed his property, being all that he possessed in the world. The matter was presented to the consideration of the late President of the United States, who directed that the amount of the loss sustained by the petitioner should be collected by the military order and assessment by levy upon the property of disloyal rebel sympathizers of the vicinity. But this order, for some reason unknown, was never ex-

ented; nor has the petitioner ever received any compensation for any part of his loss in thus defending his country's flag.

"The constitutional convention of Maryland, which met soon after Day's display of patriotism and loyalty, passed by a large majority the following:

"ORDERED that the thanks of this convention, representing as it does the people of Maryland, are hereby tendered to the old citizen and patriot of Baltimore County, Ishmael Day, for his heroic and gallant act in shooting down the traitor who dared to pull down his country's flag, which he had raised as an evidence of his loyalty and patriotism, which act of daring heroism meets with the approbation of the heart and conscience of every loyal citizen of Maryland."

"The committee state that they are satisfied that Day needs the amount asked to provide for his comfortable support during the remainder of his days. In recommending a favorable consideration of the claim, they base their action upon the extraordinary and peculiar circumstances of the case; and in view of the example to the community at that critical period of the country they deem it but just to this brave and aged patriot that his gallant deed should receive the especial notice and recognition of Congress and the country, and that compensation in a measure for the loss he actually sustained should be made.

"The committee further report that they do not regard a recommendation of this claim as establishing any precedent for the payment of other claims for damages resulting from the ravages of war.

"Mr. Ward: Mr. Speaker, the Committee on Claims have not been lavish of their favors, as the House will bear witness. They have felt, as the guardians of the Public Treasury at this critical time in our affairs financially, we should be careful of what kind of claims they should be allowed to recommend to the House. They have chosen to be just rather than to be generous, and hence a great many claims appealing strongly to our sympathies and patriotism have been rejected by the committee, not because of unwillingness to give relief in these cases but because of the condition of our finances and because they would establish a precedent which might involve the country in the payment of large amounts of money. The committee felt that in this case, in the case of this old man of seventy-four years of age, who, in the midst of that treacherous community in which he lived, remained firm and true to the flag of his country; who never retired at night but he prayed a prayer for our imperilled nation and never arose in the morning but he raised the flag over his doorstep; who, when the flag was torn down by a ruthless hand, shot the traitor who did it; and who, in consequence of that act, was sent forth in his old age

to wander upon the face of the earth without a roof to shelter him—in this case the committee thought they were justified in presenting this bill and report.

“I remember very well, Mr. Speaker, when in the outbreak of the Rebellion, when the Union was in jeopardy from traitors North and South and in foreign countries, and even when the Administration seemed to be conspiring to overthrow the Government, that the first inspiration we had from official circles, the first word of encouragement from Washington which sent a thrill of joy to every patriotic heart, was the injunction of General John A. Dix to his subordinates: “Whoever shall haul down the American flag, shoot him on the spot.” That injunction has become as familiar as household words. It has rendered his name immortal. Old Ishmael Day obeyed that injunction and shot the traitor on the spot. Allow me to express the fervent hope, through all the perils which shall beset our national life in coming ages, may this injunction be remembered and the example of old Ishmael Day shine out to fire the hearts and inspire the arms of our people to the latest generation. I think we should stamp upon this act the seal of our approbation. I hope there will be no dissenting voice.

“Mr. Upson: Is this to pay for property destroyed by rebels?

“Mr. Washburne, of Illinois: It is for shooting down a traitor.

“Mr. Upson: On what principle is it proposed to establish this precedent, and how is it to be carried out?

“Mr. Ward: He has shot down a traitor for hauling down the American flag. I would sustain every one who sustained the American flag in that way. I demand the previous question.”

The bill was passed.

It was at this session of Congress that the jealousy and bitterness which had existed between the truly great men, Roscoe Conklin and James G. Blaine, broke out, and it was at this session that Blaine made his historic speech, denouncing Conklin, a speech which cost him the Presidency in 1884. Hamilton Ward was a partisan of Conklin.

On the 5th of April, 1866, shortly before the final controversy Blaine rose to make a personal explanation, which every one knew to be an attack on Conklin. But before he had begun his argument he was interrupted by Mr. Ward who rose to inquire if his colleague from the Utica district (Conklin) was in his seat. Conklin was there and was able to protect himself.



Mr. Ward's position on the Committee of Claims was a very trying one. Such enormous sums of money had been disbursed by the officials of the Government in crushing the Rebellion that the old national spirit of economy had almost died out, and even in this first session Mr. Ward is constantly found objecting to the allowance of claims, and especially to the increase of salaries or the creation of new offices.

There was one object, however, for which he thought the Government moneys might properly be expended, and that was to the men who had preserved that Government—the common soldiers.

Although a radical Republican and among those who did not believe in immediately restoring rebels to full citizenship, still Mr. Ward watched the course of events with great attention, and when the loyal men of East Tennessee organized a State Government and presented themselves for re-admission to the Union he offered a resolution providing for the re-admission of the State.

This was however defeated.

On July 26th, 1866, Mr. Ward stopped two "grab bills" and throughout the session he constantly and persistently opposed the payment of money on any claims which had not been carefully considered by committees.

At this time the President (Johnson) began the course which ended in his impeachment trial, and Congress stood practically alone, arrogating to itself, so far as the constitution permitted all the functions of government. The Halls of Congress were everywhere and every public question received minute and earnest attention. Many letters were received by Mr. Ward from his district and from other parts of the country of a cheering and commendatory character, and even his defeated opponent for the Republican nomination, A. N. Cole, "The father of the Republican Party," congratulated him; one letter from the State of Iowa is as follows:

"Dubuque, Iowa, March 6th, 1866.

"Hon. H. Ward, M. C.:

"My dear sir:—I have recently perused your great speech delivered before the House of Representatives on the 10th ultimo, with great pleasure, and I cannot, as a loyal American refrain from penning a word of congratulation and thanks to you sir for your unflinching loyalty upon the momentous questions that now agitate the American people. I had the honor to be called to a neighboring city a few days since for the purpose of addressing a meeting prior to a town election, and it did my soul good to be called upon to read from an Iowa paper the speech of Hon. H. Ward, of New York. Such enthusiastic cheering from an assembly of three thousand men you never heard, and I am only sorry that you, sir, could not have been present to have enjoyed the enthusiasm.

"I extend to you sir on the part of the loyal great Northwest my hearty thanks and congratulations.

"I am sir,

"Respectfully your obedient servant,

"HARRY FRONINGTON."

"Should you desire to know of your correspondent I would respectfully refer you to the Hon. Ward H. Lamon, of Washington."

On April 4th, 1866, C. S. Fairman, editor of the Elmira Advertiser and a friend since boyhood, writes as follows:

"Elmira, April 4, 1866.

"Dear Hamilton:—

"I received your long and interesting letter today. Its reception reminded me that the long neglected duty of writing to you must be neglected no longer.

"You give rather a dreary description of the situation at Washington. It is plain to all Republicans whatever their views upon Andy, that the case is a bad one. The rinderpest and the cholera and the yellow fever, and the devil knows what all seems to have got into the party, and have been raising special Ned; but those chaps down in Connecticut rather took the kink out of the pestilence and the ranks after the battle present a healthy appearance pleasant to look at. There are worse things than vetoes, though these are bad enough. We can be vetoed and live and hold up our heads but we couldn't have been beaten in New Hampshire and Connecticut without having a funeral.

"I confess to many misgivings about Andy Johnson. I am afraid he has committed the unpardonable sin, but you remember the old couplet

'While yet the lamp holds out to burn the vilest sinner may return.' Therefore, my advice is to keep cool, don't get excited, do nothing rashly, stand firm and wait on events. If the President is going, let him go in his own way and his own time. If he has already gone then the worst is over and we can get along without him better than he can get along without us. He don't yet take the offices from Republicans and give them to Copperheads. Indeed the evidence is somewhat strong that even now that he is about to appoint Census Depew Collector of New York and I have high authority for saying this will meet the approbation of every d—d man, woman and child in at least one Congressional district in this State.

"Don't be gloomy. The nation has overcome secession, rebellion, and the devil. We needn't be frightened now at a veto. The people out here are as calm as cucumbers. They sleep sound nights, go to meeting regular on Sunday and swear that the Daily Advertiser is the best paper in the State. Nicks has been elected Mayor and Jim Hill turned out of the police. What more do we want? Ain't the Union safe? If not, why not? Caldwell is Supervisor of the First Ward and has registered an oath to support the constitution. Didn't he make a map of Allegany County with Belmont in the middle and Angelica way off in the corner. I tell you he can reconstruct anything from a two-membered county to a dismembered Union.

"We will all stand by you in a firm adherence to duty and principle. We do stand by you. Don't swerve an inch from the true and right path; let no rebel into Congress and put up the bars against their future admission. But don't imagine that the people are crazy about the vetoes. They don't like them and they will vote to override them. But we get up more excitement here about a fire in a bakeshop than over a thousand vetoes. Again I say do right, but keep cool. Excuse the looseness and freedom of these few remarks and believe me as ever your sincere friend and sturdy backer.

"C. G. FAIRMAN."

Congressmen were doubtless flooded with correspondence and Lincoln's "Government by the People" was fully realized. In the President's effort to build up a personal filled with his sympathizers, and this threat was held over the country loyal men were removed from office and their places filled with sympathizers, and this threat was held over the Radical Republican members of the House, with the expectation that the pressure brought to bear by their constitu-

ents would be irresistible. This, however, did not affect Mr. Ward's action and even those constituents who were removed from office sustained him.

The following letter from a country postmaster and his wife is typical:

"May 16th.

"H. Ward.

"Dear Sir:—Your second is received.

"You place me under lasting obligations to you. Of course whatever you think best to do will be gratefully received by myself but I do not wish you to withhold your ideas of right and wrong for a dozen such offices as this.

In haste,

"Respectfully, &c.,

"L. F. PHILLIPS,

"ALICE J. PHILLIPS."

On June 9th. Mr. Ward wrote the following letter to the President relative to the proposed removal of the Postmaster at Cuba, N. Y.

"Washington, D. C., June 9th, 1866.

"To the President:

"Dear Sir:—I have received notice that an application has been made for the removal of L. A. Butts, P. M., at Cuba, Allegany Co., N. Y., and the appointment of Samuel M. Russell in his place. Against this change I most emphatically protest for the following reasons:

"I am well acquainted with Mr. Butts; he is a gentleman, a man of honor and is not disobliging or discourteous. The Cuban Post Office became Presidential about a year or more ago and I was requested to recommend some one for the place. I recommended the present incumbent, Lucian A. Butts, because he was a citizen of Cuba and fully qualified for the place. He, at the outbreak of the Rebellion, volunteered as a private in the U. S. Army; served three years faithfully; was in a rebel prison about a year of the time and returned, honorably discharged, with his health greatly impaired, with the little property he had at the commencement of the war used up and with a family consisting of a wife and several children on his hands, and out of business. He was promoted for merit while in the service I believe to Captain.

"Under the resolution of Congress and in justice to this brave man I recommended him as Post Master and he was promptly nominated by

the President and this selection was approved by nearly the entire people of the P. O. district.

"The man who makes the complaint against Captain Butts (Calvin T. Chamberlain) is a notorious Copperhead of Allegany County and who sympathized more with the Rebellion than he did with the Union cause.

"The man Russell, whom he recommended as a strong Johnson man, wrote me a letter not long since condemning the course of the President on the subject of reconstruction which I think I have saved and can produce.

"Should the President desire to hear from the community interested an almost universal remonstrance against the removal can be obtained.

"Respectfully yours,

"HAMILTON WARD."

On the 23rd day of May, at the request of loyal Republicans, Mr. Ward delivered a speech at Towson town, Md.

In the spring of this year (1866) a vacancy occurred in the Naval Academy at Annapolis for the 27th N. Y. Congressional District and the power of appointment resided in the Congressmen. As the military spirit of the country was still keen the appointments were much sought after and in fact large sums of money were offered for them, which temptation proved too much for many a Congressman from the reconstruction States.

Mr. Ward had an old friend, one, Jeremiah Hatch of Friendship, who at the commencement of the war had secured a captain's commission with Mr. Ward's assistance and had gone to the front, where he died of fever, leaving a wife and two small sons. Concerning this appointment Mr. Ward wrote the following letter to the widow:

"Washington, D. C., March 25, 1866.

"Mrs. J. Hatch.

"Dear Madam:—I have got to recommend a boy for the Naval Academy from the Congressional District I have the honor to represent.

"There are many candidates for the place and many sons of wealthy, influential men are striving hard to get the appointment, for it is the making of the young man for life and a fortune for him.

"But my heart turns aside from all these to find the dependent son

of some widow who has lost his father in the service of his country and whose only legacy from that father is his glorious sacrifice upon the nation's altar. And looking over the list I find none more worthy than the sons of my valued friend and your lamented husband.

"You will please find the regulations of the naval school inclosed. Look them over and if one of your boys will answer the description send me his name and I will recommend him. What is the name of that little fellow I saw on the cars selling apples some time ago? If he is suitable I would like to recommend him.

"Truly your friend,

"HAMILTON WARD."

Thereafter the boy, Edward W. Hatch, received the appointment, and went to Annapolis, whence he ran away in a few months and returned home, a fortunate decision, as he is now one of the foremost jurists in the State; at the present time being a Justice of the N. Y. Supreme Court, serving on the Appellate Division for the 1st Department with absolutely no limits to his future.

On July 4th, Mr. Ward, whose reputation as a speaker was rapidly increasing, delivered another speech in Maryland; this time at Hagerstown at a 4th of July celebration, a loyal demonstration organized by the Loyal Soldiers League.

The Hagerstown Herald and Torch of July 11th says: "Mr. Ward's address was political in its character, spiced with just enough of the 4th of July to make it appropriate. We consider it incomparably the best political speech that has been made in Hagerstown for many years."

Of course as the summer of 1866 came on the Congressional nominations and elections attracted attention. The President's course in removing Mr. Ward's friends in the 27th District has strengthened instead of weakened him, and this especially in Chemung County, where John I. Nicks, a party leader, lost his place as appraiser because of his advocacy of the constitutional amendments. Finally Dr. Beadle, of Elmira, the only avowed candidate in opposition, withdrew. The Elmira Advertiser declared for Ward

as it had all along desired to do, and his unanimous re-nomination was assured.

On the 21st day of July the following invitation was sent to Mr. Ward:

“Elmira, N. Y., July 21st, 1866.

“Hon. Hamilton Ward,

“House of Representatives,

“Washington, D. C.

“Sir:—The undersigned, your fellow citizens, and supporters of the Republican Union, party of the nation, request that you will name some early day after the close of the present session of Congress, most convenient for yourself, on which you will address the people of this city and vicinity on the present condition of public affairs.

“With sincere wishes for your public and private prosperity,

“We remain, sir, Very respectfully,

“Your obedient servants,

C. C. Gardiner,  
H. B. Smith,  
And. S. Thurston,  
E. A. Scott,  
J. H. Rathborn,  
William E. Hart,  
E. S. Hubbell,  
R. W. Barton,  
F. G. Hall,  
E. W. J. Dolwell,  
J. Langdon,  
E. N. Frisbee,  
A. P. Radsa,  
A. E. Merrill,  
S. B. Fairman,

N. P. Fassett,  
S. R. Van Campen,  
L. M. Smith,  
T. H. Squire,  
H. M. Pattridge,  
N. W. Gardner,  
D. H. Tuthill,  
C. G. Fairman,  
George Swain,  
S. R. Pratt,  
G. A. Gridley,  
Henry Wilson,  
Asher Tyler,  
W. N. Starks,  
L. A. Humpery.

To which he replied as follows:

“Washington, D. C., July 25, 1866.

“Gentlemen:—

“I am in receipt of a communication signed by yourself and twenty-eight other prominent citizens of Elmira, kindly inviting me to “Address the people of that city and vicinity on the present condition of public affairs,” and to select some time for that purpose. I conclude that



this movement is in the interest of the great Union cause you have so steadily maintained and which is now being assailed in all quarters by old enemies and new, and which cause appeals again to the people to come to its rescue. Meetings when the issues and dangers of the hour are discussed cannot fail to do good. Approving therefore of the object of the proposed meeting and anxious to serve in any manner in my power this good cause I will accept your invitation and will endeavor to be present at such time as you may designate between the 30th of July and the 10th day of August, trusting that you will give me reasonable notice of the time.

"With many thanks for your kindness and courtesy, I am, gentlemen, Very respectfully yours,

"HAMILTON WARD."

The meeting was held at Ely Hall August 9th and was largely attended, practically the whole city turning out to greet the speaker. The Mayor, John I. Nicks, presided.

Mr. Ward spoke as follows:

"Mr. Chairman, Ladies and Gentlemen:—I will not disguise from you the gratification I feel at the warm and generous reception you have given me. I am glad to be present upon this occasion, at this magnificent outpouring of the people, and to know that the chief town of the 27th District has done itself the honor of firing the first gun of this campaign in Southern New York in the cause of liberty. I confess that it is pleasant to come among you after striving with Copperheads and rebels, and with a traitorous administration stabbing us at the back, and with the same lips that shouted for joy at the repulse at Bull Run and at Chancellorsville, crying for Congress to be dissolved at the point of the bayonet. I am gratified to come back and find that the people among these Northern hills are true to liberty, true to the party, and true to the country. I suppose it is proper when a representative of the people is about to surrender the commission with which they have honored him into the hands of his masters, he should give an account of his stewardship, and tell them how he has discharged the duty with which he has been entrusted. You will pardon me if I detail to you the legislation of the last Congress, and my connection with it. You remember, when the good President died—when the foulest blow ever struck took him from this earth—when they bore him away to his last home—when the millions looked upon his dead face and wept, and the tears of a nation enshrined his bier—you remember that Andrew Johnson, in an evil hour became President of the United States. In what condition did he find the country? He tells us in his proclamation appointing Gov. Holden, of North

Carolina, that the war, in the course of its march, had deprived these States of all civil government. He found them prostrated. He found the haughty Lee driven from the field. He found the national flag floating over every State—grand, imperial, and magnificent—from ocean to ocean—from the Great Lakes to the Gulf. He found the Southern people subdued, their land a land of carnage and graves—ready to accept any terms, and asking only for life—only for existence. They felt that they had committed the greatest crime in history, that they had raised a parricidal hand against the best government on earth, and conspired against popular liberty throughout the world. They felt abashed and condemned. They were ready for anything. They expected the most humiliating terms. Andrew Johnson became President by the blow of the assassin. You remember the shameful transaction of the 4th of March preceding, when the nation blushed with shame at his conduct. With astonishment and horror we received the tidings of the death of the President, because we knew on whose shoulders his mantle was to descend. Still the nation was willing to receive him, and if he had appreciated his position and the high responsibility resting upon him, when he found eleven States without government, or law, or legislation, he would have called, as he had a right to do under the circumstances, upon the representatives of the people, he would have convened a special and extraordinary session of Congress, and said to them, "Here is the reserved power authorizing me to convene you, and I ask you to convene in those marble halls and take counsel." We all queried why he did not do this—why he did not call upon the representatives of the people to advise with him. Our strong men went there. Leading men from all parts of the country waited upon him, and said that they thought he should be surrounded by the legislative branches of the government. He treated them with contempt. What did he do?—He undertook to organize governments in those States. Why did he do it? We have the answer now in the blood shed at New Orleans. Time has developed the answer. He intended to throw the whole power of the government into the hands of the rebels in those States—(A voice—For shame!)—and that the loyal people should become their victims. You ask why he refused to call Congress together. I tell you it was for the purpose of organizing a great party, of which he should be the grand head center, and of which the Copperheads and rebels should form the ranks. Fellow citizens, I came here to talk as I feel. If I talk too radical for you, tell me of it. (Cries, "Good!" "Go on!") We must understand fully the issue, and if it is necessary to use plain talk, to use it. (A voice "That's so.") [Applause.]

"I will speak first of the government established by Andrew John-

son in those Southern States. In several of them, they were organized in June, 1865. It was done that they might be governments *de facto* so that when Congress should assemble they would be embarrassed by them and might not want to undo them. Be that as it may, we come to December, 1865, when the 39th Congress assembled. We went to Washington with a desire to co-operate with the President, and to aid him in the great work of reconstruction. None of us had any desire to break with him. It cannot be said that I had any desire to quarrel with him. He had the whole control of the official patronage of the district, and could turn my friends out of office, and I think he will remove my friend, Mayor Nicks, when he hears from us tonight. It is said that Congress quarrels with the President. None of us had any desire to quarrel with him. No, fellow-citizens, we went to him in delegations, in platoons—if the soldiers present will allow me to so term it. We said to him, "We desire to co-operate with you. Our people want justice and protection to the loyal men. They want the government reconstructed upon a sound basis, so that, in all time to come, it shall stand firmly upon the principles of right and justice." We said we had no confidence in these reconstructed rebels. They had been for thirty years trying to betray the government. Their souls had been corrupted with the theories of secession. We desired not to deal with them, but with the loyal men of the South. The only answer we got was "My policy." "You must let those in who can swear in. No matter if they have acted badly, if any can swear himself in, let him in." "But, Mr. President, you said in your Nashville speech, that treason was a crime, and must be made odious, and that traitors must take back seats—that if there was but five thousand loyal men in the State, they should control, to the exclusion of the enemies of the government." "But," said he, "you cannot do that; you must let these persons vote whom I have pardoned." And so, day after day, we waited upon him and besought him to stand by us upon questions that we thought it was the province of Congress to dispose of. We felt that principle, that justice arose above Presidents and Congresses, and everything else, and true to our duty and to our manhood, we must stand forth and vindicate the right. (Applause). What condition did we find the country in? These eleven States were in a disorganized condition. They were without government and without law, save as the President had established governments over them. When Congress assembled, the streets of Washington were lined with men from Alabama and Mississippi, and other Southern States, who were refugees from those States, and they plucked our sleeves and said, "For God's sake, do not give us up to the mercy of our enemies. We have suffered the loss of property and everything but life itself, and when we saw the old flag brought back to us again, we felt that the day of jubilee and the day of redemption had come, but this

President whom we had snatched as a brand from the burning, whom we took into our party and made Vice-President, when he had not a vote to bring with him, has abandoned us. We ask you again in God's name to save us from our enemies." What should we have done? Would you have us turn our backs upon them, and so dishonor ourselves as to say to them, "Go back to these men, for they have got to control you." "But," they say, "we have given you our purest and holiest allegiance, and we demand protection in return. The President refuses it to us." They said to us, "There was a time when the American flag protected its citizens wherever they were. It was the emblem of power everywhere. Cannot you protect an American citizen upon his own soil?" It was once the boast of a Roman that he was a Roman citizen. Mr. Marcy said—I think in the Kozta case—"The American flag reaches over the whole earth, and protects the American citizen wherever he is found." I felt that I represented one of the most loyal and liberty loving districts in the country. I felt as if you were saying to me, "Sir, do not abandon them," and I felt that everything should sink, office, and patronage, and everything before I would abandon them. (Great cheering.)

"There was another view to take of these things. The war had suddenly given freedom to four millions of people. They were black, to be sure. Their faces were not as fair as these I gaze upon to-night; yet not one of them had ever proven false to their country. I see soldiers before me to-night. Do they remember that they always found the black man aiding and assisting them when endeavoring to find their way from rebel prisons and dungeons back to the land of liberty and home? They were ignorant, and had been enslaved by their masters, and they had appealed to Almighty God, and the retribution had come upon us, and now when we had rid the land of the curse of slavery, and purified the escutcheon of the nation from this great stain, what were we to do? There were four millions of them. They were to be an important element in the country. What was wisdom in reference to them? Was it to surrender them to a virtual slavery, without any protection? Were we to hold the word of promise to the ear and break it to the hope? After two hundred thousand of them had sprung to arms for the sake of the old flag that only brought them oppression and stripes, was it the duty of Congress to surrender them to their former masters? There was a great national policy demanding that we should take care of them. Suppose we left them to the tender mercies of Southern legislation, and allowed them to legislate the colored man back to bondage? He would grow restless and fret like the caged lion against his bars, and he would feel wronged and oppressed, and tumult and disorder would have arisen, and as a mere question of policy it became the duty of Congress to extend to him protection and care. What

said the President? They had been secured in their freedom, and that was all. They must work out their own salvation. What chance did he have? If we did not demand that he might be a party in court, and give him the rights of a citizen, of what avail would be his freedom? The President responded, "My policy." He had been the "Moses." One colored individual, whom I remember, said to me, in speaking of him, that "As for dat Moses, he seemed to leeb them a great while in the wilderness." (Laughter.) We insisted that we had a right to an opinion of our own upon the subject, and whether the President agreed with us or not we would do right. (Great applause.) And if you have observed the debates of Congress, you will have seen that, aside from some petulant remarks of Mr. Stevens, there was nothing said against him until he had made war upon Congress, and removed men from office for opinion's sake, until Mr. Ingersoll, of Illinois, rose and said we had three great calamities this year, the Asiatic cholera, the rinderpest, and Andy Johnson. (Laughter.) Nothing was said against him until he had surrendered himself to the Copperheads. I do not mean Democrats—I mean Copperheads. I mean that portion of the human family who had the meanness and treason of Jefferson Davis, without his courage; who rejoiced over rebel victories and sorrowed over government successes. These were traitors to the government of the United States, and cowards. As to the Democratic masses who sent forth their numbers to the fields—as for them, I take them by the hand and I believe that they will be with the country still. (Immense cheers). I hope no gentleman, now, will feel offended if I talk about Copperheads. If they do, I shall have some suspicion of them. (Laughter).

"What was the Freedmen's Bureau Bill? It was a bill providing for the protection of the loyal men of the South, who had nothing with which to care for themselves. Their substance was wasted, and they were wanderers without a home to shelter them. Then, there were the freedmen thrown loose upon society, many of them in a starving condition. It was a bill of charity. It was a bill of religion, or rather a religious bill. It simply carried out the injunction of the Great Master to exercise charity. The officers of the government and the bureau were scattered over the whole South, and wherever a wrong was done, the injured person could go to the agent of the bureau for protection. We had talked of the rights of the people. We had claimed that we should protect the people of the South, but we had done nothing to protect them.—We had what Rufus Choate called the "glittering generalities" in the constitution, but they did not protect them. They were there substantially a dead letter. The Freedmen's Bureau was a substantial benefit. We felt that it should be extended. The bill, as it stood, provided that it should cease its opera-

tions one year after the establishment of peace, and we did not know but the President would claim that peace commenced upon the surrender of the rebel army. We thought that the privileges of the bureau should be extended a little longer, and we passed the bill that he afterwards vetoed, and so the war upon Congress was begun.

"What next did we send him? The Civil Rights Bill, providing that all men in these States should be citizens of the United States—that those men who had been in bondage, and had been lifted to freedom, should henceforth be freemen indeed. (Cheers). I tell you that when the legislation of a nation disregards the rights of a large proportion of the people, that nation will fall to the dust and be destroyed. They who invite all the nations of the earth to send their refugees and wanderers to our shores—was it for us to deny to four millions of people the rights of citizenship? (Cries of "no," "no," and cheers). I met one of these men in Washington, walking with crutches, with a limb off. I asked where he lost his limb? He said at the Second Bull Run battle. The Freedmen's Bureau, he said, was taking care of him. He bore upon him the livery of the Republic, and I thought more of him than of the whole Southern Confederacy. (Cheers).

"We sent this Civil Rights Bill to the President, and he vetoed it. The people had been aroused, the legislatures of the States had spoken, and I believe we passed that bill over his head. (Immense cheering). And then he said we had made war upon him. (Laughter).

"Then we said of these rebels who had scattered graves over the whole land, that before these graves were covered with the sod, and before the little orphans had ceased to watch for the fathers who would never return, they should not enter our Congressional halls. (Great applause). We said to the President, "You are the President, but if we understand ourselves you are not the Congress." (Cheers.) "You have the executive power, but not the legislative." "If you choose to admit them to the White House, hold high carnival with these rebels, it is your privilege—it is a matter of taste—but as for us, we do not mean to have such people in Congress" (Cheers), and if my recollection serves me right, none of them got in. (Laughter and applause). And as long as those I am associated with feel as they do, and the people sustain us, none of them will get in. They tell us the South must be represented. They must, indeed, but mind you, the loyal State organizations—not the rebels. They say, "You say the States are out of the Union." Nothing of the kind—the President says that when the Rebellion collapsed, all civil government was destroyed in those States. If that is so, new governments must be built up.—Who is to build them up? From what source comes the power

to build them up? You will see, by examining the Constitution, that the United States is to guarantee to every State a republican form of government. Who are the United States? I think they are composed of such audiences as I see before me—and I do not think Andrew Johnson composes the United States.

"I submit that in the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi and Texas, seven of the States recently in rebellion against the United States, there are no legal State governments. They have governments *de facto* but none *de jure*. These governments have all been organized in this manner. The President issued a proclamation appointing a provisional governor for each of these States, commencing with North Carolina, which was a type of the whole, each of the others being the same in effect as that. This proclamation recited that in the State of North Carolina "the rebellion has in its revolutionary progress deprived the people of the State of North Carolina of all civil government," and a like concession is made as to all the other State governments named in the proclamation authorizing the incipient steps for the formation of a State government.

"I will not argue whether the President was right in this assumption or not. I think the simple assertion that he was is fully sustained by the testimony of that important period and the events within the recollection of us all. I shall treat the proposition as conceded.

"Those States were then without civil government, wholly dependant upon the military arm to preserve order in their territory. They were entitled under the Constitution to a civil government, and "Republican in form." Where does this power reside to grant them this government "Republican in form?" The ready answer is found in the Constitution. The 4th section of the 4th article of the Constitution provides that "The United States" shall guarantee to every State in the Union a republican form of government and shall protect each of them against invasion, and on application to the legislature, or the executive (when the legislature cannot be convened) against domestic violence.

"The United States shall exercise this power—not the President. The United States makes the guaranty—not the Commander-in-Chief. What agent does the constitution authorize to make these guarantees for the United States? it may be asked. Does it not create the President its agent for that purpose? The answer to the interrogatory depends upon the nature of the power to be exercised. If it is executive in its character, then the President must exercise it. If it is legislative in its character, then Congress must exercise the power subject to the veto prerogative of the executive. By no rule of construction, it seems to me, can this be regarded



as an executive power. If it be so, then indeed are the powers of the executive overshadowing and dangerous, for with this supreme authority to give civil government to a disorganized State, his inclination would only limit his becoming at such time as this, a despot and a tyrant. Congress would dwindle into a mere register of his edicts—an idle spectator of the scene.

"From the nature of the duty imposed it must be legislative. Civil government to a State cannot be secured without legislation. The constitutional agent must either legislate itself or authorize others to do so. The President cannot legislate himself. Can he authorize others to do it? Can he authorize the legislature of Georgia, for instance, to do so? Can he do by proxy what he cannot do himself? Clearly not.

"A Republican form of government cannot exist unless wise and just laws are provided for the government of the people, protecting them in their personal and political rights. Can such a government spring out of and be controlled by simple military appointments, emanating from the Commander-in-Chief. Are these laws to be military orders or the solemn enactment of legislative bodies. If this Republican form of government be the result of legislation, the Constitution defines where the power to grant it is invested. Section 1st, Article 1st provides that all legislative power herein granted shall be vested in a Congress of the United States which shall consist of a Senate and House of Representatives. This power is nowhere in the Constitution, expressly or by implication, conferred upon the President. His duties are clearly defined and specially enumerated.

"But Congress has a wider range. General powers are given it in broad language sufficient to cover emergencies that it was foreseen might arise, and which have arisen in the course of our national life, and in concluding its enumerated and general powers in the last sub-division of Section 8, Article 1st, it is provided for Congress to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the Government of the United States, or in any Department or officer thereof.

"Here, then, in broad and clear terms, the duty is thrust upon Congress to carry out this power of guaranteeing to 'every State in the Union a Republican form of government.'

"Again, the Constitution commits the whole subject matter of State and territorial government, so far as the national government has any power over them, to Congress. Thus—"New States may be admitted by the Congress into the Union."—Art. 4, Sec. 3. Congress shall have power to dispose of and make all needful rules and regulations concerning the territories and other property.—Same section. Was the Constitution thus

careful to vest in Congress these powers and to deprive it of the analogous power of reconstructing a State whose civil government had been destroyed by the enemies of the Union?—a power of the same character as that of admitting a new State? It seems entirely clear that my construction is the just and sound one. By it the Legislative and the executive branches of the government work in harmony, and each performs its part of the great duty. By the other construction the President is supreme in a matter purely legislative in its character, and Congress is ignored.

“I should not occupy so much time and space in establishing what seems so clear a proposition, but for the fact that it is claimed with apparent sincerity in certain quarters that this vast power is vested exclusively with the President, and as a consequence the State organizations referred to were legal, and their Representatives and Senators should be received as commissioned by and representing legal organizations.

“How then were the present State governments in those States organized? Simply by proclamation of the Commander-in-Chief. He appointed a provisional governor for each State, directed that Governor to call a convention, the President prescribing the qualifications of voters for delegates to that convention, and directing that “said convention, when convened, or the legislature that may be hereafter assembled, will prescribe the qualifications of electors and the eligibility of persons to hold office.” So the President assumes to vest legislative power in the convention, or the Legislature thereafter to assemble. This, as I have shown, he clearly cannot do.

“What do these conventions do? They change in many respects the constitution of their respective States. They provide for the election of State officers, judicial officers, members of Congress, and members of the State Legislature. Thus, by virtue of illegal and unconstitutional means, the State governments are created and members of Congress are elected in pursuance thereof. The foundation being unwarranted by law the whole superstructure reared upon it falls to the ground. The election of members of Congress is illegal and void, so that Congress in exercising the constitutional right of judging of the ‘election returns and qualifications of its own members,’ must necessarily exclude the members and senators thus illegally elected. It is not a question whether they send loyal men simply. The question is have the States acted at all?

“The constitution does provide in effect that each State shall be entitled to two Senators, and at least one Representative, and hence much complaint is made against Congress that it is depriving rebel States of the Constitutional right of representation. This complaint brings us back to

the question just considered—whether the State has acted at all—whether these men are legally or illegally elected. If they are not legally elected then they do not represent the State. The governments that sent them here are simple usurpations, and not ‘the State.’ Congress, while it admits the legal representatives of legal States, must see to it that it is the State that comes and knocks at the door and not a combination of lawless individuals. The powers of a State, that by the rebellion of its people has been deprived of ‘all civil government,’ lie dormant, and cannot be exercised either in electing Senators and Representatives, or any other right which the State has in its normal relation to the Union, except in one of two ways: By the spontaneous and bona fide action of the loyal people of the State, free from dictation or control of the military power, which action shall be ratified and approved by laws of Congress, or else the Congress must pass enabling acts which will give them the machinery with which to resume their practical relations to the Union, and to elect their Representatives and Senators, and to guarantee to them a ‘Republican form of government.’

“No, Mr. President, we do not recognize these organizations as States. Whenever you present to us a loyal constituency, sending us a loyal representative, we will admit him.—The moment the State of Tennessee had disfranchised her rebels, and ratified the constitutional amendments, we welcomed her representatives to the floor with open arms. (Applause.) You should have witnessed the scene when radical New England shook hands with radical Tennessee. (Great cheering). But as long as the sun shall shine upon our heads, we never shall consent, with God’s blessing, that one of these rebels shall get back into power. For this what are you told? You are told that we are a rump Congress—that we are trying to destroy the Union of the States. Who tells you that? Alexander H. Stephens, Robert E. Lee, and Raphael Semmes and Jeff Davis tell you that (Laughter), and certain office holders, who tremble for fear their heads will come off. They are going down to Philadelphia. Who is going there? Stephens, Vallandigham, Semmes and Ben Wood. I don’t know who is the man from this district.

“I understand they had a convention at Hornellsville, the other day, and one of the members of the convention told me that they had hired a large hall, intending to have a big gathering, but when they got together there were but six all told, and so they concluded to hold their convention in a bed room, and make of it a strictly private transaction. With your permission I will read in this connection a letter for an energetic young radical, residing in the same town I do, to his brother, who is a delegate to the Philadelphia Convention. I begged a copy of it, which is as follows:

“Belmont, August 9th, 1866.

“Brother Pitt:—Herewith I send you a Confederate five dollar bill. As you are about to depart for the Philadelphia Convention I think the opportunity a good one to have it collected. If Mr. Stephens is unable to pay the gold upon it you may receive U. S. Currency. You can receive to yourself 50 per cent. for collection. The balance you may apply to obtaining a pardon for Gov. Hahn, of Louisiana, for his base conduct toward your confreres in supporting the United States Government during the great rebellion. Your brother,

“JAS. R. ANGEL.

“To W. P. Angel, Olean, Del. to Phil. Con.

“P. S.—If you cannot get anything else you may send me one of Ben Wood’s lottery tickets, or a post office. J. R. A.”

“There will be a precious gathering at Philadelphia, but I am persuaded that it will turn out some as a man did I once heard of who brought a lot of old iron to a blacksmith and told him that he wanted a plough made of it. In a few days the farmer called for his plough, but the blacksmith said to him, ‘My dear sir, that iron of yours won’t make a plough, but I think it will make a shovel plough.’ In the course of time the farmer demanded his shovel plough, but the blacksmith said to him, ‘That iron of yours won’t make a shovel plough but I think it will make an excellent wedge.’ By and by the farmer called for his wedge, but the blacksmith said to him, ‘My dear sir, that iron of yours won’t make a wedge, but I know it will make a first-rate clevis.’ When the farmer came for his clevis, the blacksmith said to him, ‘My dear sir, that iron of yours won’t make a clevis, but if we heat it red hot, and make it into a ball, and throw it into the cooling tub, it will make one grand big fizzle.’—(Laughter). There will be just enough of Union material in the Philadelphia convention to make one grand big fizzle. (Laughter and cheers).

“The President vetoed every measure that we deemed for the salvation of the government. We then submitted a plan for reconstruction. The first section of that proposition recites, in substance, the Civil Rights Bill, that all persons born in the United States should be citizens of the United States—that the privileges and immunities of the citizens should not be infringed upon by any State. It was a new bill of rights akin to that which was wrung from the barons by King John, hundreds of years ago. There was another proposition—that the rebel debt should never be assumed by the United States—that the public debt should remain inviolate, and that those men who had perjury stamped upon their souls, by leaving the service of the nation they had sworn to sustain, and going into the re-

bellion, should never hold office again. It said nothing about suffrage—it simply proposed to extend these rights to all people. It proposed to place beyond question the national debt, and the refusal to assume the rebel debt. The man who made all the valiant declarations when he assumed the Presidential chair, sent an impertinent message to Congress, indicating that he should throw the entire weight of his administration against the propositions. Then we saw that he abandoned and made war upon us.—It is a solemn thing to say that I believe to-night that the rebels have control of the government! (Great sensation). How else can you explain the fact that the military in Louisiana were called in aid of the rioters in New Orleans? I know Gov. Hahn, I know his heart, and every pulsation of it beats in unison with the dearest interests of the Republic;—and when I read of his being dragged in the streets like a felon, for daring to meet with others in the Union Convention, I blush for shame that the President should order the brave and gallant Sheridan to aid the rebel authorities, if necessary, in completing this hellish work.—What else does the order mean? The convention was broken up. Some of the members were murdered, and others were thrown into prison. I told you a little while ago, that he got the answer, in this riot, to the question why he organized these governments.—When it was suggested that a new government should be organized, to take its place, and that Congress might admit it, a mob was gathered to break up the convention.

“Now, what are we to do, my friends? I believe in the people. I believe that all over this free north, men irrespective of any party will rally to the defense of the nation. My only hope is, that all over this free country, there shall swell up such a storm of indignation that not Mr. Johnson, but the men who control him, shall tremble—that they shall be admonished that the North will not submit to rebels controlling the country. (Applause). That they shall understand that the only way for them to get back into Congress is to come as Tennessee came, with their government in the hands of our friends, and not of our enemies. If you falter, if you are divided, if you fail to sustain the policy of your representatives, the rebels will hold high carnival in the halls of Congress. Men will get into Congress who will repudiate your national debt, and your greenback may not be worth a dollar; and with these rebel bonds, and paper owned by these rebels in power, how are you to know that they will not be saddled upon you to pay? I left you fifteen years ago, a boy with bounding hopes. I come back to you now in middle age to plead with you for the life of the nation. I believe that the people will not falter, but will strike such blows upon this budding treason as shall crush it out, and that the people will go on and reconstruct the republic

with right and freedom to all, and that it will lift up the down-trodden and make this country free and pure indeed, and that it shall stand out and be a bright and shining light among the nations of the earth. (Applause). God has not raised up this people to falter and shrink in such an emergency.

"I have the honor of addressing so many of the fair and beautiful to-night, that I must say to them all in the struggle through which we have passed they have been true to the republic in every way.—(Cheers). While their Southern sisters were tearing the old flag in shreds, and insulting the Union soldiers in the field and in the prison, and the dead men in the trench, the women of the North were contributing to the wants and comfort of the soldier in every way, and were hovering like angels over field, hospital and camp, comforting the sick and smoothing the pillow of the dying; and even now are gathering all over this land, the orphans of the lost heroes to houses of comfort and to their heart of hearts. (Applause).

"And to those men who have taken their lives in their hands, and amidst the shock of battle and roar of the cannon, and the groans of dying comrades, have upheld the starry flag, and conquered through all, and swept armed treason from the land—they will not suffer this Republic to perish. I do not believe that Andrew Johnson can get one of them. The bummers, and cowards, and sneaks, will follow his standard, but not a true hearted soldier of the Union.

"To illustrate the present condition of the South, and the hostility of the rebels towards Union men, permit me to read the following extract from a letter to me from Capt. J. W. Etheridge, formerly captain in the First North Carolina Union Volunteers, under date of June 19th, 1865, in which he says:

"I am one of the truly loyal of North Carolina, but we are in a worse condition than a slave prior to the war, and all over Union men are in the same condition. I hope that the 'rebel attorney,' Andrew Johnson, will be overruled by a true Congress."

"What a spectacle! The scarred soldiers of the Republic to write to us that they are in a worse condition than slaves!—and this to be upheld by the President of the United States! I will say to Mr. Johnson and to Mr. Seward that there was once an administration that betrayed the people that temporized with treason, and allowed traitors to do their hellish work. I point the President to Mr. Buchanan, who, in retirement and contempt is dragging out his days, hated and despised by his countrymen, who once delighted to honor him. I point Mr. Seward to the fate of Mr. Toucy, and the other members of Mr. Buchanan's cabinet, who were false

to the trust reposed in them. If you have a President who has betrayed you, I point him to the fate of the gentlemen I have named. The people are in earnest in this matter, they will go on in the work, and whoever arrays himself against them, will be swept from the path as if by the besom of destruction. (Cheers).

"Fellow citizens, I believe, as I said before, that God is in this work—that he has not designed this nation to be crushed, but that it shall live, and grow, and strengthen. But we have a work to do. From now on until the time that November's sun shall set upon election day, let us stir up the public heart to stand by a loyal Congress and rebuke a treacherous administration. (Loud and prolonged cheers)."

Shortly before this speech Mr. Ward had an interview with Johnson's political manager, Thurlow Weed, which is best described by the Tribune correspondent, who says:

Washington, July 2, 1866.

The President's warfare on Congress, taking the form of an attack on the influence of the Representatives, to be followed by concerted efforts to beat them in convention for renomination, and, failing in that, to beat them at the polls with Copperhead votes and the influence of the newly-appointed Johnson officials, has commenced in the Allegany district of New York with significant spitefulness. Seven postmasters, good Union men and good officials, recommended to their positions by the good and true representative, Hamilton Ward, have been removed. Mr. Ward protested against this wrong to the Assistant Postmaster General, Randall—remonstrated against it to Thurlow Weed, who was then here. When Randall showed himself to be inexorable in his purpose politically, Mr. Ward struggled to save the offices from falling into the possession of the vulgar mercenaries of politics who had been selected to fill them, and requested that they be given to disabled soldiers. He entreated that the Angelica office be given to Mr. Charles, mutilated in battle, but qualified for its duties—that the Belmont office be given to Harrison Crandall, and that at Wells-ville to Captain Moses Stearnes, both scarred in their country's service, and named soldiers for all the other offices. This just and patriotic request was unjustly and unpatriotically refused by Randall, with a supplementary insult to the party that is now burdened with feeding and clothing him, expressed in his angry declaration to Mr. Ward, "This matter has got to be fought out between Congress and the President." He also gave Mr. Ward notice that "there was to be a general removal of all postmasters who do not favor the President's policy."

Mr. Ward, as I have said, went to Thurlow Weed to have the work of removing good Union men in Allegany county arrested. His success

L. of C.



with this politician was quite equal to that with Randall. After retiring from the interview he made a memorandum of the conversation between them while it was fresh in his mind. For the political enlightenment of the hundreds of thousands in the State of New York who fought and bled, and gave of their sons, their husbands, their brothers, and of their money, to the holy war against rebellion and slavery, I send you this remarkable declaration of war by Andy Johnson against the Unionists of the Empire State, made through the aged adjutant general of the President's chief of staff, the Secretary of State:

—————, June 25, 1866.

I had learned that one Sherman, from Allegany county, New York, in company with Mr. Weed, was in Washington to secure the removal of certain postmasters in the district I have the honor to represent (the twenty-seventh district, New York).

I saw Mr. Weed about 8:30 A. M., at Willard's Hotel, and entered into conversation with him upon the subject, and stated to him that I came to see him about certain postmasters in that district. He said promptly and frankly, "Oh, yes; I shall do all I can to get them removed."

I asked what reason there was for their removal. He said there was reason enough; they were not friendly to the President's plan of reconstruction, but sustained the course of Congress. I said I did not suppose the policy would be to remove men who had supported Lincoln and Johnson in 1864, and were still good Union men, unless they abused or denounced the President personally; that I had got that understanding, both from the President and the Postmaster General.

He said that he (Weed) was in favor of removing all Federal officers who did not support the President's policy and putting Administration men in their places.

I said if this is so, why is it not made general? Why is the district I represent specially selected as a victim? He said that was merely accidental; that friends of his in Allegany county, on whom he could rely, had called his attention to the matter, and that he was in favor of the changes for the reasons (I have) given, and that as soon as it could be done, he was in favor of making the changes universal. I asked, is it any personal hostility to me that prompts this selection? He said not. I then stated that as the Union member of Congress from that district, I felt that I was entitled to be consulted with reference to the distribution of the patronage of the district. He replied that my course in Congress did not justify me in that claim; that I had favored a policy opposed to the views of the Administration; that I would only hold my seat in Congress a few months longer; that it was the intention to secure the election of Administration men in the place of the present radical members of Congress.

I then said, from what you say it appears to be your design and that of the friends of the President generally to make war upon Congress, break up the Union party, and hand the Government over to the Copperheads. He said he was in favor of restoring the Union; and that Congress by its course was preventing the desired restoration, and that Congress was as much disunion now as the rebels were during the Rebellion, and that Congress was breaking up the Union party and not the President.

I said while we differ as to the method of reconstruction, I have no doubt but it is the sincere desire of all true men to restore the country to peace and harmony, and when the issue of reconstruction was disposed of, I saw no difficulty in the Union party and Congress going along together. He said there was no hope of that; that Congress had made war upon the President and that the war must go on.

I said, if that is the determination we might as well understand it.

As an echo of the Elmira speech the Corning Journal of August 30th contained the following:

Hon. John I. Nicks, Mayor of Elmira, has been removed from his office of U. S. Assessor for this Congressional District, and Col. William R. Judson, late of Kansas, but formerly Democratic Sheriff, appointed in his place. This removal was solely because Mayor Nicks would not become a Johnson man. On Tuesday night Mayor Nicks was serenaded by his friends. Three thousand Republicans were present to testify their approval of his political course. Speeches were made by Hon. H. Boardman Smith and others, and the following resolutions were read by Charles G. Fairman, and adopted with cheers:

Whereas, A Cabinet Minister of President Johnson has recently visited our county, and stated that the administration would be satisfied if we send to Congress even a more radical man than Mr. Ward, so that it be not Mr. Ward himself, and

Whereas, Thurlow Weed has stated that \$15,000 can be had to beat the "little cuss," and

Whereas, Henry J. Raymond has kindly offered if we would send any man but Ward, even a radical, he will see to it that the office-holders in the district retain their places—and that certain offices in the district shall be at the disposal of the opponents of Mr. Ward with which to buy the delegates of Steuben County against him, and,

Whereas, It would be a bitter humiliation that our nomination should be made by such foreign and impertinent dictation, therefore

Resolved, That the city delegation to the County Convention at Horseheads, convey to the convention this expression of our earnest wishes that they will see to it that Mr. Ward is returned to Congress, and the blister put again on the same old spot.

The same paper contains an account of the Chemung County Convention:

#### CHEMUNG COUNTY FOR WARD.

The Union Republican County Convention met at Horseheads yesterday and elected as State delegates E. P. Brooks, Luther Caldwell, Jesse Owen. On the informal ballot for Congressional delegates the result was, for delegates for Ward, 37; for Gen. Gregg, 38; for Dr. Beadle, 14. On the formal ballot the Ward ticket was elected, viz: John I. Nicks, 48; Jarvis Langdon, 47; Peter Wintermute, 47, and Henry F. Wells, 45 votes. They were declared unanimously elected. Gen. Gregg being called on made an appropriate speech, assuring the convention of his hearty support of the nomination of Hon. H. Ward, if he received the nomination from the Congressional Convention.

We rejoice that Chemung County has thus triumphantly endorsed Mr. Ward. When we saw that four of the five wards of the city of Elmira had gone for him we felt hopeful of this result. It is a patriotic tribute to a faithful public servant. No one is disposed to under-rate the ability and claims of the two distinguished citizens of Chemung whose names were urged in the convention, but it was deemed eminently proper to endorse Mr. Ward, as due to him, and a deserved rebuke for the dictation of the National Administration.

The Elmira Advertiser of Sept. 15, 1866, contains the following account of the Republican Union Convention:

#### REPUBLICAN UNION CONVENTION.

The Union Convention met at Hornellsville yesterday, Wednesday, Sept. 12th, and was called to order by Geo. W. Pratt, Esq., of Corning, Chairman of the District Committee, on whose motion the Hon. John I.

Nicks of Elmira was appointed Chairman. Mr. Nicks, in a brief speech, thanked the convention for the honor conferred, and congratulated the Convention on the bright prospects of the Union party and the unmistakable signs of a glorious victory. J. H. Butler, of Steuben, and J. S. Green, of Allegany, were appointed secretaries. The credentials of the following delegates were presented and approved:

Allegany—1st District.—James S. Green, Orrin Stacy, William Van Northam.

Second District.—Royal T. Howard, David Rawson, W. A. Hart.

Chemung.—John I. Nicks, David Decker, Peter Wintermute, H. F. Wells.

Steuben—1st District.—E. R. Kasson, J. H. Butler, A. Hadden.

Second District.—Chester S. Cole, Lyman Balcom, O. S. Wetmore.

Third District.—Geo Riddle, Edward Kidler, C. D. Robison.

The Hon. Lyman Balcom, of Steuben county, then arose and moved that the Hon. Hamilton Ward be, and is hereby unaniously nominated, and by acclamation, as the Union candidate for Congress at the coming election. The motion was carried by the whole Convention rising and voting in favor thereof. The Chair declared the motion unanimously adopted.

E. R. Kasson, Dr. C. D. Robinson and David Decker were appointed a committee to wait upon Mr. Ward and inform him of the action of the Convention and request his attendance before the same.—The committee shortly appeared accompanied by the Hon. H. Ward, who upon being introduced proceeded to address the Convention, thanking it for the honor conferred and promising to continue as faithful in the future as in the past.—Mr. Ward continued at some length in discussion of National affairs to the evident gratification of the Convention, after which Mr. L. Caldwell was called upon, who briefly addressed the meeting.

The following resolutions were unanimously adopted:

Resolved, That the Union Republicans of this district cordially sustain the plan submitted by Congress for the reconstruction of the Union, as being imperative for the future peace and welfare of the country, believing, as we do, that the States which rebelled against the best Government ever instituted by man, thereby forfeited their rights, and that those who fought to destroy the Union should not be immediately restored to positions of power in the Halls of Congress.

Resolved, That the treachery of the President of the United States

and his chief cabinet minister, merits the condemnation and contempt of all loyal men, and as the Republican party is founded upon principle and rests its hope of permanent triumph upon the intelligence, virtue and patriotism of the people, we feel sure that the treachery of honored and trusted leaders will not avail to defeat the objects for which said party was formed.

Resolved, That in the re-nomination of Hon. Hamilton Ward, as the representative in Congress for this district, we discharge a duty to a faithful and able member, whose voice, influence and vote have been true to the party that elected him; that we cordially endorse him as a true and courageous defender of Republican principles, and as an earnest, sagacious and distinguished advocate of the Rights of Man, and it gives us especial pleasure that by this signal approval of his official career, we are showing to Andrew Johnson that the Freedom-loving voters of this Congressional District spurn his bribes, defy his dictation and challenge his further hostility by returning a member of Congress who "will be a blister on the same old spot."

(Signed)

JOHN I. NICKS, Chairman.

J. S. GREEN,

J. H. BUTLER,

Secretaries.

Mr. Ward's vote was largely increased over 1864. He ran ahead of the Governor and carried Allegany County by a plurality of 3728 and the district by over 6300, an increased plurality of 800. This increased plurality was particularly gratifying in view of the extremely radical position taken by him in opposition to President Johnson, being as Noah Davis said in a letter to him of Nov. 10th, 1866 "The first member who dared 'beard the lion in his den.'"

On the reassembling of Congress Mr. Ward felt that the question of negro suffrage could no longer be neglected and on the 13th day of December he delivered the following speech:

SPEECH OF HON. HAMILTON WARD, OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES, DECEMBER 13, 1866.

The House being in Committee of the Whole on the state of the Union, and having under consideration the President's annual message—

MR. WARD, of New York, said:

Mr Chairman: The country has spoken; the popular verdict stands recorded in the recent elections; and the Thirty-Ninth Congress reassembles strengthened, encouraged, and instructed by the great tribunal to which it appealed, the loyal people of the United States.

Great admonitions flow from this result. The President is admonished that his "policy" of reconstruction is not indorsed by the people who put down the rebellion and saved the Republic; that his denunciations of the legislative branch of the Government, in which he charges them with revolutionary designs, with striving to prevent the reunion of the States, with "hanging upon the verge of the Government," and with being a "tyrannical, domineering, and unconstitutional Congress," are not approved; that his reorganizing the rebellion into pretended State governments in the disloyal States, and insisting that they are legal State organizations and entitled to representation in Congress, without affording any security or protection to the loyal men in those States, and in defiance and contempt of the law-making power of the Government and the representatives of the people; that his indiscriminate pardon of rebels, his failure to bring any of them to punishment for the most infamous of crimes, his sustaining the murder of Union men in New Orleans, and his failure to give any protection to the loyal whites and the freedmen of the South who are shot down in the streets and murdered in their beds at night for the sole offense of faithfulness to the Government of their fathers, his refusal to bring any of those murderers to punishment for their crimes; that his relieving rebel property from the confiscation that the law imposes; diverting the public money to create illegal State organizations and to pay officers of his own creation in violation of law; that his attempt by the use of the vast patronage confided to him for a wise purpose to sap the independence of Congress, and, failing in that, to corrupt and debauch the people, the sources of power, by removing from office men, whether they had borne arms in the defense of the country and had come back scarred and maimed from the grandest battle-fields in history or not, who sustained the integrity and independence of Congress, and substituting in their place the creatures of his will, some of whom were men whose hands were stained with the blood of heroes shed in the nation's behalf; and his manifest contempt, in his appointments to offices, of the "advice and consent of the Senate" of the United States; that his opposition to the just and wise constitutional amendments proposed by Congress for adoption by the States, and thereby encouraging a spirit in the South against a speedy restoration to peace and prolonging the time of

adjustment and pacification; in short, that nearly his whole conduct, official and unofficial, from his 4th of March presentation, to his gyrations "round the circle," have received from the people to whom he so confidently appealed the strongest condemnation, the most withering rebuke.

And those mercenary men, who, without principle and devoid of honor, for the sake of plunder, followed the standard of their apostate chief into the camp of the traitors; they are admonished by the result that the contempt and scorn of all honest men will be their portion as long as they shall live! Have these worthies sensibility enough left to appreciate the "situation," or is the result as to them like "casting pearls before swine?"

But, Mr. Chairman, the admonition does not stop here; it comes with tremendous force to the Congress of the United States. You have done well, say the people, but you have not done enough. Eight months you stood on guard to keep traitors from the high places of power; you proposed needed changes in the Constitution, passed the "Freedmen's Bureau" and "civil rights bills," and recognized the loyal people of the State of Tennessee as entitled to representation in Congress—all that was well, but we require you to do more. And, Mr. Chairman, I believe that this grand and sublime manifestation of the popular will has a far deeper significance. While it approves of what has been done, it decides that the work is still incomplete; it indicates that at last, after passing through centuries of contest and blood, combating with thrones and despots, with false systems, political and religious; with persecution, ignorance, and superstition, the great principle should at last be asserted on this continent and ingrafted upon our regenerated nationality, that all men, native-born or naturalized in this country, shall be equal before the law, equal at the ballot-box, equal before man as they are before God.

Who that has watched the terrible ordeal through which we have passed can have failed to discover the superintending protection of Heaven all through the darkness and gloom until our salvation was complete, can now doubt that in this crowning victory at the ballot-box the "voice of the people is the voice of God?"

Sir, the responsibility of rebuilding the shattered column of the national edifice rests upon Congress. All hope of favorable co-operation from the President must be abandoned. To Congress the four million loyal people of the South are looking for protection. Away in the Southern homes, or in the mountains and caves to which they have fled for safety, or languishing in dungeons, or suffering in exile, they are offering up their daily prayers to God in our behalf and stretching forth their hands to us for help. The loyal millions who have just spoken at the polls; the silent throng of cripples and mourners that sadden the land; the sacred dead



that fell in the struggle; the sacrifices of blood and treasure the country has made; the holy cause of liberty and free government itself, all appeal to us to come up to the high demands of the hour, to do our whole duty, do it promptly, and do it well.

What is that duty? One, sir, that has been too long neglected. I was one of those who believed last session that Congress should then have gone to the root of the matter and reorganize from the foundation. I was in favor, as some honorable gentlemen here well know, of providing by law of Congress for the reorganization of the State governments in all the States that have been in rebellion, except the State of Tennessee, and that in that reorganization all loyal men, irrespective of color, should take part. I still believe that we should have done so; but more timid counsels prevailed. Gentlemen feared that the people were not ready for this; that they had not reached the high standpoint necessary to approve such a course. I hope these gentlemen have learned that the people are ahead of them, that they are radical, that they comprehend the whole question; and, sir, they will insist upon their representatives doing everything that the nation needs.

The most radical men of this Congress are returned by the largest majorities, while all of those in the originally free States, and most of those from the slave, who followed the pernicious example of the President and left the Union party are rejected by the people.

Then away with your timid conservatism; away with that quality that would compromise the right, that would barter away equality, justice, and plighted faith for expediency, trade, and the good-will of traitors. I am sick of your expediency men and measures; the times demand radical men and measures. Radicalism crowded the Mayflower, landed on Plymouth Rock, dotted settlements along the Atlantic coast, declared "not one cent for tribute, but millions for defense," threw the tea into Boston Harbor, made the immortal Declaration, achieved our independence, redeemed this great land from the wilderness, built the school house and the church, covered the land with cities and towns, and the ocean with ships, stretched the electric cord through the great waters so that continent talked with continent under the sea, sent two million men to the front, crushed out the rebellion, kept traitors out of Congress, repudiated Andrew Johnson, the rebels, and Copperheads by more than half a million majority, and now it proposes to reap all the fruits of the great victories of the sword and the ballot-box by reconstructing the Republic upon a sound and just basis so that it will stand forever.

We must be fearless as well as just; we must punish traitors and stand by our friends "though the heavens fall." We have a fearful responsibility to meet; we have not discharged our duty to the ten unrecon-

structed States. The collapse of the rebellion left those States without civil government and without a "republican form of government." In such an emergency it devolved upon Congress to "guarantee" to them a "republican form of government." This could not be done by proclamation of the Executive or by military orders, but only by law, by solemn acts of legislation of the law-making power of the United States; for it is the highest act of legislation to guarantee and provide civil government for a State.

When the fathers of the Republic founded this unequalled system of government; when in the great councils that they held to frame a Constitution that, in the language of its preamble, "should establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to themselves and posterity;" when they were gathering from all ages, all political systems, and all history the materials with which to construct the new edifice that was to be consecrated to those high and noble ends, they with prophetic vision dimly foresaw that the time might come in the nation's life when, through the machinery of State governments, sections, or interests in conflict, real or imaginary, with the policy of the General Government, might seek by revolution to sever the connection of that State or section with the Union, and that in the revolution thus inaugurated all law, all authority, all government, executive, legislative, and judicial, might be overthrown so that the State and people affected thereby would be practically without a republican form of government, and then, with the great wisdom that distinguished all their deliberations, they provided for that contingency and vested the power of reorganizing those States in the national Congress; and while the exercise of this power is new, the power itself is as old as the Constitution. To what else could this constitutional provision refer; the admission of new States and the care of the Territories and other property of the United States are provided for in other sections. It could not relate to anything but the reconstruction of old States that had wandered away from their allegiance and the people of which desired to return to that allegiance.

Again, the great Charter provided for the security of life, liberty, and protection to the rights of property. These are the great ends of the Government they were founding; for these the Revolution was fought, independence achieved, and the Constitution established. And if these rights God-given and thus guaranteed were denied the people and legislation were needed in the premises, where did the Constitution vest the power thus to legislate? In the very first section of the first article of the Constitution it is provided that—

"All legislative power herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

And again, in the last subdivision of section eight of the same article, it is provided that Congress shall—

"Make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or in any Department or officer thereof."

It is submitted, Mr. Chairman, that such legislation can be had by Congress as may be necessary to secure those great ends. Am I told that this is a new construction? If new, then I say that it is time that the Constitution was construed in the interests of liberty and on the side of justice. Slavery, thank God, is abolished. The heresy of "State rights" went down with the monstrous system that gave it birth. This all-controlling influence of human bondage, oppression, and guilt that stalked into legislative halls, made Presidents, made Cabinet ministers, shaped the policy of this country, stood behind power, over shadowed courts, and put constructions upon the Constitution consistent with its own interest and to perpetuate its own power, no longer rules the Government, makes its laws, or writes its judicial opinions.

And now let us construe the Constitution as it was intended by its framers, not to make men slaves, but freemen; not to take life, but to save it; not to rob men of their property, but to secure that property to them; not to deprive them of the liberty of speech and of the press, but to place those rights beyond jeopardy. I think it is clear that Congress has all the needed power to reorganize by law the governments of those States, and it follows that the particular means to be resorted to to effect that object are such as Congress shall determine.

But we are told that those ten States are reorganized, that they have State governments. I am aware that there are rebel machines in the territory recently in rebellion that call themselves States. I am aware that the President has undertaken to galvanize them into States by proclamation, but no good lawyer will for a moment contend that these organizations have any validity as State governments until they are recognized as valid by Congress. They are monstrous systems of fraud, oppression, and murder. They exclude from power all men loyal to the Union. They screen from merited punishment the assassins of ten thousand loyal men who have been butchered in their territory since they "accepted the situation." They deny to Union men and freedmen that which the Constitution guarantees to them. They were erected without the consent of the

people, and decided to be without validity by the highest court of North Carolina; and whenever the question comes for final decision before the United States Supreme Court, no doubt can exist but the decision of the North Carolina court will be sustained. They have had the audacity to elect Senators and Representatives to Congress almost exclusively from the leaders of the rebellion, and because they were such leaders and were the most conspicuous in the work of destroying this government; and those "statesmen," instead of being suspended with a pressure of hemp about their necks, as they richly deserve, are coolly demanding seats in the Congress of the United States.

Ah, Mr. Chairman, we have neglected the duty too long of formally rejecting these creatures of treason. We must begin the work anew and provide by law that all male persons in those States aside from the excepted classes of the age of twenty-one years, nativ-born or naturalized, shall have the right to vote in electing delegates to conventions to frame new State constitutions or amend old ones, in electing State, legislative and judicial officers, and all other elections that may occur in the reorganization of these State governments; that no person who has engaged in rebellion shall be eligible to office in the new State organization or in the conventions aforesaid.

The excepted classes are all persons that have held office, civil or military, under the Confederacy or in the army or navy thereof; all persons who have been educated at military or naval academies of the United States and afterward engaged in the rebellion; all persons who had once taken the oath to support the Constitution of the United States and then in any manner engaged in rebellion; all editors, authors, or publishers of any book, pamphlet, paper, or publication that advocated the cause of the rebellion, and all persons who were guerrillas, and persons carrying on war against the Government and not belonging to the regular army of the Confederacy and acting under its direct orders.

When the people thus acted and so framed their State constitutions and laws as should secure to all persons permitted, as above, to participate in the work of reorganization, and to all loyal men, full political and civil rights, with the ballot as their shield and buckler, and shall disqualify from suffrage and from holding office all the persons and classes above excepted, and when the Legislatures of those new State organizations adopt the constitutional amendment abolishing slavery and the amendments to the Constitution recently proposed by Congress, and shall present Senators and Representatives that can take the Congressional oath of admission, then, sir, I would have Congress admit those Senators and Representatives, recognize those State governments as valid, and the work of restoration will be complete.

But, Mr. Chairman, it will be said that I am in favor of universal negro suffrage at the South. Indeed, sir, I am. The ballot is the only protection after all that men have in this country. Take the ballot away from a class and that class will not have equal rights with those who do exercise the ballot. Your civil rights bill is well, necessary, but what avail it unless it is enforced. Put it into the Constitution as you will, and as you should, but it will be as a rainbow in the cloud to the oppressed people of the South without there is some power there to enforce it; beautiful to look upon, but giving no warmth or light, it "will hold the word of promise to the ear and break it to the hope."

We have a good civil rights bill in the Constitution as it stands. The freedom of the press, of speech, and protection to life, liberty, and property are secured thereby, and yet for more than half a century none of those rights have been enjoyed by a large portion of the Southern people; they were only granted to a privileged class. The black man was not allowed to learn to read the Constitution that pointed him to liberty, or the Bible that pointed him to God; the white man who had spoken or written against slavery was hanged upon the nearest tree or banished from the realm. And so it will be again if suffrage is not impartial. Southern courts now defy and disobey the civil rights bill. Everything there is organized against the black man, from the judge upon the bench to the constable with his process; every officer, State, legislative, judicial, county, town, and municipal, who is called upon in any manner to enforce those laws and carry out those sacred guarantees of the Constitution are the enemies of the loyal men and freedmen, and opposed to the execution of those laws and guarantees. The black man is helpless to punish or remove from office those unfaithful officers; he has no vote, no place in the jury-box, no means of organization for the defense of his rights; but with the ballot in his hands all will be well; these officials will do him justice, and there will be in every State, county, town, and precinct in the South a power in the hands of our friends to protect themselves and to preserve the Republic.

We cannot afford longer to feed these people upon husks. We denied them their rights until those rights were reasserted in the smoke of battle and in the blood of a million men. Let us be wise at last. We put the bullet into their hands when traitors struck at the nation's life, why not give them the ballot to preserve that nation from treason in another guise.

Their skins are black you say; ay, but their hearts are true and their blood is loyal. They were good enough to fight, why not good enough to vote. I cannot upon this subject but quote my own words upon a former occasion:

"And the four million black men who were the slaves and under the

control of the rebels, who were away from the Union lines and its protection, who only knew God because they saw Him in the stars and heard Him in the winds—for the Bible to them was a forbidden book—they who had only known the flag from the stripes it gave them and the Union from the chains it bound them with; they who from the first sent their morning and evening prayers to Heaven that the nation might live, who furnished our soldiers flying from captivity and death with guide and shelter, food and fire, while the master let slip blood-hounds on the fugitive's track; who of the four millions betrayed a loyal man? Not one but exposed the traitor master. This faithfulness on the part of those poor, simple, ignorant men is to my mind one of the grandest phases that the war has developed.

"How strange the contrast between the slave in his chains and the master who had been pampered by the Government. The former kissed and upheld the rod that had smitten him, the latter smote the hand that fed him. And yet we are asked at this time to consign these loyal men, both white and black, to the mercy, as I have said, of these rebels and enemies.

"I am free to say, Mr. Chairman, that if such is to be the policy of this Government it is recreant to its high duty; it is unworthy of all the blood shed and treasure expended in its cause; it deserves to perish in its ingratitude and be blotted from the face of the earth."

But we are told, "give them a qualified suffrage," "give it to those who can read and write or who own property and pay taxes."

As to the first proposition I must say that I deem it wholly impracticable. We cannot with any justice or fairness apply an intelligence qualification to the black unless we do so to the white voters, and in so doing we would disfranchise many thousands who are now voters. We cannot take the back track and disfranchise loyal white men in the South and elsewhere who have exercised that privilege for years, and some of whom have confronted treason upon many a bloody field and have worn the livery of the Republic. Would you take the ballot from them? Besides we need them all to vote down traitors. Are they not good enough for that?

We did not ask the black men at Port Hudson and at Petersburg whether they could read when we intrusted them with the country's honor and its flag; shall we insist upon it now when the ballot is needed for their and our protection in the South? As to a property qualification, that is simply absurd and a blot where it exists upon the civilization of the age. Benjamin Franklin's illustration in such a case, that it is the jackass that votes and not the man, has never been controverted. Discriminations in



political privileges against some classes and in favor of others in a free country are odious and productive of popular discontent. The only true test of suffrage in this country is manhood; give it to all men; to the poor and the lowly; lift them up to the dignity of the sovereign. Some say that the ex-slave will vote as the ex-master directs; and this slander has been repeated in high official quarters.

The negro knew on which side to fight and to pray during the rebellion; he will know well on which side to vote; he has got his liberty after a century of oppression and bondage, he will guard that liberty well when he handles the ballot.

These same objectors said that the negro would not fight, that he would allow the masses who were led into the rebellion, conscripted or forced into it, to resume the right of suffrage; I would have no conflict with them. Like the sixty day oracle of the State Department they are shown to be false prophets.

The negro fought well, he obeyed the law, he went to work like a good citizen; he is learning to read and write all over the South with an earnestness and a rapidity that is astonishing; trust him with the ballot he will use it better than a white traitor.

But, says another, you would allow former rebels to vote. Certainly I would allow the masses who were led into the rebellion, conscripted or forced into it, to resume the right of suffrage; I would have no conflict with them. Clothe them with this power and ~~then~~ assure them that a just Government, while it punished the leaders ~~of~~ the rebellion for example's sake and to prevent their doing further mischief, is humane and generous to the misguided masses. They got only poor fare and hard knocks from the Confederacy. Disqualify all their leaders, false teachers, and guides both from office and suffrage give the black man the ballot; trust the people; let the masses reconstruct the new State government. The people have interests and sympathies in common; they will readily assimilate and act together.

Trusted by the Government and protected by it, those who have been disloyal will come to love it. In most of the States the men hitherto loyal will be in the majority, and in all the States powerful enough to defend themselves. Politicians and ambitious men will become the servants of their will; new men will spring up from the people faithful to our Government, who will assume the place of the leaders of to-day who have betrayed the people almost to their destruction.

Again, we cannot permanently disfranchise large bodies of men in this country with safety to the nation. Deprived of political power every subterfuge will be resorted to to regain it, and the masses will grow more restless and discontented until they sweep over all barriers, as they have in Maryland, and render the presence of the military continuously



necessary to preserve the peace of the State. I hope Tennessee and Missouri will be wise in time by availing themselves of the black vote at once. With the Government in the hands of a majority of all the people of each State, all will be protected and the true theory of a free Government carried out, and the State is Republican indeed. Is not this a "consummation devoutly to be wished?"

That nation is wise whose policy tends to the elevation of the masses of its people, to dignify and honor labor, to give to all loyal citizens a share in the Government they uphold. In so doing each man feels a direct responsibility in himself; he shares in the pride, glory, and prosperity of his country; he feels great inducements to qualify himself for the duties of the citizen; he feels encouraged to educate his children that they may be better fitted still for those duties. When the land is assailed by foes from without or convulsions within he springs to arms as one whose personal rights and highest privileges are in danger. Each true man that is clothed with political rights is a pillar to the State; each mind that is elevated in the scale of intelligence binds stronger the bonds of the Republic and makes liberty more secure.

The instincts of the people, ignorant and lowly though they be, are right. They seek out justice and abhor tyrants; they are naturally inclined to be loyal and true. Trust them and the nation will live, ignore them and the nation will perish.

Why not meet the issue now? Why not, men of this Congress, come up to the high demands of the times and complete the work? We cannot put this negro question out of sight; like the ghost of the murdered Banquo, it will arise at every feast and "shake its gory locks" at us; it will not down at our bidding. All acknowledge that suffrage to the black man must come in time; why not insist upon it now, when we are building anew the national temple and have the power to accomplish it? As a matter simply of expediency, is it not better than to let the agitation go on for another generation, to be ended, perhaps, in another rebellion, in more blood?

Adopt the plan I propose and all the States will be represented in the next Congress, the murder, persecution, and banishment of Union men will cease. The Constitution, the civil rights bill, and all other provisions of law for the protection of the people of the South will be a living fact realized in every portion of the South, for everywhere the loyal man will be clothed with the power of enforcing those rights. The South will turn its attention to reviving its exhausted fields and repairing its desolate places. The country, relieved of the problem of reconstruction, will turn its attention to many neglected questions of national importance, to reviving its trade and industry, correcting the errors of its financial system, and

paying its debts. Pursue the other policy further, let things drift, and finally let those rebel organizations into Congress without giving our friends in the South the protection of the ballot, and I can see many dark hours in store for the Republic.

Mr. Chairman, we may be told that Congress has agreed to admit the representatives from those States when they adopt the constitutional amendments now before them. Congress has agreed to no such thing, but I most earnestly desire the adoption of those amendments, and we should insist upon it to the last. But you will observe that these rebel State organizations do not propose to adopt the amendments. Some of them have already rejected them, and the tone of the Governors and presses of the other States leave no doubt but the whole ten will reject them. This is in pursuance of the policy announced by Alexander H. Stephens, that the South would submit to no further conditions and forms—an additional reason why new State governments should be organized in which the friends of the Government and the amendments should take part so that the amendments will finally receive the approval of the requisite number of States, and become part of the Constitution.

Let them rail on about their rights, these "last ditch" gentlemen, and proclaim what they will or will not do. They have tried the wager of battle, been vanquished in the field, and now they must submit to the will of the conqueror, and whether they will adopt the amendment or not will not retard the great work before us. Other men will answer the demands of the nation; other State organizations will sanction the amendments; and if these malcontents hatch up a new rebellion, the problem of reconstruction will be solved as to them finally and forever, for not one of them will be left unburied or unhung.

But we are told that if we reject these State organizations the constitutional amendment abolishing slavery will fall to the ground. Well, if the Supreme Court, as it is very likely to do, should decide that those rebel machines were not States that claimed to adopt this amendment, and that the concurrence of three fourths of the thirty-six States is necessary to pass the amendment, then we should have it solemnly decided and settled that the great amendment was not adopted. Let us avoid any such contingency; let us make this amendment a part of the Constitution beyond doubt by creating valid State organizations that will legally adopt it. The emancipation proclamation of Mr. Lincoln struck the shackles from the bondmen in all the seceding States. The amendment has been adopted by all the free States, and can be adopted by the requisite number as soon as the Southern States are properly reorganized.

The leaders of the rebellion should never again return to power in

this country. Our fathers disfranchised Tories, and so should we disfranchise all those bold, bad men who fired the Southern heart,

"Who cheered the band and waved the sword,  
As leaders in a rebel horde."

They should never again be clothed with trust in this Government. The prowling guerrilla, the wretch that starved prisoners to death, should likewise be deprived; and the editors and publishers of those vile secession sheets that fanned the flame of the rebellion, that studiously misrepresented the Union and its friends, deceived and beguiled the Southern masses into rebellion, and then prolonged it for years by the same means, and are still seeking to widen the breach and keep alive the spirit of insubordination in the hearts of their victims; none of these restless, dangerous men should ever again cast a vote or hold an office under this Government.

A few of the more prominent of these leaders should be tried for treason, and if convicted hung for treason. Let the remainder of them live and have an abiding place even under the flag they dishonored and sought to tear down; but let them go, disfranchised, shorn of all political power, with the mark of the traitor upon them, until they shall perish from the earth, and let their names and memory go down to all coming time as infamous, and as a warning; thus "treason will be made odious."

I am opposed to general amnesty. For all time to come ambitious and unscrupulous men should be admonished by the fate of the moving spirits of the great rebellion that such acts are attended with danger; that life and property may be lost in such an attempt; that treason is not a pastime or an adventure, to be undertaken without risk to lift those engaged in it to power and honor if successful and to be attended with no evil consequences if unsuccessful, but that the nation while magnanimous is just, and justice will punish with severity a sufficient number to be a lesson to all others in like case offending. The fact that we have neglected that duty so long makes no difference. The traitor cannot complain of the delay in his own favor. Every consideration of duty, justice, honor, and public safety demands this. The warnings of the past, the terrible realities of the present, and the hopes of the future all require it. I have hope for the nation, for I believe it will be just. My dream is of a model Republic, extending equal protection and rights to all men from ocean to ocean, from the great lakes to the Gulf, that a mighty people shall rise up strong in freedom, in knowledge, and in power.

The South shall cease to be a section and become a part of the nation; her sons and daughters shall build altars to freedom in her waste places; the wilderness shall vanish, the church and school-house will appear, and light and knowledge will illumine her dark corners; freedom of speech, of opinion, and of the press will be as much secured in South Caro-

lina as in Maine; all men shall be citizens, and high and clear in the fundamental law will that charter of citizenship be found guiding the nation like a pillar of flame; the whole land will revive under the magic touch of free labor, and we shall arise from the ashes of the rebellion to a purer life and a higher destiny, illustrating the grand truth of man's capacity for self-government; then Columbia will march on through the ages that are to come, her navies triumphant on every sea, her commerce encircling the earth, her arms the terror of tyrants and the hope of slaves, her influence ascendant in every capital; the oppressed of all nations will come to our shores, and free governments everywhere be founded from the inspiration of our example; firm upon the rock of justice and equality the temple reared by our fathers and purified by the blood of our brothers shall stand in the midst of the wondering nations, the most potent, free and glorious of all. Shall this be so? It is ours to say.

This speech practically outlining what was then the policy of the radical wing of the party, attracted much favorable attention all over the Union, as is indicated by the press of that day.

On the 21st of January, 1867, Mr. Ward presented the following preamble and resolution in the house:

Whereas, By the constitution and laws of the State of Maryland persons who were disloyal to the Government of the United States, or gave aid and encouragement to the recent rebellion are deprived of the elective franchise; and whereas it is alleged that at the last election in the State of Maryland large numbers of persons disqualified as aforesaid did vote for Representative in the Fortieth Congress and other officers; and whereas it is further alleged that armed forces of the United States were ordered by the Federal authorities to, and did co-operate with the executive of the State of Maryland and others who were engaged with him in overriding the constitution and laws aforesaid, and in securing the votes of rebels and persons disqualified as aforesaid, and whereby loyal and qualified voters of Maryland were deterred from the free exercise of the elective franchise and from resisting and preventing the violation of the constitution and laws aforesaid: Therefore,

Resolved, That the Committee of Elections shall inquire into and report whether the constitution and laws have been violated as aforesaid, and whether the President or any one under his command has in any manner interfered with the said election, or has in any way used or threatened to use the military power of the nation with reference to the said election, and if so, whether it was upon the requisition of the Gov-

error of Maryland; and the committee shall have power to send for persons and papers.

The preamble and resolution were agreed to.

Congressman Phelps from the 3rd District of Maryland, charged that no one desired the requested investigation except defeated candidates, which charge the Mayor and City Council of the City of Baltimore refuted by the following resolution:

"WHEREAS it appears from the debates in Congress regarding the resolution of inquiry into the recent Maryland elections, that the Hon. Charles E. Phelps, Representative from the Third District, took upon himself to assert that the proposed inquiry was not in accordance with the wishes of any great number of the Union men of Maryland.

BE IT RESOLVED by the Mayor and City Council of Baltimore, that the Hon. Charles E. Phelps has no authority to speak for the Union men of Baltimore, as his political connections are such as to prevent him from either knowing or representing their wishes.

RESOLVED that the thanks of the loyal people of Baltimore be and they are hereby extended to the Hon. Hamilton Ward, for pressing his resolution of inquiry to a passage, and to the House of Representatives for the interest manifested in their affairs by its adoption.

RESOLVED, That the exigencies of the times demand that the late rebellionists and present revolutionists of Maryland, who have acquired power through the treachery of Governor Swann, under the encouragement of President Johnson, should be prevented by the United States from consummating their revolutionary projects, which are fraught with danger to the State and to the country. x x x x

RESOLVED, That a copy of these resolutions be forwarded to the Hon. Hamilton Ward, and the Hon. Speaker of the House of Representatives at Washington, and also to the Hons. J. A. Cresswell, John L. Thomas, Jr., and Francis Thomas.

On this subject the Commonwealth of Boston, Mass., says on February 2nd, 1867:

Mr. Congressman Ward's investigation into the secret operations of the Swann-Johnson conspiracy of last fall in Baltimore has struck terror into the ranks of the conspirators. The criminal intervention of A. J. in Maryland matters will be unearthed. The whole plot contrived by Swann, and backed up by the President, to deliver the State over into

rebel hands, will be exposed. The President's unexecuted order for active military interposition, in behalf of Swann's raid on the late police commissioners, will be found to be a fixed fact. His conduct in that whole contest will be shown to be a high crime and misdemeanor against the liberties of the people of Maryland. The City Councils of Baltimore have voted the thanks of their loyal fellow-citizens to Mr. Ward for moving this investigation.

On the 26th day of February, 1867, Mr. Ward delivered a speech on the tariff in which he urged a high tariff on American manufactures and farm products, and especially on wool, the growth of which, he says, forms one of the principal industries of his district and which suffers from South American competition.

In this session, as in the preceding one, his voice was constantly raised against appropriation bills, insisting always on a careful examination by the Appropriate Committee, but as before his hand and heart were always open to the Union soldiers.

His personal reputation at home grew amazingly at this period and the district ever since the Elmira speech had begun to take considerable pride in its representative.

An editorial couched in old time newspaper style in the Angelica Reporter of May 1st, 1867, illustrates this:

#### NOBLE AMBITION.

It has been written that the pursuits of ambition are successions of jealous disquietudes of corroding fears, of high hopes, of restless desires and of bitter disappointment. Undoubtedly there are many painful reflections and mortifying defeats attending him who lives for the applause and favor of men, and who would secure "fame and position." Caesar himself said that he "had enough of fame." Indeed most men are more inclined to bestow censure than applause, and it's a dangerous experiment to "run the gauntlet" of the "envy and hatred" of mankind with the hope of eventually winning their good opinion and being rewarded with their honorable preference for distinction. And yet, to seek meritoriously the "praise of men;" to aim to occupy positions of great honor and trust at the hands of the people is a noble ambition, worthy of anxious toil and persisting effort. There is no stream so sweet as that which flows from the fountain of human applause. The public enunciation "well done,"

thou hast been wise and faithful, awakens the warmest emotions of gratitude and pride in the noblest minds on earth; it is the highest reward to be won or bestowed.

We have but little knowledge of the early life of Hon. Hamilton Ward, but we are assured that he gave timely attention to the improvement and development of his natural abilities for usefulness as a public man.

In due time he turned his attention to "the law," and soon after he was admitted he came to this county, cast his fortunes with the favored, yet then undeveloped town of Philipsburgh, since Belmont.

Young and inexperienced, but studious and industrious, with a limited library for "a companion and admirer," a cheerful, confident and persevering spirit, he opened an office, "stuck out his shingle," and began to court business and make friends, and initiated that warfare which to some brings enemies and to others "mere bread."

In those days the Allegany bar boasted many learned and several "grave counselors;" a number have been elevated to "the bench," others have sought "new fields," a few have gone to that "better land," while several yet remain to expound the law and enlarge the facts to "the court and jury," for a reasonable fee, content with an honorable home, their usual professional reunions, a "pent up" fame and prospective "treasures in Heaven."

Angelica was then the "seat of law," and Mr. Ward was soon called upon to defend an "innocent client" summoned to appear at that point, on which occasion he happened to be present. It was in an old office which decay or enterprise has long since removed.

Mr. Ward met as the "opposing counsel" the members of a then noted firm. Finding himself in the "enemy's camp," with the "old law-giver" at hand, he took an observation and called for a jury.

In the trial, Mr. Ward was more than a match for the spindling, piping attorney who was managing the plaintiff's case, and frequently "gained ground." This called the attention and interference of the "ragged lawyer" who lay "stretched out" on a law-bench in the rear (now 'dignified and erect,' presides as Sup. Court Judge), who eventually took charge of the prosecution, "swelled" Mr. Ward out of the case, and with much haranging in darkness and smoke, suffocated the jury into giving an unjust verdict for the plaintiff, as we mutually consoled and agreed. But in this, one of his "first efforts," Mr. Ward gave promise of success at the bar; for it evidently required the serious attention of the "senior counsel" to save his client from defeat.

Without proceeding in detail, Mr. Ward within a few years was elected District Attorney of the county, and to say that he discharged the



duties of that office with marked ability and great industry, is no more than the public accede to him.

When the folly, wickedness and madness of men had almost suspended the civil powers of the general Government and introduced war, devastation and almost anarchy in their place, and when we wanted our best men in counsel, Mr. Ward was warmly supported by his friends and admirers as a candidate for a seat in the National Legislature. By their exertions, and through his own great personal popularity, he was nominated and elected to Congress. Many doubted whether he had ripened sufficiently in intellect and experience to qualify him for the grave trusts and serious duties now imposed upon him; but he has in no way come short in his duties, and has gratified the highest expectations of his friends.

It has been well said that it is the duty of the editor to sub-soil public opinion to make it deep and porous, then sow it with the soundest seed; that the duty of the Legislature is not less plain, it is to put the highest opinion into the form of law; and this is the true test of his excellence as a statesman. Judged by this test, Mr Ward has been eminently successful for the well considered opinions of a large majority of his constituents, aided by his zealous efforts, have become the "Law of the Land." His ambition has been indeed noble, and his success glorious.

Mr. Ward believed the rebels should be punished, he said so, he never forgave a Copperhead; he was fearless in maintaining his views. On the 13th day of July, 1867, he delivered a Republican speech in Alexandria, Va., in which he said he believed the rebel leaders should be hung and he attributed the difference between New York and Virginia, between the populous and cultivated banks of the Hudson and the desolate and poverty stricken shores of the Potomac and James, to the difference in industrial conditions between the two sections, one free the other slave.

On July 29, 1867, in Libby Prison, Richmond, Va., he made a radical Republican speech to two thousand recently enfranchised negroes, and no doubt enjoyed the change a short period of time had brought to this historic building. Before the speech he was told that he would be assassinated if he attempted to proceed, which he did nevertheless, first stating to the audience the threat which had been made. No violence was attempted.

In July Benjamin F. Butler of Massachusetts offered a resolution asking for the appointment of a select committee of five to consider the assassination of President Lincoln, with power to examine the witnesses, and grant amnesty in case it should be deemed wise by the committee.

This resolution was agreed to and on the 9th day of July the speaker appointed the following committee: Benjamin F. Butler of Massachusetts, Samuel Shellabarger of Ohio, George W. Julian of Indiana, Hamilton Ward of New York and Samuel J. Randall of Pennsylvania. The criminal courts satisfactorily disposed of the assassins and the committee took no action.

The impeachment of Andrew Johnson was now openly discussed. He was regarded as a traitor to his party and by many to the State, and his unfortunate personal failings alienated from him many conservative men, who otherwise would have been loth to follow the Radical Republican majority.

On Sept. 28, 1867, Schuyler Colfax, then speaker of the House, and later Vice-President, wrote Mr. Ward as follows:

My dear Friend:—

On my return from ten days' speaking in Ohio I find your cordial and welcome letter. We have had bad luck this year—having in nearly every State side issues that weaken us and which tend to intensify the bold, bad man at the head of affairs in Washington. But I have hope and faith that all will be right in the end. Perhaps these things will unite us better for next year. I go next to Wisconsin, where our friends write me that there is just apathy and general dissatisfaction. In the Northwest all our friends are for impeachment. A. J.'s course since Congress adjourned and his removal of Stanton, Sheridan and Sickles have been "the last feather that broke the camel's back."

Thanking you for your friendly personal allusions and with regards to Mrs. Ward, I am,

Very truly yours,

SCHUYLER COLFAX.

On the assembling of the 40th Congress most of the active men of the preceding Congress were found to have been re-elected. Morrill of Vermont had been promoted

to the Senate. John Morrissey, the prize-fighter, made his appearance from New York. Fernando Wood of New York was also a member of this Congress. Roscoe Conklin, like Morrill, had been promoted to the Senate. John A. Logan had come from Illinois and Ignatius Donnelly from Minnesota.

In the appointment of the committees which were on the Committee of Claims, John A. Bingham of Ohio being first and Wm. B. Washburn of Massachusetts being second. He was named as Chairman of the Committee on Revolutionary Claims.

These two committees, together with the Committee on the Assassination of President Lincoln and to prepare articles of impeachment for President Johnson, spoken of later, constituted Mr. Ward's committee service in the 40th Congress.

On the convening of the 40th Congress in November, 1867, the impeachment of the President became the permanent issue.

On January 11th, 1868, Mr. Ward delivered the following speech in the House:

#### IMPEACHMENT.

Mr. WARD. Mr. Chairman, I will ask the indulgence of the committee for a short time while I examine two or three questions about which I desire to express opinions and advance such reasons as govern my action with regard to them.

And in the first place, sir, I wish to refer to the question of impeachment, and in doing so I am well aware that I shall encounter the impatience of gentlemen who will exclaim, "Oh, impeachment is dead and buried; why revive it now?" I am aware, sir, that so far as this House is concerned such is the case, but I was one of those who felt constrained to vote for the impeachment of the President and by the extraordinary manner in which the question was disposed of had no opportunity to state my reasons for so doing.

And, sir, some of those who officiated at the burial will not let the matter rest, but with uneasy legal consciences keep exhuming the dead carcass and displaying it before the House. The learned gentleman from Pennsylvania (Judge Woodward) feels obliged to protest against the legal

conclusions of those opposed to impeachment and favors the conclusions adopted by the committee. My friend, also, from Pennsylvania (Mr. Boyer) and the gentleman from Ohio on my left (Judge Van Trump) take issue with Judge Woodward on the law. From all this it is evident that this question "will not down" at the bidding of the chairman of the Judiciary, but, like Banquo's ghost, is constantly reappearing. I may therefore be pardoned a few observations upon the subject.

The majority of the House, under the able leadership of the chairman of the Judiciary Committee, strangled debate upon this grave and momentous question, and, with the exception of obtaining the views of two distinguished gentlemen, nothing was allowed to be said in the House. But by a most arbitrary use of the "previous question" the report of the Judiciary Committee and the whole matter of impeachment were hurried to their graves with all the impatience of those who know that there is something "rotten in Denmark," but that "dead men tell no tales."

I was one of those who felt it a duty to avoid, by such dilatory motions as were in the power of the minority, the vote on the motion to lay the report of the committee on the table until the majority would concede to us the privilege of discussing to a reasonable extent the question.

Such motions are sometimes the only means the minority of a legislative body have to protect themselves and secure the freedom of debate on vital public questions, and this, in my humble opinion, was a proper occasion for the exercise of that right.

We did not succeed, however; the majority were fearful of discussion, and all we secured was a direct vote upon the question. In this connection let me advert to the course of gentlemen on the Democratic side of the House. They have on all occasions in the Thirty-Ninth and the present Congress insisted, while they were in the minority on great political questions, when those questions came to be considered, insisted upon the greatest latitude of debate, and complained bitterly of the "tyranny" of the majority; but upon this occasion, when they were suddenly grown into the majority, not one of them is found in favor of the freedom of debate or the rights of the minority.

It is said that the only blemish that rests upon the memory of the Pilgrim Fathers is that they who had fled from the persecutions and oppressions of the Old World to the wilderness of the New, to enjoy the priceless blessing of civil and religious liberty, became in time as intolerant as the oppressors from whom they fled, and burnt witches and banished Quakers. I commend this bit of history to the consideration of these honorable gentlemen.

I carefully examined the evidence taken by the various reports emanating from the Judiciary Committee on the subject of impeachment, and, sir, as one of the grand inquests of the nation, sought to examine the whole matter with a judicial mind uninfluenced by partisan feeling or prejudice. At the same time, sir, I was not awed by the power and glitter of this great office. I did not bask in the smiles of Executive favor or meekly pick up the crumbs that fell from his official table; nor was I deterred from doing my duty by the threats and jeers of traitors, the sneers of conservatives, or the pretended contempt of the opposition. I found, sir, that Andrew Johnson had, in violation of law, seized upon the governments of ten States of this Union, created Governors, Legislatures, judges for them; appointed to offices created by himself in those States men who had been in rebellion against our Government, whose hands were red with the blood of our people, and had paid those officers out of the people's money in violation of law. I found that he had overridden and defied the legislative branch of this Government and usurped with a high hand the prerogatives of Congress.

When Congress resisted and denounced his usurpations, with deliberate and well formed purpose to continue his usurpations and put traitors into power in this country, to the exclusion and oppression of loyal men, he prostituted the pardoning power, the veto power, and the power of appointment to office—all great powers given him by the Constitution for a wise and discreet use, for the public good, and not to be abused and made instrumental of fraud, usurpation, and oppression. I found him encouraging insubordination in the population that had been in rebellion; insidiously inducing them to resist the law; lighting in New Orleans the flames of sedition and murder; calmly witnessing the murder of thousands of Union men in the South who had fallen victims to his creatures and under the protection of his State governments. I found him surrendering to the enemy millions of public property in violation of law; restoring to traitors millions more than by law belonging to the Treasury, and could only be taken from thence by an appropriation by Congress pursuant to law; that he knowingly appointed a large number of officers who could not take the "iron-clad" oath of office to discharge the most delicate and responsible duty of collecting the public revenue, thus disregarding the law himself and encouraging others to do so; that he had sold on credit vast amounts of personal property belonging to the Government, in violation of law, to rebels, constituting Tennessee railroad corporations, taking no adequate security therefor, and when, by means of such property, said railroad corporations amassed a considerable sum of money, he postponed the payment of the public demands upon said corporations in order to secure the

payment of obligations which he, the President, had against such corporations, and which constituted doubtless the real reason of the original sale of the aforesaid personal property to them.

I found that while it was his duty and sworn obligation "to see that the laws were faithfully executed," not one traitor had been brought to punishment for the crime that deluged our land in blood, clothed it in mourning, covered it with debt, and filled it with graves; but on the contrary, traitors had been pardoned, and many of them clothed with offices of honor and trust, while the laws providing for confiscating their property had been deliberately and systematically violated by the Executive, and even property was restored to rebel owners that had before been confiscated by law and belonged to the Treasury of the United States. In short, I found that he had betrayed and violated in many ways his high trust, and I voted with a clear sense of the magnitude of the occasion and the responsibility under which I rested as a Representative of the people for the impeachment of this high offender.

The minority report, presented by the chairman of the Judiciary Committee, admits as true in effect the most of these charges, but seeks to escape from their effect by assuming that none of these are legally impeachable offenses. But let us examine briefly the legal question:

"The President, Vice-President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other crimes and misdemeanors."—Constitution, Art. 2, Sec. 4.

What are the impeachable offenses within the meaning of the Constitution? "Treason and bribery" clearly are, being made so by the Constitution itself. The difficulty arises in determining what other offenses are impeachable. The language employed is "other high crimes and misdemeanors;" very broad terms, indeed, and sufficiently so to cover every conceivable criminal offense above the grade of simple misdemeanor.

It is not necessary to discuss whether a civil officer, if you please the President, can be impeached for crimes not committed by color of his office or within the scope of his official acts, but wholly disconnected therefrom; such as larceny of the property of private individuals, arson, burglary, or the like; but we will consider what acts done or omitted within the range of official duties and as public officer will come within the definition of "high crimes or misdemeanors."

In determining this question reference must be had to the character of the official trust imposed and the consequences of a failure to execute that trust.

The executive office is one of the branches of the Government; it is created to execute the law, not to make it, and to act within its constitutional sphere in harmony with the legislative and judicial branches of the Government. The President has a double obligation resting upon him; he must do what the Constitution commands him to perform, and refrain from doing what it enjoins upon either of the other branches. A failure on his part to discharge either of these obligations must produce the most serious and far-reaching consequences to the whole country and endanger its very existence. The President is elected for four years and cannot be deprived of his office except by impeachment, and unless that can occur, in the cases supposed, a bad, ambitious, or unscrupulous Chief Magistrate would have it in his power to destroy the Republic.

I submit that the President is impeachable for any such misconduct in office as amounts to a serious breach of his official trust, any important violation or neglect of duty enjoined upon him as the President of the United States, and that such violation of duty and misconduct are high crimes and misdemeanors within the meaning of the Constitution, and that in this enlarged and liberal sense the words were used by the framers of the Constitution, as I shall proceed most conclusively to show. I glean from the debates in the great convention that framed this immortal instrument the following: Colonel Mason, upon whose motion the words "high crimes and misdemeanors" were inserted after the words treason and bribery, said:

"No point is more important than that the right of impeachment should be continued. Shall any man be above justice, and above all, shall that man who can commit the most extensive injustice?"

Dr. Franklin said:

"It would be the best way to provide in the Constitution for the regular punishment of the Executive when his misconduct should deserve it."

James Madison said that he—

"Thought it indispensable that some provision should be made for defending the community against the incapacity, negligence, or perfidy of the Chief Magistrate. He might loose his capacity after his appointment. He might pervert his administration into a scheme of peculation or oppression. He might betray his trust to foreign powers."

Mr. ELDRIDGE. Will the gentleman allow me to ask him a question?



Mr. WARD. Certainly.

Mr. ELDRIDGE. Does the gentleman claim that incapacity in a civil officer is a sufficient cause for his impeachment under the provision of the Constitution he is considering?

Mr. WARD. I am not stating any opinion of my own on that subject. I am only giving Mr. Madison's statement. He seems to think an officer should be impeached if he became incapacitated to discharge his official duties.

Mr. HIGBY. Will the gentleman allow me to ask him a question?

Mr. WARD. Yes, sir.

Mr. HIGBY. Does the gentleman think intemperance in a public officer a sufficient cause for impeachment?

Mr. WARD. I regard intemperance in a public officer as a grave offense against good government and morals; and gross intemperance, such as unfits him to discharge his official duties, as a sufficient ground of impeachment.

Mr. HIGBY. So do I.

Mr. WARD. But to resume, Mr. Chairman: Edmund Randolph said that—

“Guilt, wherever found, ought to be punished. The Executive will have great opportunities of abusing his power, particularly in time of war, when the military force, and to some extent the public money, will be in his hands.”

Madison papers, vol. 2, pages 1154, 1155, 1156, 1157, and 1158.

In the debate upon the ratification of the Federal Constitution in the North Carolina convention Mr. Spaight, who was also a member of the Federal Convention, in commenting upon the provision we are considering, said—

“That the President was impeachable if he in any manner abused his trust.”—Elliott Debates in Convention, 1787, vol. 3. 108.

Mr. Indell, a prominent member of the North Carolina convention, on the same occasion said:

“The power of impeachment is given by this Constitution to bring great offenders to punishment; it is calculated to bring them to punishment for crimes that are not easy to define, but which every one must be convinced is a high crime and misdemeanor against the Government.”—Ibid., 107.

Governor Johnson, a leading member, on the same occasion, said:

"If an officer commits an offense against an individual he is amenable to the courts of law. If he commits a crime against the State he may be indicted and punished. Impeachment only extends to high crimes and misdemeanors in a public officer; it is a mode pointed out for great misdemeanors against the public."

The honored name of Alexander Hamilton, who was also a member of the Federal Convention, adds its weight to these positions. He declares in No. 95 of the Federalist that—

"The subjects of the jurisdiction of a court of impeachment are those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust. They are of a nature which may, with peculiar propriety, be denominated political, as they relate chiefly to injuries done immediately to the society itself."

Turning to the sages of the law who wrote in the early time, we find the declared object of the fathers of the Constitution crystalized into law in the text books. Judge Story, in his Commentaries on the Constitution, lays down the law thus:

"The offices to which the power of impeachment has been and is ordinarily applied as a remedy are of a political character. Not but that the crimes of a strictly legal character fall within the scope of the power, but that it has a more enlarged operation, and reaches what are aptly termed political offenses growing out of personal misconduct, or gross neglect, or usurpation, or habitual disregard of the public interests in the discharge of the duties of political office. These are so various in their character and so indefinable in their actual involutions that it is almost impossible to provide for them by positive law. They must be examined on very broad and comprehensive principles of policy and duty."—Vol. 2, sec. 764.

Judge Story again says that—

"The Congress of the United States has itself unhesitatingly adopted the conclusion that no previous statute is necessary to authorize an impeachment for any official misconduct, and the rules of proceeding and the rules of evidence, as well as the principle of decision; have been uniformly regulated by the known doctrine of the common law and parliamentary usage."

And in accordance with this is the language of Mr. Rawle, in his Treatise on the Constitution, page 19. He remarks:

"Its foundation is that a subject intrusted with the administration of public affairs may sometimes infringe the rights of the people, and be

guilty of such crimes as the ordinary magistrate either dare not or cannot punish." "The delegation of important trusts affecting the higher interests of society is always, from various causes, liable to abuse. The fondness frequently felt for the individual extension of power; the influence of party prejudice; the seductions of foreign States, or the baser appetite for illegitimate emolument, are sometimes productive of what are not inaptly termed political offenses, which it would be difficult to take cognizance of in the ordinary course of judicial proceedings." Besides, "the involutions and varieties of vice are too many and too artful to be anticipated by positive law, and sometimes too subtle and mysterious to be fully detected in the limited period of ordinary investigation."

And again, page 204:

"The legitimate causes of impeachment can only have reference to public characters and official duty."

But the chairman of the Judiciary Committee contends that as a matter of law the President can only be impeached for such offenses as have been declared "high crimes and misdemeanors" by an act of Congress, ignoring the common law which is our birthright and the foundation of our whole national jurisprudence. His views are in deadly conflict with the law as quoted above, the designs of the fathers, the objects of the Constitution, the teachings of contemporaneous history, and the precedents already established by the Senate of the United States, from whose final decision there is no appeal. The Senate has tried several persons who have been impeached and convicted—one, at least, who was not charged with any offense known to the statutes of the Union.

To establish further the fallacy of the position that the President is not impeachable except for treason or bribery or some crime or misdemeanor that is made such by act of Congress, I will again advert to the words of the fathers of the Constitution.

In the Virginia convention 1788 (see Elliott's State Conventions, volume two. Virginia, page 358) Edmund Randolph, in commenting upon the clause in the Constitution prohibiting officers from accepting any "present or emolument" from any "king, prince or foreign State," said that if the President received any such emolument "he may be impeached." It was not put upon the ground of bribery, for the President may or may not be guilty of bribery in accepting such "emolument," but it was upon the distinct ground that the President would be impeachable if he violated this provision itself.

In the same convention (see page 367, same book) Mr. Mason objected to the President having the pardoning power, and said:

"Now I conceive that the President ought not to have the pardoning power, because he may frequently pardon crimes that were advised by himself."

James Madison, in reply, said:

"There is one security in this case to which the gentleman may not have adverted; if the President be connected in any suspicious manner with any person, and there be grounds to believe he will shelter himself, the House of Representatives can impeach him."

Again, in the same convention, (*ibid.*, page 368,) Mr. Mason objected to the mode of making treaties, namely, by the President, and concurred in by two thirds of the Senators present. He said:

"Suppose a partial treaty is made by the President and is to be ratified by the Senate, they do not always sit who is to convene them; the President, it is presumable that he will call distant States to make the ratification, or those States he knew would be injured by the treaty he had proposed?"

Mr. Madison—

"thought it astonishing that gentlemen should think that a treaty could be got with surprise, or that foreign nations should be solicitous to get a treaty only ratified by the Senators of a few States.

"Were the President to commit anything so atrocious as to summon only a few States he would be impeached and convicted, as a majority of the States would be affected by his misdemeanor."

Here you have a case which is not a crime or misdemeanor by an act of Congress, and you also ascertain the great expounder's idea of what the word "misdemeanor" meant as used in the Constitution. It clearly means any grave breach of official trust, such as the one here referred to, or the ones previously cited of improperly using the pardoning power and receiving emoluments from foreign nations.

These definitions of impeachable offenses by Randolph and Madison passed unchallenged in the ablest State convention ever held in this country, where Patrick Henry, James Monroe, and George Mason, on the one hand, opposed the adoption by Virginia of the Federal Constitution, and James Madison, Edmund Randolph, Edmund Pendleton, and John Marshall, on the other hand, favored its adoption; and when every provision of the great instrument was subject to the sharpest criticism and most elaborate discussion.

Will the chairman of the Judiciary Committee tell me under what law of Congress the three offenses above referred to are made crimes or misdemeanors or impeachable offenses, and, if under none, will he now say that Edmund Randolph and James Madison were mistaken when they called these acts impeachable; that they did not understand the Constitution; but that it was reserved for the minority of this committee, in the year of grace 1867, to construe the Constitution for them and set them right?

Sir the President must do his duty under his oath, execute the law, do all for and nothing against the public weal, and above all he must confine himself to his own duties, and not lay a ruthless hand upon the prerogatives of any other branch of the Government, for that is usurpation, and, says the President himself, in his recent message:

"If the authority we desire to use does not come to us through the Constitution we can exercise it only by usurpation: and usurpation is the most dangerous of political crimes. By that crime the enemies of free government in all ages have worked out their designs against public liberty and private right. It leads directly and immediately to the establishment of absolute rule, for undelegated power is always unlimited and unrestrained."

"Out of his own mouth will I condemn him."

But, say, some gentlemen, suppose the law and the facts are as you contend—"is it after all expedient to impeach the President; he has but about a year to serve, and Congress is the master of the situation."

Sir, I think it is always expedient to do right, to vindicate the law and punish public offenders. It is the pride and boast of our country that under our free institutions no man is so high as to be above justice, none so low as to be beneath it. Sir, I would punish the Commander-in-Chief for a violation of duty as soon, ay, sooner, than I would the poor sentinel that sleeps at his post or the homesick boy that deserts to visit his kindred.

I would punish the great magistrate clothed with kingly power for a breach of his official duty as soon as I would the humblest magistrate in the land for a breach of his; the higher the criminal the more pernicious the example, the more disastrous the crime.

I fear, sir, that Congress is not "master of the situation." I think to a great extent the President is; he seems to prevent to a great extent the execution of our laws. While he does not profess openly to oppose them, he encourages others to do so; he delays reconstruction, at least. A year is a long time in this burning crisis. The world moves rapidly now, and centuries of progress seemed crowded into a single hour. If the Presi-

dent by indirect methods delays reconstruction until the people, weary of the struggle, surrender to his "policy" and all is lost, you have only yourselves and your weak, timid, time-serving expediency to thank for it.

He, under the fear of impeachment, first appointed good and true men to execute the reconstruction acts, but when that fear vanished he removes them from office and appoints in their places the creatures of his will; he snubs Grant and removes the dauntless hero of Winchester, strikes off the epaulettes from the hobbling Sickles, and now Pope and Ord share their fate.

In defiance of your "tenure-of-office" bill he removes from the War Department the peerless Stanton, who was so great and clear in his high office that when his calumniators and detractors of to-day are buried and forgotten his name will shine forth on the brightest page of history as the greatest war minister of any age or country.

Sir, this is not a contest between this Congress and Andrew Johnson alone; the issue rises higher than the men and measures of the present time. It is the first time in our country's history that the President has attempted to usurp the prerogatives of Congress, and in the contest the President triumphs and Congress succumbs.

Sir, this is, in my judgment, a most serious question; one that will go into history; and its influence will reach far down the tide of time to other men and other generations, when popular rights may again be in danger and through executive usurpation may be overthrown.

When we consider the framework of our Government the most cautious and apprehensive cannot anticipate that Congress will ever be able to overthrow the liberties of the people. Congress is composed of too many persons, there is too much conflict of will and interest in two bodies containing in the aggregate several hundred men, representing, as they do, so many different views and interests. The unity of purpose and will essential to so great an undertaking as changing the form of our government will be wanting. No danger can be apprehended from the Supreme Court; but the Executive, represented by a single will, prompted by a single ambition, clothed with such vast power of patronage, which is constantly to increase as the country grows in wealth and population, operating upon what is too often the case—a subservient Congress—may in time seize the prerogative of the other two branches of the Government, and thus, blending all in one, vesting supreme power in himself, having the command of the "Army and the Navy," crush out public liberty, and under the pretense of serving the nation rear a throne upon the ruins of his country.

Then, indeed, will be realized the dismal prophecy of Patrick Henry (when commenting upon the executive power given in the Constitution

in the Virginia convention, from whose proceedings I have quoted) in one of his impassioned bursts of eloquence he exclaimed:

"Away with your President; we shall have a king; the Army will salute him monarch." \* \* \*

\* "What, then, will become of you and your rights? Will not absolute despotism exist?"

If, sir, in the time to come, perhaps in the far off future, some popular, daring, and unscrupulous man, in some time of public commotion, shall fill the presidential office, and he shall betray his trust, usurp the power of Congress, seize upon the public property, and bestow it upon his favorites, consort with traitors, postpone the payment of public debts to collect his own, and the people murmur and Congress protests, who shall stay him? The record is made up here and now. The precedent is established. Andrew Johnson did all this, and was sustained by the Fortieth Congress. Then the rule was established that the President was supreme; that he "bistrote the narrow world like a Colossus," and that Congress like—

"Petty men

Walk under his huge legs, and peep about  
To find themselves dishonorable graves."

Oh! he will exclaim in triumph. I am in for three or four years; you cannot impeach me without I commit treason or bribery or violate some criminal law of Congress. The Fortieth Congress has decided all that. I will be careful to keep within the rule they have laid down for me. And so encouraged may he not grow stronger in his bad purposes, and insidiously but surely accomplish them? So much for your expediency. Sir, if such a time shall ever come, and God forbid, it cannot be said that not one feeble voice was raised, even here and now, to protest against this precedent, and to warn his countrymen of the dangers that may flow from it.

#### RECONSTRUCTION.

Mr. Chairman, I have dwelt much longer upon this subject than I intended; let me turn to another. Sir, the President has delivered to us his annual message, in which he repeats the stale charge of unconstitutionality against the Congressional plan of reconstruction. He affirms, in less objectionable form, all the singular and revolutionary doctrines that he proclaimed in his memorable "swing around the circle." He holds out the direct intimation that the laws of Congress ought to be disregarded. He vouches for the loyalty and good faith of the men who have been in rebel-



lion against the Government, and seeks to arouse the bitterness of race and class against the majority of those who in the South were faithful to the Union through the rebellion. He expresses a fear that four million colored men will take possession of this Government in spite of all that thirty million white people can do, and that seven million white people in the South, nearly twice the number of the blacks, will be completely swallowed up and appropriated by these voracious negroes. He says, in effect, that two hundred thousand colored soldiers who fought for the flag, and all the others who were faithful to the nation in the dark hour of its anguish and peril, should be deprived of political rights and put under foot, while white rebel soldiers who fought against us or stood on guard at Andersonville or Libby, where thousands of our heroes starved to death, should vote and be restored to power in this government. Sir, these views of the President find a ready response in the breast of every traitor, Copperhead and deserter in the land. They find sympathy in the breast of him who now or recently has been strolling through the country (I believe in "male attire") the observed of all observers and the special idol of the "southern heart"—Mr. Jefferson Davis himself.

Now, sir, there are two plans of reconstruction; one proposed by Congress: and the other by the President and the Democratic party. The congressional plan places the ballot in the hands of all the male citizens of the South of a certain age except a very few disqualified for the prominence and peculiar baseness of their treason. It, in fact, gives the ballot and the power of governing in those States when reconstructed to the masses of the loyal and disloyal alike, and to the great majority of the people of each State.

The other plan gives suffrage, and consequently power, in those States to the disloyal alone, to the exclusion of the majority of the loyal citizens, and vests in several other of these States the governing power in the minority of the whole people to the exclusion of the majority, and in the States in which the majority are not excluded a very large minority of the people, nearly one half, are. Is this Democracy? Is this a republican form of government where the minority rule? Sir, that is oligarchy; it is aristocracy.

A republic is defined by Worcester to be "that form of government or of a State in which supreme power is vested in the people or the representatives elected by the people; a Commonwealth; a democracy;" not the minority of a people, not three-fifths of the people, not a part of the people, but "the people" have the "supreme power." Again, he defines democracy, to be a "form of government in which the sovereign power is lodged in the body of the people;" the definition of the word from the Greek con-

veys the full meaning, "the people to rule." In short, the President's plan contemplates the restoration to power in those States, by a grant to them of exclusive privileges, the old aristocracy who revolted and betrayed and brought all the miseries of war upon us.

His Excellency is loud in his complaint about depriving these rebellious minorities of what he is pleased to call their constitutional rights, but he has no pleading word for the constitutional rights of the loyal and faithful majorities. The Presidential plan cares simply for a part of the southern people; the congressional plan comprehends and protects them all.

As I have before said, it is asserted by the President that the congressional plan is unconstitutional—that it is unconstitutional to deprive traitors temporarily of the control of these States, to deprive them of the benefits of habeas corpus and of representation in Congress. But he would have you believe that it was perfectly constitutional for him to interfere as he has in southern affairs, to make State governments, to prescribe the qualification of voters and the terms upon which they should resume their representation in Congress; but Congress can do nothing of the kind, though clothed with the supreme legislative power of this Government. I would be pleased to have some defender of his "Excellency" show where he got the power that he has exercised in his plan of restoration.

But, sir, the Congress gets full authority for its action from the Constitution itself. I utterly repudiate the idea that Congress has gone outside of this great charter in this work, or that it is necessary to do so. No man can read the tremendous grant of power to Congress contained in the eighth section of the first article without finding, in conjunction with section four of article five, all the needed authority:

"The United States shall guaranty to every State in this Union a republican form of government." \* \* \* \* "Congress shall have power to provide for the common defense and general welfare of the United States." \* \* \* \* "To declare war." \* \* \* \* "To raise and support armies." \* \* \* \* "To provide for calling forth the militia to execute the laws of the Union and to suppress insurrection." \* \* \* \* "To make all laws which shall be necessary or proper for carrying into execution the foregoing powers."

And by the first section, also, all legislative powers granted by the Constitution were vested in Congress. And, again, by section nine of the same article the writ of habeas corpus can be suspended "where in cases of rebellion or invasion the public safety requires it."

No impartial mind can examine carefully this great instrument and the declarations of its immortal founders as found in the published de-

bates in the Federal Convention and in the various State Conventions that originally adopted the Constitution and not find that the fathers intended to confer and did confer upon Congress all the power necessary to save the Republic when its existence is threatened by enemies from without or traitors within.

Mr. Chairman, we must look to the substance of things and not to their forms; the Constitution was formed to preserve the nation, not to destroy it; he who raises a parricidal hand to strike down the Constitution of his country cannot invoke its protection for that very act. The rebellion does not cease with the surrender of the rebel arms; it never ceases until the rebels become good citizens, return to their allegiance in good faith, and accord to all loyal men in their midst their constitutional rights. The jurisdiction of Congress over the subject matter once obtained by the rebellion and the consequent destruction of civil government in the States does not cease until such punishment is meted out to them and such guarantees secured from them as the national safety require, or as Congress, representing the supreme will of the nation, shall demand.

But, says the President, a portion of the southern people are black, and they (for such is the substance of the argument) "have no rights that white men are bound to respect." They are ignorant, he says; he thinks they ought to be set off in some country by themselves. In the name of all that is good what kind of a "Moses" is this? Gentlemen of the opposition take up the subject approving the President's sage views, appealing to the lowest prejudices of our nature to induce us to deny to the loyal people of the South their political rights. One gentleman, my distinguished colleague from New York City, (Mr. Brooks), in a speech in this House a few days since, entered into a minute description of the black man. He told us of the curls in his hair; of the thickness of his lips; of the size of his nose; of the shape of his jaw; and the honorable gentleman got down into the dirt and measured the length of his heel. He makes no objection on the ground of color, for he says there are many colors in the world and no distinction should be made on that account; but the distinction seems to be one of heels, sir—heels. He carried us across the waters, and in splendid flights of oratory he stood with a black man in a Turkish harem, he glided over Moslem and Arab history, and recalled with vivid portraiture the glories of old Spain. He showed us the evil effects of amalgamation upon the Arab and the Spaniard and other people. Here the gentleman overleaped himself and gave a most ungracious thrust at those rebel autocrats whose cause he has been so obsequiously serving with voice and pen these many years, for the only amalgamationists in this country are these same individuals whose cause he is pleading, and in whom he would repose unchecked and exclusive power in the South—the same men who owned women and sold their off-

spring on the auction block for gold. Sir, I concede all the gentleman claims of the evil effects of amalgamation, and we are seeking by our policy of reconstruction to give these blacks citizenship, suffrage, and freedom, so that they can own themselves and protect themselves from this horrible system which slavery alone engenders. And the honorable gentleman saw at length the drift of his argument, and how severely it bore upon his southern friends, for when he came to speak of mulattoes his yearning tenderness for the blood of the "first families" overcomes him and he hastens to make reparation, and he says he would "admit the mulatto to the right of suffrage," "but for violating a law of God," for he says he recognizes "our white blood flowing in his veins, and I know that he is often the equal and sometimes the superior of some white men."

But the honorable gentleman is not entitled to a copyright for the invention of his ethnographical argument; it is as old as fraud and slavery themselves. It was proclaimed two years ago in the other end of this Capitol by Senator Davis, of Kentucky, and reproduced a few months ago by the gentleman from Ohio, (Mr. Munger). I am astonished that the gentleman, in his labored effort, omitted the other part of the old harangue, and that is that "Noah cursed Ham and doomed his children to bondage, and therefore slavery is supported by the Bible and is a divine institution."

With all due respect to the honorable gentleman, I pronounce his argument trifling—trifling with a great question, with human beings and rights. If the gentleman claims that the negro is a brute I can understand his argument. But, sir, if the negro is a man with an immortal soul, with heart, brains, and sympathies like other men, a native-born American citizen, who is to pay taxes, fight in our armies and navies, work in all the varied fields of labor, help develop the prostrate South, help pay our national debt, live under and obey the laws which are to govern him and us, then, sir, I pronounce the message of his "Excellency" and the arguments of the opposition in relation to this matter as unworthy of the subject and the occasion, and deserving little less than contempt. What! shall we measure a man's rights in this free country by the kinks in his hair and the length of his heel? Sir, if we do so we had better appoint my honorable colleague a committee to at once adjust a scale of rights on that basis, and give us the kind of hair or heel that will admit a man to the privileges of the ballot-box. (Laughter).

But, say gentlemen, with apparent triumph, if you force negro suffrage on the South why do you not secure it at the North? Sir, I am in favor of suffrage to all loyal native-born and naturalized citizens everywhere under our flag, and so are four-fifths of the Union party. We have

been trying to secure this in Ohio, Kansas, and Minnesota lately, and all the gentleman's party and a few Republicans in those States who have prejudices upon the subject voted against and defeated it. The responsibility of that defeat is with the Democratic party, not with us.

Again, in the northern States nearly all the citizens exercise the elective franchise, whereas in several of the southern States if you exclude the black man the majority of the people will be excluded from a voice in the government, and the minority, as I have before said, will rule. And, sir, independent of the question of suffrage in the States that have not been in rebellion and have not given Congress a right by their treason to interfere in their State and local affairs, we have the right, and it is our duty as a necessary measure of public safety and the protection of the loyal people of the South, to insist upon impartial suffrage in those States now being reconstructed; so that the question of suffrage in New York and Pennsylvania does not hinge upon the same reasons that it does in the rebel States. In the one case the public safety does not absolutely require impartial suffrage; in the other it does.

But, sir, I hope the time is not far distant when the people of the loyal States will accord to all men equal rights at the ballot-box. Do gentlemen suppose that five hundred thousand citizens in this country that are loyal to the Government, subject to all the burdens of other citizens, can be deprived for any considerable time of all voice in the laws that govern them and the Government they help to support? Oh, no! This is the wildest dream of political infatuation. Sir, they are voting now. They have tasted this sweet privilege, they have shed their blood as a ransom for this right; and when Abraham Lincoln struck the shackles from their limbs and Congress gave them the ballot they received a boon that they will not surrender as long as the nation shall stand; and woe to that man or that party that seeks to strip those rights from them. The attempt will fail. And now be wise in time; take no encouragement from the recent elections. They meant no injustice to the loyal men of the South—they meant no exclusive privileges to the rebels; they simply meant disgust at the failure of Congress to give a good financial system to the country; and, sir, I believe also at the failure of Congress to rebuke and punish the misconduct of the President of the United States.

I will bring to the recollection of gentlemen the dark days of 1862. Earnest men were then disgusted with the inaction of the Union party, and the opposition swept all the States that they carried at the last election, and Ohio besides, and then these same gentlemen predicted the destruction of the Union party and the overthrow of its principles; and, with Vallandigham, Seymour, and company in the foreground, excited the spirit

and uttered the doctrines they are proclaiming to-day; and in 1863 they were swept from the nation's path as with a besome of destruction. So it will be again if they continue to "kick against the pricks."

Sir, the constitutions that have been adopted by the conventions that have been held in the South are wise and beneficent instruments, guaranteeing to the people of those States for the first time in their history the full rights of American citizens. Some of the States will adopt the constitutions and send their members to Congress, and as to those the work of restoration will be complete. Others, acting on the dangerous advice of the President, will delay, reject the constitutions, and still remain under military control; for of this they can be assured, that until they come up to the full measure of the demands of the people upon them they will remain where they are.

But, Mr. Chairman, it is charged that we have delayed reconstruction and squandered the public money for party purposes. Sir, I deny it. Had the South accepted the constitutional amendment submitted by Congress and approved by the people in 1866 the work would have been done months ago; but the President and the Democratic party advised against it, and so the amendment was rejected.

Then, Congress determined on reconstruction, prescribed another policy, one that would execute itself and did not depend upon rebel aid; a policy of justice and equal rights, that permitted the loyal men of the South to become actors in the great work. And they are at work, sir; and if let alone they will accomplish reconstruction in ninety days. And now the President and his party are doing all in their power to prevent it. Sir, they are the obstruction, not we.

Mr. Chairman, the country needs repose. Let gentlemen rise for once above the dead level of the partisan, above plotting and scheming for rebel help to restore their party to power, and take hold with us faithfully and earnestly to bring the country back to peace. Six thousand million dollars of property, public and private, has been expended or destroyed in this war, and by that much the nation is poorer to-day. Great want and destitution prevails all over the South. Capital is stagnant; labor is dull everywhere and looks in vain for employment; hundreds of thousands of laboring men and women at the North are out of work and are looking with anxious faces into the grim winter, and wondering how they are to keep the wolf from the door. Our finances are disordered, national bankruptcy is imminent, and repudiation, the vilest of all national sins, is openly advocated.

Sir, this condition of things needs the closest economy, the most judicious expenditure of the public moneys, an equal and just distribution

of the public burdens, and presents a problem the solution of which will tax the highest "resources of statesmanship." Reconstruction is the hinge upon which all else turns. We can have no peace, no safe financial condition, until we have a just and sound reconstruction. Let Congress complete its work. Why delay? Why should the opposition delude the southern rebels with false hopes longer? Let the work be finished now, and your military will be withdrawn, and the "wayward sisters" will swing into line and renew their old relations with the Federal Union. But, sir, let the opposition theory prevail and I will not predict the result. The contest then will only be begun. Robbed of their rights the loyalists of the South will struggle to regain them, like men who "know those rights" and "dare maintain" them. The traitor horde, restored to exclusive power, will gratify the hate of race and all the brutal feelings of revenge upon them. Society will be shaken from center to circumference, industry will languish, and that afflicted portion of our country, once so fair and prosperous, will continue to be convulsed with the strife of men, on the one side for justice and on the other side for power. The people of the North will, as now, divide upon the question; and so the contest will go on until the problem will be solved in blood or the people reassert their God-given rights by revolution at the ballot-box. Sir, we can avoid all further contention and war, and dispose of the negro question in this country for all time, by simply giving the ballot, the only protection of freemen, to the people impartially. Then, sir, the last peril that threatens the Republic will be ended; then the North and South, East and West will stand in harmony together, bound by a common interest, working out a common and most glorious destiny. Like giant sentinels they will stand, upholding and guarding the temple of freedom for us and our posterity forever.

Considering Mr. Ward's advanced position on reconstruction, and his attitude toward the President, it is not surprising that when the great crisis arrived and the House decided for the first time in the nation's history to present articles of impeachment against the Chief Magistrate that Hamilton Ward was named as one of a Committee of Seven "To declare articles of impeachment against the President of the United States." This was on February 25, 1868. The Committee was as follows: George S. Boutwell of Massachusetts, Thaduis Stevens of Pennsylvania, John A. Bingham of Ohio, John A. Logan of Illinois, James F. Wilson of Iowa, George W. Julian of Indiana and Hamilton Ward of New York. Next to the Constitution, the De-



claration of Independence and the Emancipation Proclamation, these articles of impeachment were the most important State papers in the history of our Government, and the fact of being selected to perform this great and dangerous duty, dangerous if the plans of Johnson had succeeded, was the highest honor that came to Hamilton Ward during his long and useful life. The other members of the Committee were the leaders of the nation, and history deals clearly with each one of them.

The honor done Mr. Ward and his district and State was appreciated by his constituents.

The Elmira Daily Advertiser, the leading paper of the district, on February 26th, 1868, says:

"It will be noticed that Hon. Hamilton Ward is a member representing the State of New York, on the Committee of the House of Representatives, to prepare articles of impeachment against the President. To be so selected and placed on this Committee, the most momentous ever raised in the history of Congress, is a compliment of which his constituents may well be proud. Mr. Ward is worthy of the honor thus bestowed upon him, and will fulfill his important duty with stern and fearless justice."

On February 29th, 1868, the Committee reported articles of impeachment which being discussed, a final report was made on March 2nd.

The Articles of Impeachment are as follows:

#### Article 1.

That said Andrew Johnson, President of the United States, on the 21st day of February, in the year of our Lord, 1868, at Washington, in the District of Columbia, unmindful of the high duties of his office, of his oath of office, and of the requirements of the Constitution that he should take care that the laws be faithfully executed, did unlawfully and in violation of the Constitution and laws of the United States, issue an order in writing for the removal of Edwin M. Stanton from the office of Secretary for the Department of War, said Edwin M. Stanton having been theretofore duly appointed and commissioned, by and with the advice and consent of the Senate of the United States, as such Secretary, and said Andrew Johnson, President of the United States, on the 12th day of August, in the year of

our Lord, 1867, and during the recess of said Senate, having suspended by his order Edwin M. Stanton from said office, and within twenty days after the first day of the next meeting of said Senate, that is to say, on the 12th day of December, in the year last aforesaid, having reported to said Senate such suspension with the evidence and reasons for his action in the case and the name of the person designated to perform the duties of such office temporarily until the next meeting of the Senate, and said Senate, thereafterward on the 13th day of January, in the year of our Lord, 1868, having duly considered the evidence and reasons reported by said Andrew Johnson for said suspension, and having refused to concur in said suspension, whereby and by force of the provisions of an Act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, said Edwin M. Stanton did forthwith resume the functions of his office, whereof the said Andrew Johnson had then and there due notice, and said Edwin M. Stanton, by reason of the premises, on said 21st day of February, being lawfully entitled to hold said office of Secretary for the Department of War, which said order, for the removal of said Edwin M. Stanton is, in substance, as follows, that is to say:

Executive Mansion,  
Washington, D. C.,  
Feb. 21, 1868.

Sir:—

By virtue of the power and authority vested in me as President by the Constitution and laws of the United States, you are hereby removed from office as Secretary for the Department of War, and your functions as such will terminate upon the receipt of this communication.

You will transfer to Brevet Major General Lorenzo Thomas, Adjutant General of the Army, who has this day been authorized and empowered to act as Secretary of War ad interim, all records, books, papers and other public property now in your custody and charge.

Respectfully yours,

ANDREW JOHNSON.

Hon. Edwin M. Stanton,  
Washington, D. C.

Which order was unlawfully issued with intent then and there to violate the act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, and, with further intent contrary to the provisions of said act, in violation thereof, and contrary to the provisions of the Constitution of the United States, and without the advice and consent of the Senate of the United States, the said Senate then and there being in session, to remove said Edwin M. Stanton from the office of Sec-

retary for the Department of War, the said Edwin M. Stanton being then and there Secretary of War, and being then and there in the due and lawful execution and discharge of the duties of said office, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

#### Article II.

That on said 21st day of February, in the year of our Lord, 1868, at Washington, D. C., said Andrew Johnson, President of the United States, unmindful of the high duties of his office, of his oath of office, and in violation of the Constitution of the United States and contrary to the provisions of an act entitled: "An Act regulating the tenure of certain civil offices," passed March 2, 1867, without the advice and consent of the Senate of the United States, said Senate then and there being in session, and without authority of law, did with intent to violate the Constitution of the United States and the act aforesaid, issue and deliver to one, Lorenzo Thomas, a letter of authority in substance as follows, that is to say:

Executive Mansion,  
Washington, D. C.,  
Feb. 21, 1868.

Sir:—Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War ad interim, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers and other public property now in his custody and charge.

Respectfully yours,

ANDREW JOHNSON.

To Brevet Major General Lorenzo Thomas, Adjutant General, United States Army, Washington, D. C.

Then and there being no vacancy in said office of Secretary for the Department of War, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

#### Article III.

That said Andrew Johnson, President of the United States, on the 21st day of February, in the year of our Lord, 1868, at Washington, in the District of Columbia, did commit and was guilty of a high misdemeanor

in office in this, that, without authority of law, while the Senate of the United States was then and there in session, he did appoint one, Lorenzo Thomas, to be Secretary for the Department of War ad interim, without the advice and consent of the Senate, and with intent to violate the Constitution of the United States, no vacancy having happened in said office of Secretary for the Department of War during the recess of the Senate, and no vacancy existing in said office at the time, and which said appointment so made by said Andrew Johnson, of said Lorenzo Thomas, is in substance as follows, that is to say:

Executive Mansion,  
Washington, D. C.,  
Feb. 21, 1868.

Sir:—Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War ad interim, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers and other public property now in his custody and charge.

Respectfully yours,

ANDREW JOHNSON.

To Brevet Major General Lorenzo Thomas, Adjutant General, United States Army, Washington, D. C.

#### Article IV.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office, of his oath of office, and in violation of the Constitution and laws of United States, on the 21st day of February, in the year of our Lord, 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, and with other persons of the House of Representatives unknown, with intent, by intimidation and threats unlawfully to hinder and prevent Edwin M. Stanton, then and there the Secretary for the Department of War, duly appointed under the laws of the United States, from holding said office of Secretary for the Department of War, contrary to and in violation of the Constitution of the United States, and of the provisions of an Act entitled "An act to define and punish certain conspiracies," approved July 31st, 1861, whereby said Andrew Johnson, President of the United States, did then and there commit, and was guilty of a high crime in office.

#### Article V.

That said Andrew Johnson, President of the United States, unmind-

ful of the high duties of his office and of his oath of office, on the 21st day of February, in the year of our Lord, 1868, and on divers and other days and times in said year, before the 2d day of March, A. D., 1868, at Washington, in the District of Columbia, did unlawfully conspire with one, Lorenzo Thomas, and with other persons to the House of Representatives unknown to prevent and hinder the execution of an Act entitled: "An act regulating the tenure of certain civil offices," passed March the 2d, 1867, and in pursuance of said conspiracy did unlawfully attempt to prevent Edwin M. Stanton then and there being Secretary for the Department of War, duly appointed and commissioned under the laws of the United States from holding said office, whereby the said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

#### Article VI.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, on the 21st day of February, in the year of our Lord, 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, by force to seize, take, and possess the property of the United States in the Department of War, and then and there in the custody of Edwin M. Stanton, Secretary for said Department, contrary to the provisions of an Act entitled: "An Act to define and punish certain conspiracies," approved July 31st, 1861, and with intent to violate and disregard an Act entitled "An act regulating the tenure of certain civil offices," passed March 2nd, 1867, whereby said Andrew Johnson, President of the United States, did then and there commit a high crime in office.

#### Article VII.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, on the 21st day of February, in the year of our Lord, 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas with intent unlawfully to seize, take and possess the property of the United States in the Department of War, in the custody and charge of Edwin M. Stanton, Secretary for said Department, with intent to violate and disregard the Act entitled "An Act regulating the tenure of certain civil offices," passed March 2nd, 1867, whereby said Andrew Johnson, President of the United States, did then and there commit a high misdemeanor in office.

## Article VIII.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, with intent unlawfully to control the disbursements of the moneys appropriated for the Military Service and for the Department of War, on the 21st day of February, in the year of our Lord, 1868, at Washington, in the District of Columbia, did unlawfully and contrary to the provisions of an Act entitled "An act regulating the tenure of certain civil offices," passed March 2nd, 1867, and in violation of the constitution of the United States, and without the advice and consent of the Senate of the United States, and while the Senate was then and there in session, there being no vacancy in the office of Secretary for the Department of War, with intent to violate and disregard the act aforesaid, then and there issue and deliver to one, Lorenzo Thomas, a letter of authority and writing in substance as follows, that is to say:

Executive Mansion,  
Washington, D. C.,

Feb. 21, 1868.

Sir:—Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War you are hereby authorized and empowered to act as Secretary of War ad interim, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers and all other public property now in his custody and charge.

Respectfully yours,

ANDREW JOHNSON.

To Brevet Major General Lorenzo Thomas, Adjutant General of the United States Army, Washington, D. C.

Whereby said Andrew Johnson, President of the United States did then and there commit and was guilty of a high misdemeanor in office.

## Article IX.

That said Andrew Johnson, President of the United States, on the 22nd day of February, in the year of our Lord, 1868, at Washington, in the District of Columbia, in disregard of the Constitution and the laws of the United States, duly enacted, as Commander in Chief of the Army of the United States, did bring before himself then and there William H. Emory, a Major General by Brevet in the army of the United States, actually in command of the Department of Washington, and the military

forces thereof, and did then and there, as such Commander in Chief, declare to and instruct said Emory that part of a law of the United States, passed March 2nd, 1867, entitled, "An Act making appropriations for the support of the Army for the year ending June 30th, 1868, and for other purposes," especially the second section thereof, which provides, among other things, that "all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the Army, and, in case of his inability, through the next in rank, "was unconstitutional and in contrevention of the commission of the said Emory, and which said provision of law had been theretofore duly and legally promulgated, by general order for the government and direction of the Army of the United States, as the said Andrew Johnson then and there well knew with intent thereby to induce said Emory, in his official capacity as Commander of the Department of Washington, to violate the provisions of said act, and to take and receive, act upon, and obey such orders as he, the said Andrew Johnson, might make and give, and which should not be issued through the General of the Army of the United States, according to the provisions of the said Act, and with the further intent thereby to enable him, the said Andrew Johnson, to prevent the execution of an act entitled "An act regulating the tenure of certain civil offices," passed March 2nd, 1867, and to unlawfully prevent Edwin M. Stanton, then being Secretary for the Department of War, from holding said office and discharging the duties thereof, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

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Article X.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and the dignity and proprieties thereof, and of the harmony and courtesies which ought to exist and be maintained between the executive and legislative branches of the Government of the United States, designing and intending to set aside the rightful authority and powers of Congress, did attempt to bring into disgrace, ridicule, hatred, contempt, and reproach the Congress of the United States and the several branches thereof, to impair and destroy the regard and respect of all the good people of the United States for the Congress and legislative power thereof, (which all officers of the Government ought inviolably to preserve and maintain,) and to excite the odium and resentment of all the good people of the United States against Congress and the laws by it duly and constitutionally enacted; and in pursuance of his said design and intent, openly and publicly, and before divers assemblages of the citizens of the United States convened in divers parts thereof to meet and receive said



Andrew Johnson as the Chief Magistrate of the United States, did, on the 18th day of August, in the year of our Lord 1866, and on divers other days and times, as well before as afterward, make and deliver with a loud voice certain intemperate, inflammatory, and scandalous harangues, and did therein utter loud threats and bitter menaces as well against Congress as the laws of the United States duly enacted thereby, amid the cries, jeers, and laughter of the multitudes then assembled and within hearing, which are set forth in the several specifications hereinafter written, in substance and effect, that is to say:

Specification First.—In this, that at Washington, in the District of Columbia, in the Executive Mansion, to a committee of citizens who called upon the President of the United States, speaking of and concerning the Congress of the United States, said Andrew Johnson, President of the United States, heretofore, to wit, on the 18th day of August, in the year of our Lord 1866, did, in a loud voice, declare in substance and effect, among other things, that is to say:

“So far as the executive department of the Government is concerned, the effort has been made to restore the Union, to heal the breach, to pour oil into the wounds which were consequent upon the struggle, and (to speak in common phrase) to prepare, as the learned and wise physician would, a plaster healing in character and coextensive with the wound. We thought, and we think, that we partially succeeded; but as the work progresses, as reconstruction seemed to be taking place, and the country was becoming reunited, we found a disturbing and marring element opposing us. In alluding to that element, I shall go no further than your convention and the distinguished gentleman who has delivered to me the report of its proceedings. I shall make no reference to it that I do not believe the time and the occasion justify.

“We have witnessed in one department of the Government every endeavor to prevent the restoration of peace, harmony, and Union. We have seen hanging upon the verge of the Government, as it were, a body called, or which assumes to be, the Congress of the United States, while in fact it is a Congress of only a part of the States. We have seen this Congress pretend to be for the Union, when its every step and act tended to perpetuate disunion and make a disruption of the States inevitable.” \* \* \* \* “We have seen Congress gradually encroach step by step upon constitutional rights, and violate, day after day and month after month, fundamental principles of the Government. We have seen a Congress that seemed to forget that there was a limit to the sphere and scope of legislation. We have seen a Congress in a minority assume to exercise power which, allowed to be consummated, would result in despotism or monarchy itself.”

Specification Second.—In this, that at Cleveland, in the State of Ohio, heretofore, to wit, on the 3d day of September, in the year of our Lord 1866, before a public assemblage of citizens and others, said Andrew Johnson, President of the United States, speaking of and concerning the Congress of the United States did, in a loud voice, declare in substance and effect among other things, that is to say:

“I will tell you what I did do. I called upon your Congress that is trying to break up the Government.”

\* \* \* \* \*

“In conclusion, beside that, Congress had taken much pains to poison their constituents against him. But what had Congress done? Have they done anything to restore the union of these States? No; on the contrary, they had done everything to prevent it; and because he stood now where he did when the rebellion commenced, he had been denounced as a traitor. Who had run greater risk or made greater sacrifices than himself? But Congress, factious and domineering, had undertaken to poison the minds of the American people.”

Specification Third.—In this, that at St. Louis, in the State of Missouri, heretofore, to wit, on the 8th day of September, in the year of our Lord 1866, before a public assemblage of citizens and others, said Andrew Johnson, President of the United States, speaking of and concerning the Congress of the United States, did, in a loud voice, declare, in substance and effect, among other things, that is to say:

“Go on. Perhaps if you had a word or two on the subject of New Orleans you might understand more about it than you do. And if you will go back—if you will go back and ascertain the cause of the riot at New Orleans, perhaps you will not be so prompt in calling out ‘New Orleans.’ If you will take up the riot at New Orleans and trace it back to its source or its immediate cause, you will find out who was responsible for the blood that was shed there. If you will take up the riot at New Orleans and trace it back to the Radical Congress you will find that the riot at New Orleans was substantially planned. If you will take up the proceedings in their caucuses you will understand that they there knew that a convention was to be called which was extinct by its power having expired; that it was said that the intention was that a new government was to be organized, and on the organization of that government the intention was to enfranchise one portion of the population, called the colored population, who had just been emancipated, and at the same time disfranchise white men. When you design to talk about New Orleans you ought to understand what you are talking about. When you read the speeches that were made, and take up the facts on the Friday and Saturday before that convention sat, you will there find that speeches were made incendiary in their character, exciting that portion of the population, the black population, to arm themselves and

prepare for the shedding of blood. You will also find that that convention did assemble in violation of law, and the intention of that convention was to supersede the reorganized authorities in the State government of Louisiana, which had been recognized by the Government of the United States; and every man engaged in that rebellion in that convention, with the intention of superseding and overturning the civil government which had been recognized by the Government of the United States, I say that he was a traitor to the Constitution of the United States, and hence you find that another rebellion was commenced having its origin in the Radical Congress." \* \*

"So much for the New Orleans riot. And there was the cause and the origin of the blood that was shed; and every drop of blood that was shed is upon their skirts, and they are responsible for it. I could test this thing a little closer, but will not do it here to-night. But when you talk about the causes and consequences that resulted from proceedings of that kind, perhaps, as I have been introduced here, and you have provoked questions of this kind, though it does not provoke me, I will tell you a few wholesome things that have been done by this Radical Congress in connection with New Orleans and the extension of the elective franchise.

"I know that I have been traduced and abused. I know it has come in advance of me here, as elsewhere, that I have attempted to exercise an arbitrary power in resisting laws that were intended to be forced upon the Government; that I had exercised that power; that I had abandoned the party that elected me, and that I was a traitor, because I exercised the veto power in attempting and did arrest for a time a bill that was called a 'Freedman's Bureau' bill; yes, that I was a traitor. And I have been traduced, I have been slandered, I have been maligned, I have been called Judas Iscariot, and all that. Now, my countrymen here to-night, it is very easy to indulge in epithets; it is easy to call a man a Judas, and cry out traitor; but when he is called upon to give arguments and facts he is very often found wanting. Judas Iscariot—Judas. There was a Judas and he was one of the twelve apostles. Oh! yes, the twelve apostles had a Christ. The twelve apostles had a Christ, and he never could have had a Judas unless he had had twelve apostles. If I have played the Judas, who has been my Christ that I have played Judas with? Was it Thad. Stevens? Was it Wendell Phillips? Was it Charles Sumner? These are the men that stop and compare themselves with the Saviour; and everybody that differs with them in opinion, and to try and stay and arrest the diabolical and nefarious policy, is to be denounced as a Judas."

\* \* \* \* \*

"Well, let me say to you, if you will stand by me in this action; if you will stand by me in trying to give the people a fair chance, soldiers and citizens, to participate in these offices, God being willing, I will kick them out. I will kick them out just as fast as I can.

"Let me say to you, in concluding, that what I have said I intended to say. I was not provoked into this, and I care not for their menaces, the taunts, and the jeers. I care not for threats. I do not intend to be bullied by my enemies nor overawed by my friends. But, God willing, with your help I will veto their measures whenever any of them come to me."

Which said utterances, declarations, threats, and harangues, highly censurable in any, are peculiarly indecent and unbecoming in the Chief Magistrate of the United States, by means whereof said Andrew Johnson has brought the high office of the President of the United States into contempt, ridicule, and disgrace, to the great scandal of all good citizens, whereby said Andrew Johnson, President of the United States, did commit, and was then and there guilty of a high misdemeanor in office.

#### Article XI.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, and in disregard of the Constitution and laws of the United States, did heretofore, to wit: on the 18th day of August, 1866, at the city of Washington, and the District of Columbia, by public speech, declare and affirm in substance, that the Thirty-ninth Congress of the United States was not a Congress of the United States authorized by the Constitution to exercise legislative power under the same; but, on the contrary, was a Congress of only part of the States, thereby denying and intending to deny that the legislation of said Congress was valid or obligatory upon him, the said Andrew Johnson, except in so far as he saw fit to approve the same, and also thereby denying and intending to deny the power of the said Thirty-ninth Congress to propose amendments to the Constitution of the United States; and, in pursuance of said declaration, the said Andrew Johnson, President of the United States, afterward, to wit: on the 21st day of February, 1868, at the city of Washington, in the District of Columbia, did unlawfully and in disregard of the requirements of the Constitution, that he should take care that the laws be faithfully executed, attempt to prevent the execution of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, by unlawfully devising and contriving, and attempting to devise and contrive, means by which he should prevent Edwin M. Stanton from forthwith resuming the functions of the office of Secretary for the Department of War, notwithstanding the refusal of the Senate to concur in the suspension therefor made by said Andrew Johnson, of said Edwin M. Stanton from said office of Secretary for the Department of War, and also by further unlawfully devising and contriving, and attempting to devise and contrive means then and there to prevent the execution of an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1868, and for other purposes," approved

March 2, 1867, and also to prevent the execution of an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867; whereby the said Andrew Johnson, President of the United States, did then, to wit: on the 21st day of February, 1868, at the city of Washington, commit and was guilty of a high misdemeanor in office.

And the House of Representatives, by protestation, saving to themselves the liberty of exhibiting at any time hereafter any further Articles or other accusation or impeachment against the said Andrew Johnson, President of the United States, and also of replying to his answers which he shall make to the articles herein preferred against him, and of offering proof to the same and every part thereof, and to all and every other article, accusation or impeachment which shall be exhibited by them, as the case shall require, do demand that the said Andrew Johnson may be put to answer the high crimes and misdemeanors in office herein charged against him, and that such proceedings, examinations, trials, and judgments may be thereupon had and given as may be agreeable to law and justice.

During the discussion which preceded the final report, Mr. Ward on March 22nd, spoke as follows (the House being in Committee of the Whole):

Mr. Chairman, I deem it proper to submit a few observations upon the subject under consideration, and that subject I understand to be the Articles of Impeachment reported by the Committee of Seven for the consideration of this House against the President of the United States.

I am free to say, sir, that I should have been satisfied if the Committee had reported, in addition to the Articles which have been presented, Articles for some of the grave offenses which this high offender had committed prior to the removal of the Secretary of War. I should be glad to see him arraigned for the usurpation of legislative power. I should be glad to see him arraigned for the prostitution of the veto power, the pardoning power, and the power of appointing to office of which he has been guilty, for the purpose of reinstating the power of the rebellion in this country.

But sir, I bow respectfully to the superior wisdom of my colleagues upon that committee, and I am here to support the report which the committee have made.

The first article which has been presented by the Committee charged that the President of the United States, in violation of the Constitution and of the tenure of office act has removed the Secretary of War from his high office during the session of the Senate. Now, I submit that that is an offense under the Constitution and the laws of this land.

There is but one provision in the Constitution regulating the appointment to or removal from office. That provision is contained in the second section of the second article of the Constitution, which provides that "The President shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers, consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not otherwise therein provided for."

That, sir, is the only provision of the Constitution upon the subject of appointment to and removal from office, except the provision which authorizes the President to fill up all vacancies which may happen during a recess of the Senate, by granting commissions which may expire at the end of their next session.

The appointing power is vested in the President and the Senate. Nothing is said in the Constitution upon the subject of removal. I contend that the just inference to be drawn from that provision is that the power of removal shall rest where the power of appointment does, in the President and Senate; because, unless you adopt that construction, the President can nominate on one side of the Senate and he can remove on the other side of the Senate, and thus nullify this provision of the Constitution.

The men who framed the Constitution framed it for a purpose. There is nothing in it but what has sense and is meant to accomplish a purpose. They put this provision in the Constitution for this purpose; that the President should not stand unchecked and unchallenged through all time in the appointment to and removal from office under this Government, and so they put this provision in the Constitution: that before any officer should take upon him the functions of an office the Senate should concur in his appointment.

Now, I submit that the power which makes can alone unmake. I submit that the President has no power. The very moment the Senate has concurred in his appointment, the very moment the Secretary of War or the Secretary of the Treasury or any other functionary has assumed the duties of his office, he has no right to turn around the very next hour and remove him. If that be so then this provision of the Constitution is nonsense, and those who framed the Constitution did not know how to perform the duty they attempted.

But suppose I am mistaken in this; what further have we in the case? The legislative power of this Government has construed this Constitution. It has said by solemn law, passed not only originally by a majority of each House, but passed subsequently over the President's veto by more than two-thirds of each of the two Houses, that no removal was proper except by the specific means through which the appointment can be made, namely, by the President and the Senate.



Now the President, after months of reflection, after much investigation, after these laws have been brought to his attention, has openly, definitely, and in the very face and teeth of this statute, and, as I contend, of the Constitution, removed the Secretary of War from office. That is his first offense—that is a great offense.

What else has he done? He has gone into the Army, gone among his subordinates, and picked up his creature and his tool, and said to him: "You are now Secretary of War ad interim; go into the War Office and take possession of the books, papers, records, and property of that Department." Who ever heard of a Secretary of War ad interim or any other officer ad interim appointed under this Government while the Senate was in session? There is no authority for it, no shadow of law for it. It is unfounded and rank usurpation. If the President can appoint a Secretary of War ad interim during a session of the Senate for ten days he can appoint him for thirty days or for three months or for three years. If the President of the United States can appoint a man Secretary of War ad interim he can fill every office in the land by men from the Army, calling them appointees ad interim. Every postmaster, every revenue officer, every Federal officer in the land can be turned out to-morrow, if the President can direct his military subordinates to occupy the position ad interim, refusing to send any nominations to the Senate. By this plan the President can put the Army into all the civil offices, can refuse to carry out the Constitutional provision, and defy the law, and, if he is so disposed, become a military despot, with his creatures filling every civil office.

Now, sir, that is another crime. I have no time to go over the other articles; but here is his great crime. He who is sworn to execute the law; he who is put up as the great example of obedience to law; he who is our high civil and military magnate and magistrate, sets the example of defying the laws of the United States, and we must either permit him to go on and defy them with impunity; to override the Constitution and the laws; to put his creatures in office without limit and without stint, or Congress must stand up now and here, on the very threshold of his usurpation, and vindicate the laws. That, Mr. Chairman, is the solemn question we are called upon to meet.

But gentlemen on the Democratic side say this is a party matter, a party prosecution. I say to those gentlemen that there is a class of men who never get above the dead level of party, never entertain an idea or comprehend a feeling or motive that rises above party. So wedded to party are they and have they been that all through the years of blood and



terror through which our country has recently passed they have been repeating this cry of "Party, party, party," as they do in the midst of the present burning crisis, when the fate of the Republic hangs upon our hands, when the great interests of posterity are suspended in the balance; when liberty and justice and everything else we hold sacred are at stake. Do not these gentlemen know that the laws should be enforced, whether against the obscurest criminal or against Andrew Johnson, their creature and tool whom they have seduced from his duty, from his allegiance to his party and the country, to become their instrument and the instrument of their rebel friends? Do they not know that, in sustaining him in his violations of law, they set a precedent that may return to plague them? Do they not know that it is our duty here to rise above party considerations; that where we find a great offender, no matter how high he may be, we should put our hand upon him and punish him.

Now, sir, I can understand well why this clamor of party is brought up here. I can understand it very well. Gentlemen have used this man Johnson for their purposes. They desire to use him still further. To cut off now his official life, just when they need him so much, when they expect with his help by the aid of government patronage and power to hand the country over to the men who have been engaged in rebellion, would be a serious disaster to them.

Sir, if I know my own heart and if I know as I believe I do, the feeling of the majority of the gentlemen on this floor, we entertain in this measure no such party feeling as that which is attributed to us. Had we desired to remove Mr. Johnson for party purposes we should have done so long ago; we should have done it when coming into the White House he betrayed us as a party. We should not have permitted him to slaughter our friends by removing them from office, using his whole power for three years to carry out the purposes for which he abandoned his party and his friends. Now, sir, if we had any such motive we should have taken that course. The party has been forebearing; it has been considerate. It has waited and watched and hoped that this man would so conduct himself as not to force them to this last dire extremity. But, sir, under the counsel and encouragement of those bad men who have so long engaged in the effort to destroy this government, he has at last precipitated himself against the law and the Constitution. He has forced this issue upon us, and we shall meet it like men.

These articles will be sent to the Senate. Andrew Johnson will be put upon his trial. He will, in my judgment, be convicted, and the Executive office that so long has been disgraced and dishonored by him will be filled by another man. The march of progress and of right and of justice and of humanity, which has been so long checked by the vindictiveness of this man, Andrew Johnson, and the men associated with him, will

then go on toward the consummation of its glorious work. Then this creature of rebellion and democracy; this apostate President; this man who has been so negligent of his high duties; will be consigned, in my judgment, in the history of this country, in the language of a Senator who once spoke burning words of eloquence in the other end of the Capitol, "to an infamy so deep, so damning, so profound that the hand of resurrection will never reach him."

Those were stormy days and the loyal men of the Union feared that the results of the war would be lost through the action and policy of the President. But Stanton, the great War Secretary, stood like a rock in Johnson's path.

The following interview which was printed in several New York State newspapers in 1893 tells its own story of these times:

#### A NIGHT WITH STANTON AT THE WAR OFFICE.

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Thrilling Historical Interview with Hon. Hamilton Ward, Presiding Justice Supreme Court, Eighth Judicial District.

(Lockport Daily Journal.)

It is well known that Judge Hamilton Ward was a member of the first three Congresses that followed the overthrow of the Rebellion. He was an intense radical Republican and was active in all the movements which led to the impeachment of President Johnson, and his trial, and the amendments to the Constitution which followed the war, his term in Congress commencing in the spring of 1865 and terminating in 1871. He was particularly active in the reconstruction of the States of the South, being a member of the Reconstruction Committee of the South.

"Come, Judge," we said, "give us some reminiscences of the reconstruction period."

"Perhaps," he said, after a moment's reflection, "the history of a night of mine with Secretary Stanton might interest you as much as anything I could tell you," and he proceeded:

"In the latter part of 1867, after the Republican Congress had hopelessly abandoned President Johnson as false to the party and to the principles upon which the Union had been saved and restored, there was a movement on foot in Congress to impeach the President for high crimes and misdemeanors. The President was particularly hostile to Stanton.

who was then Secretary of War; and on the 12th of August, 1867, he suspended Stanton as such Secretary and appointed General Grant as Secretary ad interim. This was while the Senate was not in session. Stanton protested against the suspension, claiming it illegal; but as General Grant, in whom he had supreme confidence, was to discharge the duties of the War Department, he consented to turn over the office to him under protest; and Grant discharged the duties of the office until some time in the following winter when the Senate, refusing to concur in the removal of Stanton, he was restored to the War Office, and took his place again, as I remember it, in January, 1868. The impeachment sentiment had grown very strong at this time, and early in February, 1868, proceedings were taken in the House of Representatives, indicating decided action in that direction. The President saw the impending storm and seemed determined at all hazards to get rid of Stanton, and although Congress had passed, in the spring of 1867 what was known as the Tenure of Office Act, which in substance required the consent of the Senate to the appointment of a Cabinet officer, still the President, in defiance of the act, and in the face of a public sentiment that Stanton should be retained in his office, on the 21st of February, 1868, by an order, removed Stanton from the office of Secretary of War and appointed Adjutant General Lorenzo Thomas Secretary of War ad interim, and directed him to take possession of the War Office, its books and records, and directed Stanton to deliver them to him. This the great War Secretary refused to do; and in order to maintain possession of the office he remained personally in the office night and day, as I remember it, for several weeks, "holding the fort." This precipitated the impeachment; and on the 24th of February articles of impeachment were preferred against the President. I was one of the committee to prepare the articles of impeachment, and I had several conferences with the Secretary, and with others, as the affair proceeded. Republican Senators and Members advised the Secretary by all means to retain possession of the War Office; that his attempted removal was illegal, and that possibly the safety of the country was involved in his retaining his position until the determination of the impeachment proceedings. So, soon after he took upon himself this voluntary imprisonment in the War Office, I was permitted to remain with him as a sole companion for several nights, the most important of which I will refer to.

"The Secretary was a stout, well built man, with a most impressive and interesting countenance, a massive head and brow, and the most speaking and searching eye that I ever saw in a human being. On the night in question, after reposing for awhile upon a lounge that he had in the office—for he slept with his clothes on at night upon this lounge—he roused up, seemingly refreshed, and began a pleasant conversation with me about

some matter, when I inquired of him, 'Mr. Secretary, will you allow me to ask you your opinion of President Lincoln? Was he really a great man? Was he a man of the highest order of talent? Or was he not so great, but true and loyal and filling in a large measure all the requirements of his great place and his delicate position? Please tell me something about him—I mean some of the things that do not get into the books or the papers, that came to your knowledge in your intercourse with him during the trying hours of the Rebellion.' He said, 'Abraham Lincoln was a great man; great in the largest sense. He seemed equal to every exigency of the extraordinary struggle through which we passed. He seemed in touch with every soldier in the field, and to know the movement of every regiment, and his broad comprehension of military affairs astounded me.'

"The Secretary then took me to the window that looked out toward the White House. (This was the old War Office). He said, 'Night after night, during the dark days of 1862, and before the Emancipation Proclamation was issued, the President would come over to the War Office in his slippers and in an old fashioned gown he had, and remain with me sometimes very late at night talking over the situation. I remonstrated with him for this, saying that it was dangerous for him to come and go alone at night, that he should not do it, and I would have to put guards around him. He said, with a weary smile, 'Oh! no, Stanton, nobody would kill me. I haven't an enemy in the world.' ('Alas,' said the Secretary, 'an assassin was found for this peerless man, even in the glory of his triumph'). The only weakness that I had ever noticed in the President, if weakness you may call it, was at times when he was exceedingly depressed in spirits. He had, with all his ability, that joyous, jolly nature which sometimes led him to excess of mirth; and perhaps to such natures reactions of sadness and grief always come; but be that as it may, there were times in the dark hours when the President would put his arms about me, throw his head upon my shoulder and weep, 'Oh,' he said, 'Stanton, can't we stop this slaughter of noble men; can't we stop this desolation of the households of our land and yet save our country?' 'You can now understand,' said the Secretary, looking at me, 'why Mr. Lincoln would never let us hang a deserter or punish anybody who had violated the rules of war with the extreme penalty; his heart was so tender.'

#### THE EMANCIPATION PROCLAMATION.

"But," I said, "Mr. Stanton, you spoke of the dark days before the Emancipation Proclamation. Why was that so long delayed? The Rebellion had been in progress about a year and a half, and it always seemed to me that the proclamation should have been made at the commencement of the struggle so as to have weakened the enemy at their homes and in their domestic affairs at the threshold."

"Well," he said, "I thought so, too. I entered the War Office as you know in the winter of 1862, and from that time on to September the war dragged, the results were discouraging, foreign intervention was threatened; and in the spring of that year I began to talk to the President about proclaiming freedom to the slaves as a war measure. I had a number of interviews with him; I pointed out to him that foreign intervention was imminent; that Louis Napoleon, then Emperor of France, and the government of Great Britain, had formed an unmistakable alliance to assist in every way, short of an open rupture with us, the rebels in their scheme to overthrow this government. In fact the crowned heads of Europe, dreading the example of a successful republic here, were secretly hoping and privately plotting in the same direction. Organs of the government in France and in England were openly saying that the war in America was not for the Union, but that the North was fighting for power and the South for independence; that the freedom of the slaves was not involved in the controversy and therefore intervention on behalf of the South was not an intervention in behalf of slavery, as the National Government protected slavery as well as the Southern States. I pointed out to him the folly of permitting the three millions of slaves to be indifferent to the fate of the Union, because the Union offered them not freedom but slavery, and that the conclusion to which they would naturally come would be that their safety and best interests consisted in remaining with their masters and loyal to them; that if the slaves were free we could make them available as soldiers and very useful in the hot regions of the South, where we needed friends the most. I urged such other considerations upon him as I thought proper, but he was immovable. He finally said to me that the country was not ready for so radical a step; that a large portion of the Democratic party at the North were insisting that the war was not being waged for the preservation of the Union but for the abolition of slavery; that in many portions of the North there was a strong slavery feeling, especially on the border; that in border States themselves there were many loyal men who were fighting in our armies, and a strong sentiment for the Union in many places of which would be utterly obliterated if the proclamation was issued. And he finally put his hand upon my shoulder and said: 'Don't talk to me any more about it, Stanton, for the present. We must wait until the time is ripe;' and the weary spring months passed and the summer months passed. We had some successes, but on the whole the war was more disastrous than successful to us. Public sentiment had forced an early advance upon Richmond; the Seven Days' Fight before Richmond had occurred in the latter part of June and the fore part of July, and the Union army had retreated; Shiloh had been fought, and Malvern Hill and Fair Oaks; Lee had won his victory at Manassas on Au-

gust 30th at the very doors of the Capitol. September came; the fight had been transferred from the gates of Richmond to the borders of the Northern States. In August a draft had been ordered for three hundred thousand men; South Mountain was fought on the 14th of September, and on the 17th of September Antietam was fought with doubtful results, and the Army of the Potomac, instead of capturing Richmond, had receded to the field of Antietam and fought an uncertain battle on the very border of the free States.'

"The Secretary paced up and down his room in silence for a few moments, as though recalling the memories of that momentous period. He said, 'I was more discouraged after Antietam than at any other period, and the future seemed more obscure to me then than at any previous time. But I kept on my daily work, and on the 22nd of September, 1862, I had a sudden and peremptory call to a Cabinet meeting at the White House. They did not usually require me to attend those meetings, as my duties were so exacting. I had to be constantly at my post, and it was only on rare and important occasions that I was called to such meetings. I went immediately to the White House, entered the room and found the historic War Cabinet of Abraham Lincoln assembled, every member being present. The President hardly noticed me as I came in. He was reading a book of some kind which seemed to amuse him. It was a little book. He finally turned to us and said, Gentlemen, did you ever read anything from Artemus Ward? Let me read you a chapter that is very funny. Not a member of the Cabinet smiled; as for myself I was angry, and looked to see what the President meant. It seemed to me like buffoonery. He, however, concluded to read us a chapter from Artemus Ward, which he did with great deliberation, and having finished, laughed heartily, without a member of the Cabinet joining in the laughter. 'Well,' he said, 'let's have another chapter,' and he read another chapter to our great astonishment. I was considering whether I should arise and leave the meeting abruptly and renew my duties, when he threw his book down, heaved a long sigh, and said: 'Gentleman, why don't you laugh? With the fearful strain that is upon me night and day, if I did not laugh I should die; and you need this medicine as much as I do.' He then put his hand in his tall hat that sat upon the table and pulled out a little paper. Turning to the members of the Cabinet, he said: 'Gentlemen, I have called you here upon very important business. I have prepared a little paper of much significance. I have made up my mind that this paper is to issue; that the time has come when it should issue; that the people are ready for it to issue. It is due to my Cabinet that you should be the first to hear and know of it; and if any of you have any suggestions to make as to the the form of this paper or its composition, I shall be glad to hear them; but the paper is to



issue.' "And to my astonishment," said the Secretary, "he read the Emancipation Proclamation of that date, which was to take effect the first of January following, containing the vital provision that on January 1, 1863, "All persons held as slaves within any State or designated part of a State, the people whereof shall be then in rebellion against the United States, shall be then henceforward and forever free." And the Secretary, turning to me, smiled and said: 'I have always tried to be calm, but I think I lost my calmness for a moment, and with great enthusiasm I arose, approached the President, extended my hand and said, 'Mr. President, if reading of chapters of Artemus Ward is a prelude to such a deed as this, the book should be filed among the archives of the nation, and the author should be canonized. Henceforth I see the light, and the country is saved,' and the Cabinet said, 'Amen.' And Lincoln said to me in a droll way, just as I was leaving, 'Stanton, it would have been too early last spring.' And as I look back upon it I think the President was right."

"You know," said Judge Ward, "the effect of this. It effectually prevented the intervention of foreign powers; because, had they intervened after that in behalf of the South they would have been espousing the cause of slavery, and the tradition of the British people and the freedom-loving masses of Great Britain and France put their hands upon their governments and said, 'there must be no intervention against the Union that would free the slaves.' "You remember, too," said the Judge, "how after that, victories came almost from every battlefield and how the course of the Rebellion was downward and downward as though God smiled upon our cause, until the sword of Lee was surrendered to Grant at Appomattox, and the nation was saved."

Mr. Ward's estimate of Stanton is perhaps best shown by a letter written by him in December, 1869, congratulating Stanton on his appointment to the United States Supreme Court by President Grant.

Belmont, N. Y., Dec. 21st, 1869.

Hon. E. M. Stanton:

Dear Sir:—I must congratulate the President upon the honor he has done himself in tendering to you the vacant place on the Supreme Bench. No act of his since his accession to the Presidency has so much rejoiced the hearts of the loyal millions of this country as that. It will add no additional luster to your name; no position the nation can give will do that, but it will redeem the Administration and the Republican party from the charge of ingratitude under which it certainly would be should they in no fitting manner recognize the deep obligation which they and our whole country owe to Edwin M. Stanton.



I hope you will accept; we need you in the Court as we needed you in the Cabinet, and may God in his mercy strengthen and preserve you to us and to your country for many years to come.

Truly your friend,

HAMILTON WARD.

All loyal men watched the course of events with absorbing interest and considered and discussed every plan and change. The old Puritanical spirit possessed the people, as the following letter written by a leading Republican of Wellsville, Allegany County, N. Y., shows:

Wellsville, Feb. 12th, 1868.

Hon. Hamilton Ward:

Your favor came safe to hand and was thankfully received. I have read it with the greatest satisfaction. I am a man of few words—never say much as you know—I have never said anything to try to flatter you—but I must say that I have been proud of our member the whole time that you have been in Washington. I find we have got more than we bargained for when we elected you. I have feared that the question of impeachment might be smuggled up and passed by with very little or nothing done or said about it, and that the most unprincipled wretch that ever disgraced the White House, the deceiver of all loyal men, the enemy of his country, the friend of all rebels, the chief of hypocrites who has been determined to rule or ruin—but since reading your speech, as St. Paul said on a certain occasion, “I thank God and take courage.” I thank God that at least one man has been raised up and endowed with wisdom and the faculty to express his thoughts and moral courage, to speak forth the words of truth and soberness—“to make Felix tremble”—to show him that he has taken no “part or lot” in the administration of justice, that he is in the “gall of bitterness and bonds of iniquity,” that he is leagued with Copperheads and rebels, that he is the “enemy of all righteousness and child of the devil,” that not only the 8,000 blackhearted wretches that he has pardoned but himself also ought to have been hung higher than Haman was and himself the highest of all. I hope the subject of impeachment will be followed up until Andy, like Nebuchadnessor, shall be driven from office, from power and from all loyal men, and take his place among the Southern rebels where he belongs. “By their fruit ye shall know them;” let his name go down to posterity like Benedict Arnold and Judas Iscariot.

And now my friend I would willingly say something to encourage you if I could, but you know without my saying it that every loyal man and woman in the country will sustain you in the course you are pur-

suing. Your speeches are read and appreciated by a large number of women who have Copperhead husbands; you have the prayers of all the truly pious and the good wishes of all loyal people. Allegany County is proud of her Ward. She regards him as the right man in the right place—as the friend of the poor and oppressed—the benefactor of his race—as one of the fathers of his country, and in his official capacity as the Servant of God. And now my friend continue to stand up for the truth—the truth is mighty and must and will prevail. The earth calleth upon the truth—the Heaven blesseth it and all works of wickedness shake and tremble at it—raise your voice against wickedness in high places—teach wrong doers that they are not out of reach of law and of justice—Anyway God bless you and preserve your life and health and make you an instrument in executing his will, for which purpose I trust he has raised you up.

Respectfully yours,

LEWIS JAMES.

While maintaining his position as opposed to all questionable claims, and insisting that all claims go before committees, a difficult position with this and the few succeeding Congresses, nevertheless when a soldier's interest was involved he was disposed to be generous and on March 16, 1868, he strenuously advocated a bill appropriating the sum of \$15,000.00 for the relief of General Anderson, who had so gallantly defended Fort Sumpter and who was then an invalid.

On the 11th of May, 1868, Mr. Ward introduced a joint resolution for the purchase of a full height portrait of Abraham Lincoln, which was referred to the Library Committee.

It may be proper in this connection to state what Mr. Ward has said about Mrs. Lincoln. After Lincoln's death a resolution was introduced providing for the almost complete refurnishing of the White House, including linen, etc. Mr. Ward instantly objected on the ground of economy, asking if Lincoln's furniture was not good enough for Johnson. Thaddeus Stevens asked him in a whisper to withdraw his objection, and upon his refusing, explained that Mrs. Lincoln had stripped the White House, and that it was better to submit to it than to create a national scandal. The objection was withdrawn. However it should be remem-

bered that much of the spoilation of the White House was done by relic hunters, even the carpets being cut to pieces by them.

The constant strain and anxiety of Congressional life were not always pleasing to Mr. Ward, a sensitive, impressionable man, and at times he became somewhat disheartened.

On May 18th, 1868, he wrote the following letter to Col. Rufus Scott, who resided at Belmont, and who had distinguished himself in the army.

Washington, D. C., May 18, 1868.

Dear Col:

I must congratulate you upon your early admission to the bar. You are enabled to sue or be sued now, and I wish you a long and successful professional career.

I shall be with you in a few weeks and resume the practice of the profession. It will be a glad day to me when I shall take my seat again in my office, no longer to be disturbed by the hollowness, the care and the ingratitude of political life. A few weeks next winter will be the only interruption and will be but a holiday.

I suppose I might go back to Congress again, but I shrink from the contest. I hate any longer to be the lickspittle of the crowd. The whole power of the administration will be arrayed against me, seventy or eighty P. M.'s, the Collector and Assessor and all the money that will be needed to corrupt the venal, pack caucuses and conventions. All kinds of lies will be told about me and every means resorted to to secure a Johnson man in my place, a man of easy political virtue, a man that can be managed to let the rebels in and to maintain "my policy."

The people, God bless them, are right in the main, but amidst false issues, false leaders and representatives they will be humbugged and wheedled at the caucuses and at the polls, besides a host of ambitious men will spring up to take advantage of the condition for their own purposes; notwithstanding all that I believe I could win by making the whole field ring with the battle, but the game is not worth the powder—so let it go.

This I write you as confidential.

I see much trouble in the future. I do not know but more scars are yet to be made—more blood shed.

We shall see.

Truly your friend,

HAMILTON WARD.

About this time the impeachment trial was concluded and Andrew Johnson was acquitted by securing one vote more than the necessary one third.

This result, which history does not regret, as it saved establishing a precedent which time would make dangerous, and as Johnson's activities thereafter largely ceased, deeply disappointed Mr. Ward, and his feelings in the matter are best described by a letter written by him to Dr. Pratt,, a life-long friend and the editor of the *Corning Journal*, for publication in his paper:

Washington, D. C.

Saturday evening, May 16, 1868.

Dear Pratt:—This has been a most eventful day in the history of the Republic. It has witnessed the basest betrayal of the cause of liberty and justice since the fall of Benedict Arnold. Those who fired on Sumpter and drove back in confusion our scattered hosts at Bull Run, did it boldly and manfully and with notice of their intention to all the world, but the seven recreants who to-day by vile combinations with Copperheads and rebel sympathisers in the Senate basely defeated the conviction of Andrew Johnson on the 11th article have stabbed in the back "aye in the dark, too," the men with whom they had acted, the cause they have espoused and the country they had sworn to defend; secretly have they acted with all the guile of the serpent and the craft of the demagogues; deceiving the loyal men in the Senate to the last moment, acting as spies upon all their councils and constantly betraying them to Johnson and his creatures. We now well understand why the President all along was so confident, why his blackleg supporters staked vast sums upon his acquittal. Why he dared in the first place to violate the law by the removal of Stanton, why the *New York World* unblushingly proposed to capitalists to raise millions of dollars to buy up Senators. Why leading office holders have been here in force, who hold fat offices, that they can pay well to keep. Why the whiskey ring who are robbing the country, by having the control of the administration and its officers of one hundred millions of revenue annually, have been here in force all along (as it is rumored) with millions on deposit; all is apparent, clear, as the noon day sun. All along Johnson has known his men; to him they were free to communicate their views; to the loyal Senators and members they were silent and mysterious, calling themselves "Judges," talking about their "oaths," their "consciences," and that they "could form no opinion until the case was submitted."

The result is mainly attributable to the great organizing power and vindictiveness of one man, a man whom we have trusted, whose duty it was under the constitution to preside in the "high court of impeachment." I need not mention the name of Chief Justice Chase. The mass of the party trusted him and forced him upon the Supreme Bench. A few only knew him as an ambitious, hollow hearted demagogue. Mr. Lincoln had great repugnance to appointing him Chief Justice but he felt constrained by a great public pressure to do so. Then Chase resumed his scheming for the Presidency, which had so disturbed the first administration of Lincoln. He visited the South, made speeches to the negroes, sent his emissaries all over the country, to organize for him, and professed to be the quintessence of radicalism. When Grant was proposed for the office, Chase was doubtful of Grant; was afraid he could not be trusted, that he drank too much. But Grant was the idol of the people. State after State spoke out for him and it was evident that his star would eclipse all others at the National Convention, and the Chief Justice saw nothing before him but defeat and disaster. Then the life-long political mountebank was unmasked. Then came the thought of vengeance; in a moment he was transformed from an intense radical to a cold conservative and turned his back upon friends who had made him what he is, and the principles that he had so long professed, and we soon heard mysterious hints of his design to use the Supreme Court to overthrow the reconstruction laws of Congress. In the midst of this undeveloped plot another opportunity occurs to him to gratify his malice. The President, at last, after long and painful delays, is impeached by the House of Representatives, and the matter sent to the Senate for trial. Chase believed that the conviction of Johnson would aid the Republicans in electing Grant. He knew it would result in making honest Ben Wade President until the fourth of March. Wade, whom he hated with all the venom that a crafty knave feels for an honest man who stands in his way and exposes his duplicity. Wade knew him, despised him, and in his true, manly nature, shrank from him. Chase could not endure the thought that his honest rival should clutch even for a few months the prize that he had lost; and so commenced a series of manoeuvres and intrigues such as would disgrace even a barbarous country. Chase assumes powers that the Constitution does not give him while presiding at the trial. He assumed to decide, in the place of the Senate, questions of evidence as they arose and when the court was equally divided he presumed to give the casting vote. Splendid dinners were given at his mansion to which certain Senators were invited; they took long drives with him into the country. "The Chief Justice" could find no law to convict the President; he was constantly trying to convince Senators of that. Trumbull, Fessenden, Grimes and Henderson were in

turn played upon, each having the medicine best adapted to him, and they were informed that if impeachment succeeded, the radicals would control the next two administrations, and that they, the honest and far-seeing conservatives, would be ignored and forgotten, and that they must kill impeachment or be killed themselves. Fessenden was reminded that Wade had been lifted to the place so coveted by Fessenden by the action of the Senate. All that infernal ingenuity could devise, this ambitious man did; moulding his willing instruments the way I have indicated and by such other means as was necessary. The time may come and I believe it will, when all the rottenness of this transaction will be laid bare, and when the grand central figure of the whole conspiracy will stand out unmasked, at last, to the detestation and scorn of all mankind. Other base instrumentality aided in this work; vile women played their brazen part. Contractors whose power secured Senators their seats were active agents. Rum in gilded saloons, and at social boards, was passed freely round by tapering fingers and jeweled hands, to swell the debauch and help the work of crime. How much of sordid pelf soiled honorable palms, and who, if any, mortgaged life and soul for money, the conspirators themselves know best; each man will form an opinion for himself upon the subject. The fate of reconstruction, the prospective murder of thousands of Unionists in the South, the further derangement of business affairs, the continuation of the dangerous criminal at the White House in power, the peril in which it placed the Republic, the unanimous and earnest demand of the Union party for conviction, were considerations that ought to have warned those Senators to another course, but they defied all these considerations for base and unworthy motives.

“Oh for a tongue to curse the Slave,  
“Whose treason like a deadly blight,  
“Comes o’er the counsels of the brave,  
“And blasts them in their hour of might.”

But this infamous scheme will not succeed; it will not defeat reconstruction, elevate Chase to the Presidency, defeat Grant, destroy the Union party or break up the Government, as intended by its authors. Thousands of good men at the South will be sent to bloody graves, the country will be agitated from center to circumference, industry will be paralyzed the finances depressed and disordered, until the apostate’s term these ingrates have saved expires. But from this hour there will go forth a voice from the great people that shall be heard throughout the land, calling again its children to battle for the right, to organize in every town, city and hamlet, for the great campaign before us; the same voice that startled the nation when the cannon boomed at Fort Sumpter, the same voice that

was lifted up in lamentation when Lincoln died; the voice of the Union masses, ever true to liberty and justice, who though betrayed and abandoned, time and again by the men they trusted, are still firm in the faith that a free Government can be preserved by a free people. Let there be no faltering now, no faint hearts, no yielding to despair. Let us close up the ranks and move on undismayed, for "eternal vigilance is the price of liberty." And under the banner of him who led our armies to victory when embattled treason sought the nation's life, we will, with God's blessing crush out this new and baser treason and restore our afflicted country to security and peace.

I trust you will pardon the great length of this letter; my only apology is the great importance of the subject matter.

Truly your friend,

X.

The Congressional campaign in 1868 began early and much opposition to Mr. Ward's return for a third term was manifested, especially in Chemung County. The custom for years in this district had been to give the Congressmen two terms and no more, and that the three counties in the district, Allegany, Steuben and Chemung should take the office in turn. This custom had a strong hold on the minds of the people and was difficult to overcome. Chemung claimed that she was entitled to the Congressman and finally settled on General Gregg, a soldier, as her candidate, Mr. Ward's friends in the county being overborne by the appeal to the custom just mentioned.

Allegany County was unanimously for Mr. Ward.

The following is a report of the County Convention of July 1st, 1868, from the Allegany Radical, published at Belmont:

#### REPUBLICAN CONVENTION.

The Republican County Convention of this county met in the Court House at Belmont on Wednesday, July 1. A full representation from nearly every town in the county was present. The Convention was called to order by the chairman of the Central Committee, Gen. Rufus Scott, and Major Withy of Wirt was elected chairman, and Dr. Saunders of Belfast, and Col. Fisk of the Free Press, were elected secretaries. While the secretaries were preparing the list of delegates, Hon. Hamilton Ward was called for and responded in an appropriate and eloquent speech of



twenty or thirty minutes, vindicating the radical Congress, discussing the financial question, and declaring the principles of the Republican party strongly entrenched in the hearts of the people. With Grant and Colfax for our standard bearers, we were sure to win the day. His speech was enthusiastically applauded throughout its delivery.

On motion of Mr. L. D. Davis, a committee of five was appointed, expressive of the sentiments of the Convention. In accordance with that motion the following resolutions were presented:

Resolved, That the Republicans of Allegany county adhere with unflinching faith to the great principles upon which the party was founded, and will enter the coming political campaign with the determination to sustain those principles by an increased majority at the polls at the next election.

2nd, Resolved, That in our nominees, the heroic Grant, and the earnest and faithful Colfax, we have men worthy of support as the faithful representatives of those principles, and we most cordially endorse the platform upon which they have been placed by the National Convention at Chicago.

3d, Resolved, That the course of our Representative in Congress, the Hon. Hamilton Ward, fully meets our approval, and we hereby request the delegates this day elected to use all honorable means to secure his re-nomination to Congress.

L. D. DAVIS,  
A. LOCKHART,  
E. B. CRANDALL,  
J. W. HOYT,  
L. B. FREEMAN,

Committee.

The following named persons were chosen delegates to attend the State and Congressional Conventions

State Delegates—Hon. Silas Richardson, James S. Green, Rodrick Stebbins.

Congressional Delegates—Rufus Colwell, Alfred Lockhart, L. D. Davis, A. C. Hall, Joel Karr, William Van Ostrand.

Steuben County favored Mr. Ward's renomination, and the party leaders and the press were for him.

General Gregg made as much of a fight as he could in Steuben with the assistance of certain soldiers who thought they should have a soldier candidate, and with the sympathy of the few Johnson followers, but without result, both As-

sembly districts in Steuben County being carried for Mr. Ward.

One of the amusing incidents of the campaign is set forth in an interesting letter from the famous F. G. Stebbins, editor of the Cuba Patriot, which is as follows:

Office of Cuba Free Patriot,  
Cuba, N. Y., July 22, 1868.

Friend Ward:—

I have had fun! I had it yesterday afternoon and I laughed all night to such an extent that Mrs. S. (who by the way is a staid, quiet, "old" lady) thought I had surely gone demented. I am laughing yet; I still feel jolly. When or where the fit will end is at present in the womb of futurity. But gushingly I say "Let her gush." A man who laughs much and often never commits murder. At this rate I wouldn't kill a June bug if he was feeding on my sweet potato vines. I'll tell you what's the matter. Monday General Gregg was here in Cuba. I didn't see him but I smelled a big mice. Yesterday just before train time I smelled out said mice. A meeting was to be held at Hornellsville on that day (Tuesday), a meeting of "soldiers and sailors" to take into consideration the propriety of running a "soldiers' and sailors" candidate for Congress.

Stebbins rushed for the cars. Stebbins was not only a soldier but a sailor—and why not? Wasn't he drafted? And didn't he report promptly, and had'nt he sailed the raging Genesee Valley Canawl?

I took the postal car to better watch the proceedings. At Belvidere another brave "soldier" and "patriot," oh yes a first class patriot, got on the train. That man was one, John "Wrong," ex-sheriff of this county. I met Col. Fisk at Wellsville and Hi Coats. They had just got wind of the affair. We all then got into the baggage car and watched. At Andover there were great inquiries for "Ira, Ira, Ira Cutler," by John F., but Ira had gone away, so said the depot agent.

Arriving at Hornellsville we found Gregg, Irvine, about half a dozen soreheads and some two dozen Copperheads. I was asked to take a drink. "Certainly, said I, but I am not a Democrat, although I sometimes have the d——est symptoms of one in the world. This is one of the symptoms," said I as I put down a small slug of corn juice.

Some one asked me if I was a soldier, rather hinting that I had no right there. "Ho, sir," said I, "I am not a soldier but I am a d——d good sailor and I want it understood distinctly that I represent Western Allegany." That got up a shout from your friends, of whom you had several, if not more. Directly I had an introduction to General Gregg. "General," said I, as I shook hands, "What in h——ll are you doing here."

Then for an hour he labored with me telling me his grievances. I gave him my advice in a few words: "Keep out of this or you are dead as damnation and no resurrection." I told him further that if he ran we would give him Chemung by 1500, and if that was not enough let him tie us in Steuben and then old Allegany would knock the skillets of \* \* \* out of him. He only remarked that he was in the hands of his friends. His friends! I asked him if he called such damned Copperheads his friends. He asked me, "What can a man do if he is run over?" I told him that was a good conundrum, but I couldn't answer it. But if I were the man I would have kept out of the way of the engine when the bell rung.

Capt. Canfield and Cole were there working quietly outside for you. That ain't my way. I always buz around and throw cold water jokingly, sarcastically and yet earnestly plump in their faces. And you can bet I did with good effect. The consequences of what we all done in our several ways were that the meeting didn't accomplish anything. But two or three of them quietly got together and quietly adjourned to Corning the 12th of August to further consider the matter. On that occasion Steb. will be there with the "soldiers" and "sailors."

Chet Cole is working through, in his quiet way, like a beaver in Steuben. You must reward him sometimes if there is an opening.

Through a third party (one of Gregg's friends) the General wants six hundred dollars worth of the True Patriot. He will get it in a very large horn.

Barnes of the Bath paper and, I mistrust, the Hornellsville Times are bidding. Don't offer them anything to retain them. Let them go to hell, for I am perfectly confident that no raid of sufficient magnitude can be inaugurated to beat you. Write me,

Yours truly,

F. G. STEBBINS.

P. S. Tell Colfax that the Cuba True Patriot came within one of getting him nominated for the Presidency. Therefore when he is inaugurated as Vice I shall expect that "little" appointment, sure.

STEBBINS.

It was this same Stebbins who was later appointed Consul to the now famous Manilla. The night he arrived, and while still on board ship, an earthquake destroyed a portion of the city, whereupon without disembarking, "Steb," as he was called, returned to the United States and sacrificed his "little" appointment.

The Congressional Convention met in Corning, Steuben County on July 14th, 1868, and the Elmira Advertiser of the next day describes it as follows:

## THE CONGRESSIONAL CONVENTION.

Withdrawal of the Chemung County Delegates.Nomination of Mr. Ward.

The Republican Congressional Convention for Chemung, Steuben and Allegany met at Corning yesterday, and was called to order by Dr. George W. Pratt, chairman of the Congressional Committee, on whose motion the Hon. Daniel B. Bryan, of Steuben, was made chairman of the Convention, and R. R. Colewell of Allegany and S. Kellogg of Steuben were appointed secretaries.

Credentials were presented by the following people, who took seats in the Convention.

Allegany—Rufus Colewell, Alfred Lockhart, L. D. Davis, Edwin S. Bruce, Joel Karr, Rufus Scott.

Chemung—Daniel F. Pickering, Will Irving, Alonzo Banks, George W. Buck.

Steuben: 1st Dist.—Edwin R. Kasson, D. B. Bryan, J. H. Butler, A. J. Switzer.

2nd Dist.—Harlo Hakes, C. H. Erwin, John Towle, Silas Kellogg, C. S. Cole.

The following resolutions were presented by Mr. Pickering:

Resolved, That pursuant to the common assent of the Convention of 1864 and that of the convention of 1866, the candidate to be put in nomination by this Convention be accorded to the County of Chemung, upon a selection to be unanimously made by the delegation from that county.

Resolved, That Hon. Hamilton Ward, having been generously accorded two successive terms, it is the duty of his friends to waive his claims to a third nomination.

Gen. Irvine addressed the Convention at length in favor of the adoption of the resolutions, and was followed in an argument by Mr. D. F. Pickering on the same side.

Harlo Hakes of Steuben replied in a capital and well timed speech and was followed by Alfred Lockhart of Allegany on the same side.

Mr. J. H. Butler of Steuben then moved that the resolution be laid on the table, which was carried, the delegates from Steuben and Allegany voting in the affirmative, and those from Chemung in the negative.

The Chairman declared the motion to lay on the table carried, whereupon Mr. Irving, Mr. Pickering and Mr. Banks withdrew from the Convention. Mr. Buck was absent.

The Convention then took a recess for ten minutes. On re-assembling the Convention proceeded to vote for a candidate for Representative in Congress. The Hon. Hamilton Ward received the vote of each delegate from Steuben and Allegany—fifteen in all. The delegates from Chemung

having withdrawn, no other candidate was voted for. Mr. Ward was declared the nominee of the Convention.

The Convention was then addressed by the following gentlemen: Luther Caldwell, C. G. Fairman, John I. Nicks, G. L. Smith and H. M. Partridge, who assured the convention of their support of the candidate and expressed their confidence that the Republicans of this county would do likewise.

Gen. Gregg also briefly addressed the Convention, saying he was in the hands of his delegation and would do as they did.

On motion, John Towles, Alfred Lockhart and Harlow Hakes were appointed a Committee to wait on Mr. Ward, and inform him of his nomination, and invite him to address the Convention. After a short absence they returned, accompanied by Mr. Ward, who, having announced his acceptance of the nomination, proceeded to address the Convention in an eloquent and able speech.

It will be seen that Mr. Ward's old friends in Chemung County stood by him in spite of the withdrawal of the Gregg delegation.

The National Body of the Soldiers' and Sailors' Association, knowing Mr. Ward's record in Congress, disapproved the action of Gen. Gregg and his followers, and on July 24th the following letter was received by General Crane, a member of the Association, and a resident of the 27th Congressional District:

Gen. N. M. Crane, Hornellsville, N. Y.:

Dear Sir—Information has been received at these Headquarters, that an attempt is being made to array the soldiers of your District against the Hon. Hamilton Ward, the Republican nominee for Congress, and that a Convention of soldiers has been called for the 12th of August, to nominate an independent candidate.

In the absence of Gen. Chipman, the Secretary, I take the liberty of advising you, as the Representative of the Twenty-seventh Congressional District, on the New York Soldiers and Sailors' State Central Committee, to use your best efforts to prevent this scheme, as it is in direct conflict with the Resolutions of the Soldiers and Sailors' National Convention, held at Chicago, May 19th, pledging the Soldiers and Sailors to support the Republican Party, which they cannot do without sustaining the nominee of the party.

No good reason exists for this crusade against Mr. Ward, as he was regularly and fairly nominated on the 14th inst., by the Republican Convention of the 27th District, and if persisted in, will distract the party and

injure the State and Presidential ticket, and no Soldier or Sailor, who is anxious to render the State good service, and interested in the success of the Republicau party will, I am satisfied, join in this movement, on the contrary, will give his aid and support to Mr. Ward, as he is a competent legislator, a sound and unflinching Republican, and good friend of the Soldiers, always suporting an dadvocating a just recognition of their claims before Congress.

It is to be hoped, General, that such action may be immeditely taken as will completely neutralize the effects, among the "Boys in Blue," of this contemplated Convention.

Very respectfully your obdt. servt.,

W. A. SHORT,  
Assistant Secretary.

I concur in the foregoing, and earnestly hope no action of the Soldiers of your District will be had, that will militate against the success of Republican candidates. Any distraction upon local candidates must necessarily injure the general and State ticket.

H. A. BARNUM, Chairman.

At a so-called "Soldiers and Sailors" Congressional Convention, held in Elmira, on Aug. 12th, General Gregg was nominated for Congress, speeches being made by several ex-army men in opposition to Mr. Ward and a third term.

General Gregg was not however a factor in the campaign which followed and received no votes.

On Oct. 10th, 1868, Col. C. C. Gardiner was nominated by the Democrats. One of the most interesting incidents of the campaign was the part taken in it by the Rev. Thomas K. Beecher, the leading minister of Elmira, a man of more than local reputation and a brother of the famous Henry Ward Beecher. He edited a department in the Elmira Advertiser, called the Saturday Miscellany, and in this department, under date of Oct. 9th, the following appeared:

#### OUR QUESTIONS.

We said last week that Mr. Ward should be questioned. We did not say that a discussion was desirable. That an agent should give account to his principal is too plain to need assertion. That a principal may question his agent upon any and all matters connected with his agency is obviously just and proper. And if the agent be sulky or silent or prevaricating,

then the principal may discharge him or bear with him, as he may see best.

Every one knows that Mr. Ward is an extreme Republican. No one need have curiosity to hear what he will say in a speech, for he will say nothing new upon the general issues of the canvass. The matters upon which he can enlighten and instruct us, he will probably never allude to unless questioned. So here are some questions which every man in the county would like to hear answered—every man in the county except thirty or forty politicians, so-called:

Mr. Ward, what is the salary paid to a member of Congress?

What mileage are you accustomed to charge? How many times have you collected mileage during the four years that you have been in Congress?

Of what committees are you a member in the present Congress?

How many hours a day do your duties as Congressman keep you busy?

Is your salary and mileage as Congressman sufficient for your support?

Have you attended to other business as a lawyer, claim agent or public speaker since your election as member of Congress?

Have your elections hitherto cost you anything personally over and above the cost of printing tickets and your share of the ordinary election expenses to which all citizens openly contribute?

Are you a member of the Congressional Temperance Society?

Is the drinking of spirits by our Congressmen increasing or diminishing in Washington?

Does your position at any time seem to compel you to "treat" or seem ill-natured?

Do you feel that your services in Congress have so taken you from your home and your profession, that some compensation is due you from your fellow citizens because of losses thus incurred?

And further:—

Mr. Ward, about how many federal offices are there in our district?

In how many of them do the emoluments exceed five hundred dollars a year?

Have you formed any opinion as to the worthiness or unworthiness of the office holders now "on duty"?

So far as appointments depend upon your recommendations, do you intend any considerable changes?

Have you made any promises to any citizens to obtain office for them?

If you have, who are they? Have they proposed making any return to you for services rendered?

In short, Mr. Ward, it is reported and widely believed that you have perfected extensive arrangements in this district, looking to your own re-election, and a redistribution of federal patronage, and a triumph of the Republican party. As a citizen and a voter I am interested in these ques-



tions. If your election means the appointment of twenty or thirty men besides yourself, so that voting for you amounts to voting for them, you should let us know it. And by these questions you have an opportunity of answering without seeming to be immodest or intrusive. Were I in your place I should rejoice to answer any or all questions that an honest man could ask pertaining to my official self and my public work. If you have secrets that you will not or dare not expose, I am sorry for you, and can only say that secret plans and pledges are dangerous luggage for any public man. I am yours respectfully,

THOS. K. BEECHER.

P. S.—If you are moved to reply to these well meant questions, I will cheerfully aid you in circulating your answers among the thousands of your constituents who will be at least curious if not earnest in expecting them.

To this some zealous friends of Mr. Ward's replied with a series of questions for Mr. Beecher which are good enough to be preserved. They are:

What is your salary as pastor of the Congregational Church?

How much do you make for marriages and lectures?

How many times have you made people pay you twice for the same work?

What do you do with the money when you get it?

How much does it cost you to live?

Do you pay your tailor for the clothes you buy of him?

If you were a grocer would you cheat in the measure?

How many hours a day do your duties as pastor keep you busy?

Do you spend your time travelling over the country delivering literary lectures at a hundred dollars each, when you are paid for preaching sermons at home?

Have you ever done anything that was mean or dishonest?

Are you a decent man?

Do you believe in the hen fever?

Did you pay for your own education, or did your father foot the bills?

Did you ever refund the money?

Do you ever drink ale, or whiskey?

Is the drinking of intoxicating spirits increasing or diminishing among members of your profession?

Do you ever treat people at the bar?

Have you made any promises to any body to sell yourself for gain?

Are you a natural born scoundrel?

When you come to town do you roll down hill or walk afoot?

In short, Mr. Beecher, it is reported and widely believed that you are an ale drinker and wine bibber, that you are a billiard player, a card player, and the proprietor of a ten pin alley—that you are a profane swearer, a trifler, a mocker, and a stumbling block generally in the way of Christian religion. You know, Mr. Beecher, that all these things, and more are said of you. Why don't you answer and refute them? You can do so without seeming immodest or intrusive, and your persistent silence leads many people to believe them true. If you have secrets that you will not or dare not expose, we are sorry for you, and can only say that secret plans and habits are dangerous luggage for any public man.

On the 12th of October Mr. Beecher wrote to Mr. Ward as follows:

“Dear Mr. Ward:—Mr. Langdon tells me that you doubt somewhat what my interest may have been in my recent questions addressed to you, and says you are quite willing to answer any and all such.

I hasten to tell you that my only aim was and is to promote habits of openness, truth and perfect acquaintance between representative and people. Many things are spoken in secret which ought to be proclaimed on the house-top. My aim was to give you an opportunity when questioned by a citizen not unknown to give answer and tell facts to your own advantage, which you could get before the public in no other way.

To a series of answers to my questions I proposed giving from fifty to one hundred dollars and send them all through the district as Ward's honest answers to Beecher's honest questions.

Read them again and if by a line I have hurt your feelings or overpast the bounds of propriety—I will as publicly apologize. But if possible give me a set of short, true and manly answers and thus help me teach the people.

Yours truly,

THOS. K. BEECHER.

To which Mr. Ward replied at length on Oct. 19th, as follows:

“Belmont, N. Y., Oct. 19, 1868.

Rev'd Thos. K. Beecher.

Dear Sir:—I have received your letters of Oct. 12th and 15th.

It gives me pleasure to respond in the spirit of your letters to such

inquiries as it seems proper to be addressed to me but for reasons I shall give I cannot permit the publication of our correspondence.

I will frankly say that I did not regard your questions first addressed to me through a newspaper (and several of them containing insinuations of improper conduct on my part) without being sent to me in the usual way, by mail or messenger, as one gentleman and friend usually communicates with another, as conceived in a friendly spirit to me or for my benefit, but rather to give the public an impression that there was truth in the charges implied in the questions. Several things occurring about that time and a little before your questions appeared in the Advertiser, tended to strengthen this impression.

You called upon Gen. Gregg, Dr. Beadle and others to question me when I came to Chemung to speak. A series of insulting questions were addressed to me in the Elmira Gazette containing base and false insinuations against my honor as a man which I could not notice without forfeiting my own self respect. When I got to Elmira and was speaking at a large meeting a boy handed me what he said was a telegram, enveloped as telegrams usually are. I opened it and found it to contain a set of questions similar to the ones that had been published in the Gazette. I paid no attention to these questions. Then followed your inquiries, and it occurred to me that the vile slanderers and traducers that had thus been foiled in their attempt to drag me into a controversy with them, had in some manner worked upon you, who had respectability and position to command from decent men that attention which they could not secure. In that surmise I may be mistaken; I do not charge it upon you, but your letters disclaim any intention to injure me and I accept your disclaimer as true and then to your questions: You set out with the statement "that no one need to have curiosity to hear what he (Ward) will say in a speech, for he will say nothing new upon the general issues of the canvass."

A number of meetings had been advertised in Chemung County at which I was to address my constituents upon public affairs. It seems to me that advice to the people to keep away from the meetings (for that is the substance of it) as I could say nothing to interest them, is not exactly becoming in one who wishes to promote habits of openness, truth and perfect acquaintance between Representative and people. Suppose I should come out through the papers and advise the people not to attend your Sunday evening lectures at the Opera House, because perchance you may in all your interesting speeches upon religious subjects, not utter a single word or thought that some religious teacher has not spoken or written before you. Would you regard this as a friendly act? Indeed, Mr. Beecher, there has seemed to be a disposition to belittle me in several of your miscellany, as you will doubtless remember.

The questions about my habits, and as to whether I have bartered away the offices of the District for a consideration, and thus been guilty of the grossest political corruption—you must get answered from other source than myself. I have lived in this Congressional District for more than thirty years, boy and man, and if my daily walk and conversation will not answer those questions, I can make none.

My salary and mileage is such as the law prescribes; \$5,000.00 a year and twenty cents a mile travel fee one session a year. For the last three years we have had two or three sessions a year, and for the extra sessions have received no mileage, and I voted against giving any. I am a member of the Committees of Claims and Revolutionary Claims.

While Congress is in session my duties as a member in the House at the Departments and attending to necessary correspondence keep me busy from ten to twelve hours a day. When Congress is not in session a large share of my time is occupied with duties pertaining to my office. I think the salary sufficient. With economy a member can save perhaps \$1,000 a year; most of them save nothing. It breaks up a man's business completely; I have done no other business since I was in Congress except a little law business in vacation that would not amount to \$200 a year. I can save much more money in my profession and not work half so hard, although, as you were once kind enough to say in your "Miscellany," I am "but a tolerable lawyer."

I do not know how many federal offices there are in the District and how many of them draw salary of \$500.00 or over. I have no time to look the matter up. You will have no difficulty in ascertaining that.

I have given no thought to the subject of changes in the federal offices; have promised to effect none: hope to effect some where the incumbents are Johnson men, Copperheads or unfit for the place. I have promised nothing on the subject; am under no pledges; will try and do for the best and as far as I consistently can will build up and strengthen the Republican party.

I have been in Congress nearly four years and am worth not to exceed \$3,000.00. I never paid out a dollar in all my political operations that was not legitimately and properly paid and sanctioned by good morals and public policy. I never was intemperate in anything except tobacco, which I abandoned forever four years ago. Mr. Beecher, I hope your record as a public man and a citizen is as clean as mine.

I told Mr. Langdon I would answer any proper questions that you might desire for your own information, and I have done so, but as I told you before, this is not for publication, but simply for your own information.

I have never had my honor or integrity questioned except by vile political scavengers who assail me through partisan presses and harrangues

when I am a candidate for office. I have never permitted myself to notice these slanders. Time and again I have been asked to do so by insulting and impertinent questions addressed to me through newspapers. If I answer one I must answer all or reason may seem to exist for the charge that I answered such as I dare and decline to answer such as I dare not. I cannot answer your questions through the papers unless I answer all that others may choose to ask through the Copperhead presses of the District. I cannot, of course, attempt to answer all the things that are surmised or said against me. If anything is established against me by prima facie proof then I will confront and disprove it, but until that is done I will stand on that presumption of innocence that surrounds every man and upon the character that I am not ashamed of, that I have been thirty years forming. But no man can answer all the suspicions and accusations that all the idle and malignant tongues that are his enemies, personal and political, may utter in a political canvass, and I shall attempt to answer none that are based on simple allegations. These are my reasons for declining a public answer to your somewhat extraordinary questions.

I agree with you in thinking that there should be frankness and confidence between Constituents and Representative, but I must be judged by my public and private acts and declarations, not by mere words in a newspaper controversy.

Truly yours,

HAMILTON WARD.

You can show this to Mr. Langdon if you desire."

To this Mr. Beecher replied on Oct. 20th as follows:

Dear Mr. Ward:—

I am sorry not to have leave to print your letter, but readily admit that your reasons for repressing are weighty.

In what I have said about you in the Advertiser, I have never aimed to be polite or complimentary. I aim so to speak so as to hold the ear of men of both parties—and so in speaking of you I touch you up not untruly, but in a way that would offend a private and sensitive man. I hope you are at least as thick skinned as I am and can give and take.

My judgment—soberly—is that extreme Republicans are wrong. That some of your votes have been unwise, but that you are by all odds the ablest man that we can send from this district. So I said when my pen was the very first to nominate you and so I say still.

If Lucien Robinson had been nominated independently I should have done what I could to win votes for him. Our party needs a decent opposition.

I still think that no man need be curious to hear what you say in a political speech upon the general issues. But it was right and good for you to show yourself and people do well to come and hear and see you.

I think that curiosity calls none but strangers to my lectures in Opera House.

I return your letter and shall let no one know that I have received it. You may send it to Langdon if you wish. I never carry confidential messages. I can keep a secret but I never like to have help.

You will be answered I trust by my letter in your name which I shall print this week.

Trusting that we are better acquainted already, and shall be better still hereafter, I am,

Truly your friend,

THOS. BEECHER."

And on the following Saturday concluded the episode by an article in his Miscellany as follows:

Beimont, Oct. 26, 1868.

Rev. T. K. Beecher: My Dear Sir:—When I first read your questions in the Advertiser I was vexed that you should lend yourself to the aid of my numerous and unprincipled political enemies. But on second thought I remembered your eccentric position as a no party man, or a both party man, and so have tried to give you credit for sincerity in asking the questions, and will therefore answer them frankly. But you will permit me to say that your course is a very odd one and does you no credit as a practical man or astute politician. And I think that you ought to have at least consulted me privately before catechising me in public. But I have nothing to conceal, so here are my answers and you may do what you will with them:

I have been Congressman from this district nearly four years. I have received for my services five thousand dollars each year; and for my traveling expenses or mileage one hundred and fifty dollars a year. The law entitles me to no less than this, and I claim no more. I have made during various recesses of Congress many trips between my home and Washington in the service of my constituents, so that I have actually paid more money to railways than I have received as mileage.

My duty as Congressman has completely broken up my business as a lawyer. My present income, less the increased expense of living at Washington, is not as profitable to me as my former income as a practising lawyer. Had I remained at home my estate would have been at this moment larger than it is. Besides my salary and mileage, I, of course, have received nothing—not a cent.

I can live decently upon my present pay. But I cannot lay up much. An honest Congressman cannot make money.

My duties occupy me at least twelve hours a day while Congress is in session. I am a member of several committees. All Congressmen are put on some committee or other, and when they have experience, they are usually made chairmen of committees. This position adds much to a man's work, but nothing to his pay. Committee work makes no show, and gets a man no credit.

I have frequently aided my constituents in transacting their Washington business. Having had experience and having formed a large acquaintance there, I can help them more effectually hereafter. I have collected some claims against government, and helped collect others. I look upon this as part of my official duty, and what I do is paid for by my salary.

I have never yet been elected to office except at some considerable cash expense. Elections are costly. The public treasury which pays the cost of schools, courts, legislatures, executions and damages by riots, curiously enough provides not a cent for elections. Hence it is customary for candidates and other patriotic citizens to make up a fund, and from it pay the cost of advertising, handbills, ballots and other printing; also the cost of bands, uniforms and kerosene oil, also the cost of wigwams, the rent of halls, the cost of documents, the travel of speakers, and "kicking up a fuss generally." To this fund I always contribute. I expect to spend at least a thousand dollars this year in perfectly lawful and honorable ways to secure my re-election, and the success of the principles I represent.

I am not a member of any temperance society. But I am a strictly temperate man. I see much foolish drinking, in and around the capitol, and am sometimes unable to keep clear of it without giving offence. I have invited gentlemen to drink, and shall probably do so again, and yet I do not approve my own act in so doing.

There are between thirty and forty offices in this district which yield a desirable though moderate income. Some of these offices are held by improper and unprincipled persons. I intend to recommend a change in every such case. A few responsible and quite lucrative offices I have thought should render me some assistance in meeting the necessary and honorable expenses of an election. I have selected good men for these offices, and they will share with me the expenses above named. And further, by the untimely death of Lincoln and the accession of Johnson, and my well known opposition to his policy, I have been made powerless during four years to reward the friends or thwart the enemies of Republicanism in this district. I wish to go back to Congress now under better auspices, that I may in part repay faithful men for their labor and sacrifice in a good cause.

I am ashamed of none of my nominees. They are good men and true.



I would give you their names, had I permission from them so to do. I truly regret the habits of secrecy which political warfare has created in both parties.

Finally. The report you allude to is true. I have perfected arrangements in this district looking to my own re-election, a redistribution of federal patronage, and a triumph of the Republican party. And I believe that the people intend to re-elect me, because of the doctrines which I represent. And there are twenty or thirty men who will get office by my election. If they consent I will give you their names. So far as I am concerned, I know not that I have a thought or an act that I fear to have unveiled. My wonder is that a man of your reputed intelligence should have need to ask such questions of me at all.

Yours publicly,

HAMILTON WARD.

There is a letter which Mr. Ward did NOT write. But suppose he had, would he not be at this moment better off for it?

Always after this Mr. Beecher was among Mr. Ward's warmest supporters and strongly advocated his nomination in 1870.

Many meetings were held throughout the district and Mr. Ward spoke in almost every town. His speeches followed the general lines of those heretofore set forth and are not fully reported. In one of them he said: "That the rebels of the South and the Copperheads of the North are two links from the same sausage, both made from the same dog," inelegant but not inappropriate to the stump.

At this period Mr. Ward's oratorical powers, at all times considerable, were at their best, and men who remember this campaign say that he carried his audiences by storm by the force of his eloquence, his earnestness and personal magnetism.

In spite of the vigorous attacks made by General Gregg and other disgruntled persons, Mr. Ward was elected by a majority of 5,467, running sixty-eight ahead of the State ticket in Allegany County, twenty-eight behind in Steuben County and eighty-seven behind in Chemung County, the home of both his adversaries.

This triumphant re-election of one who had so persistently assailed and defied President Johnson called forth

much comment and many congratulations. Among others, letters were received from Roscoe Conkling, Governor E. O. Morgan, of New York, and also James G. Blaine, who referred to Mr. Ward's service in the House as "honorable and valuable."

In reconstructing the Southern States and in amending the constitution, Hamilton Ward took an active part, and in accordance with the position taken all along by him, on the 27th day of January, 1869, he offered in the House of Representatives the following proposed amendment to the constitution:

"Insert in lieu of section one of the article proposed to be added to the Constitution the following:

No State shall make or enforce any law which shall abridge or deny to any male citizen of the United States, of sound mind, and over twenty-one years of age, the equal exercise of the elective franchise at all elections in the State wherein he shall have actually resided for a period of one year next preceding such election, except such of said citizens as shall hereafter engage in rebellion, or insurrection, or who may have been or who shall be duly convicted of treason or other crime of the grade of felony at common law.

In lieu of section one of the article proposed to be added to the Constitution insert the following:

No State shall make or enforce any law which shall deny to any male citizen of the United States over twenty-one years of age, who has been such citizen for three months, the free exercise of the elective franchise in the State of his residence except as punishment for treason or other crime of the grade of felony at common law, whereof the person shall have been duly convicted. But this article shall not affect persons now disfranchised for participation in rebellion, nor prevent the execution of such proper registration and naturalization laws as may be needed to protect the people in a just exercise of the elective franchise, nor to affect such qualifications of electors as to time of residence as may be imposed by law for a period of one year or less."

If the language of this amendment has been adopted the Louisiana plan of hereditary voting qualifications recently inaugurated would fall to the ground and the black vote could not be disfranchised by State law, as it now is throughout the South.

On January 29th, 1869, Mr. Ward delivered a ringing speech in the House on suffrage, which shows that he is firm in his ancient faiths.

Mr. Speaker, I think that nothing is more apparent than that this Congress should hand over to the people this proposition to amend the Constitution. It will be the capstone in the great temple of American freedom. It will be the consummation of our great work. It will secure to us the fruits of the war. It will settle the controversies between the races. It will stop the contests between white men and black men. It will stop the controversies of the North and the South on that subject. It will bring the country back to peace, which all the interests of the country demand. I hope, therefore, the House will not hesitate about passing this amendment.

But the gentleman from Ohio tells us that we should extend universal amnesty. He tells us, in substance, that we shall hand suffrage over to every rebel and every traitor disqualified by the laws of those States from the right of suffrage. I am opposed to that. I am willing to be merciful; I am willing to be just: I am willing to give these men in the South their lives, liberty, and property; but I am not willing to banish from the statute-book the last punishment for treason; for the moment you admit them to suffrage you must admit them to office, and when you admit them to office Mr. Breckenridge comes in triumph from Kentucky and takes his seat in the Senate, Mr. Toombo comes in triumph from Georgia and takes the seat in the Senate which he dishonored, Jefferson Davis returns from his triumphal tour in Europe and takes his seat, and we shall have those spirits back here who defiled these halls with treason, who went into rebellion and brought all the blood and sacrifice of the rebellion upon the country. It has occurred to me that the quality of mercy might be strained; that we might be too magnanimous. We have been too magnanimous already. There is now a member of this House who was a brigadier general of the Confederate army, who was educated at West Point, and who has come here booted and spurred from the rebel service to make laws for the widows and orphans he has helped to make. He was not admitted, however, with my consent.

Let us see how much the recent conduct of the rebels entitles them to "universal amnesty." Look at the violent overthrow of the loyal Legislature of Georgia under the leadership of Albert Toombs. It was but the other day that we performed our last sad duty to a member of this House from Arkansas who was murdered in cold blood by rebels of that State, with twenty other prominent Union men.

I hold in my hand what is called the "final summary" of the report of the committee of the Legislature of Louisiana on the conduct of the late

elections in that State. The "summary" shows that the following number of Union men in that State were killed, wounded, and maltreated: eighteen hundred and eighty-seven, of which more than a thousand were killed outright. This is the fruit of the "loyalty" of these former rebels in a single State. Clemency to such men is crime; it is unjust to the dead who fell in our cause and to the living who survive the contest, bearing its marks upon them, and it will be dangerous as a precedent in the future. I hope we shall not insult the loyal sense of this nation by restoring all these murderous villains to political power. I am weary of this sickly sentimentalism which strikes hands with traitors and criminals at the expense of justice and the public safety.

I have no fears, Mr. Speaker, of giving suffrage to the black man. The nation in its march of greatness and to the accomplishment of its high destiny will confer it upon him. Let us have no timidity, no faltering. Let us shake not at the counsels of the weak, but go on and do justice, and from that will come safety, security, and peace.

During the war General Lee's homestead at Arlington, Va., fell into possession of the Federal troops and many relics of George Washington, the property of Mary Custiss Lee, were removed to Washington. An effort was made by General Lee's family after the war to recover these articles and on the 27th of February, 1869, Mr. Ward offered the following resolution:

"Whereas there appears in the Evening Express, a paper published in this city, under date of February 26th, 1869, the following:

**THE ARTICLES TAKEN FROM THE ARLINGTON HOUSE.**

General Robert E. Lee made application a few days ago, through a gentleman residing in this city, to the Secretary of the Interior for a number of articles once the property of George Washington, which were taken from the Arlington House, General Lee's estate before the War, when that place fell into the possession of the Federal Army. The articles were pieces of household furniture, clothing, dishes, and papers, which formerly belonged to General Washington. Secretary Browning has decided to grant the request and an order has been given to turn the articles over to the person deputed by General Lee to receive them."

Resolved, That the Committee on Public Buildings and Grounds be directed to inquire into the subject, and ascertain whether the matter so published is true, and if true to ascertain by what right the Secretary of the Interior surrenders those articles so cherished as once the property of the Father of his Country to the rebel general-in-chief; and that said Com-

mittee report fully upon the subject by bill or otherwise; and that they have power in pursuing said investigation to send for persons and papers, and leave to report at any time."

Unanimous consent not being obtained at this time for the adoption of the resolution, it went to a committee, who reported on March 3rd, as follows:

Resolved, That the articles known as the effects of George Washington, the Father of his Country, now in the custody of the Department of the Interior, are of right the property of the United States; and any attempt on the part of the present Administration or any Department thereof to deliver the same to the Rebel General, Robert E. Lee, is an insult to the loyal people of the United States; and they ought to remain as relics in the Patent Office, and ought not to be delivered to anyone without the consent of Congress.

This resolution was adopted and the Government retained the relics. In 1901 some of the articles were ordered delivered to members of the Lee family by the McKinley Administration.

As Mr. Ward gained confidence in himself and the ear of the House, he was found day after day opposing appropriation bills; at this time it is most difficult to distinguish between proper and improper appropriations, but as one reads the records of the 39th, 40th and 41st Congresses the point that presents itself most prominently in Mr. Ward's record is his economy. He was growing restive under the extravagance of the Dominant Radical faction and while in the forefront of the opposition to Johnson at the same time he opposed his fellow Radicals in their reckless expenditure of public funds.

His remarks on March 3rd, 1869, in opposition to paying the claims of three contestants to the same seat in Congress are typical and are as follows:

"Now I would like to know upon what principle we are to pay three men who come here demanding a seat and all of whom have been rejected. Is it possible that each one of these gentlemen had such claims to the seat as justified him in making a contest? Is it possible that each of them could have a prima facie right to the seat?"

It seems to me we should not be too liberal with the public money. It appears to me we should begin to redeem some of our broken promises to the people. We have pledged ourselves to commence a system of economy and reform; to retrench in every possible way; to stop every leak in the public treasury. This is what we have promised the people in our platforms, our resolutions, our public speeches and declarations. It is about time that we should begin somewhere, somehow, and in some manner to stop the outrageous public expenditures which are constantly going on here. In this last night of the sessions of the Fortieth Congress let us commence a wholesale reform; let us inaugurate this work of economy. Let us admonish the twenty-five or thirty contestants for seats in the next Congress that if they come here claiming seats they must come here with a reasonable case; that every adventurer in the land shall not, if he can get a few votes in his favor, come here and make a contest, and after being rejected by the House be allowed his expenses as an inducement to all men of the same character and under similar circumstances to do in the future the same thing."

Mr. Ward was active in the organization of the House and on March 5th, as spokesman of the Republican caucus placed in nomination the Clerk, Edward McPherson, of Pennsylvania, and the Sergeant-at-Arms, N. G. Ordway, of New Hampshire, the two most important officers, who were duly elected. The leaders of the 40th Congress were mostly re-elected.

In this Congress there first appeared George F. Hoar, of Massachusetts, James B. Beck, of Kentucky, and Daniel W. Voorhees, of Indiana. Noah Davis was in the New York delegation.

During Johnson's term the Republican majority feared to trust him with the full control of the U. S. Army and endeavored to divest him of this constitutional right by enacting a law that all orders to the Army should pass through the General of the Army, at that time General U. S. Grant. With the defeat of Johnson and Grant's accession to the Presidency, the necessity for this emergency law disappeared and on the 15th day of March, 1869, Mr. Ward introduced House Resolution No. 14, providing for the repeal of this act, and the act was subsequently repealed.

On this day the standing committees of the 41st Con-

gress were announced by the Speaker, James G. Blaine, of Maine. Schuyler Colfax having been elected Vice-President.

Mr. Ward was not placed upon either of the Committees on Claims, where he had formerly so zealously guarded the public purse, and instead was made fifth on the important Committee on Reconstruction, B. F. Butler, of Massachusetts, being Chairman; and second on the Committee on Territories, Shelby M. Cullum, of Illinois, being Chairman. Blaine had promised to make Mr. Ward chairman of the Committee on Claims, but this, like many other promises of this erratic statesman, was not carried out.

On March 17th Mr. Ward asked to be excused from committee service, but the Speaker ruled that there was no quorum present to grant the desired permission. The request was not again preferred.

Mr. Ward never admired "The Plumed Knight" (Blaine), and often said in private conversation that he did not regard him as either an honest or sincere man, sharing this belief with Roscoe Conkling, who later became his warm and valued friend.

In this connection it may be proper to set down Mr. Ward's idea of James A. Garfield, who was in Congress at this time, and who later became President of the United States and was assassinated by Guiteau. Garfield, Mr. Ward said, was a lazy man and of loose moral habits, but of great brilliancy. His speeches had a lofty and sincere tone which were not exemplified in his life, and the applause which greeted him from the gallery frequently came from the frail fair of his acquaintance who had come to hear the "Campbellite Preacher." Garfield's subsequent treatment of Conkling showed the weakness of his character.

Mr. Ward's sense of humor was one of his most characteristic traits. Frequently he enlivened a dull debate with a joke, and in company he was always genial and affable. He much regretted his inability to recall names, and while having a remarkable memory for faces, he sometimes found it difficult to place a familiar countenance. He used to tell a



story of an incident which occurred about this time which well illustrates this. One morning he took an Erie train at Elmira for Belmont, at one of the way stations in Steuben County a farmer got on who stared at him and sat down in the seat in front. Mr. Ward thought that he recognized the face but could not place the man, and fearing that he might offend some constituent who had carried a caucus for him, or something of the sort, he leaned forward, and addressed the stranger, who continued to glance at him from time to time, and in his most engaging way said: "I beg your pardon, but haven't I seen your face somewhere before?" The supposed constituent, in a voice that could be heard all over the car, replied: "Mebby you have, stranger, mebby you have. I've had that face a long time and a good many darn fools have looked at it," which reply, needless to say, concluded the conversation.

Later in the summer Mr. Ward delivered an address upon invitation at the Hornellsville Agricultural Fair, and extracts from it are as follows:

"Ladies and Gentlemen:—You have brought here again your annual offering of fruits and flowers and the products of your farms and industry to present them in generous competition. Your contests here are those of peace and thrift, not of war and tumult. Your victories are over the sterile soil, the forests, inclement seasons and nature's obstructions to toil, not over bloody fields and fallen men.

Yours is the foundation art—Commerce rears its cities; builds palaces and costly piles; launches its ships upon the sea, but you furnish the material for the whole. The mechanic, arts. manufacture, adorn and beautify, but you give the mechanic the bread he eats; the wool that clothes his back and the silk and cotton for his family use.

Yours is the primal art, thousands of years ago soon after the great dict was issued "Let there be light," "Abel was a keeper of sheep and Cain was a tiller of the ground." Before the prolific brain of man had worked out the great problems of civilization; before Tyre was built, Babylon shone and Rome was founded on her seven hills, the sons of men wrought by agriculture from a generous earth nourishment for their children.

The work of the husbandmen has grown with the ages and has partaken of the improvements which during the last two centuries have revolutionized society and annihilated time and space and brought the ends of the earth together. \* \* \* \* \*

In conclusion let me say, son and daughter of toil, be not discouraged or cast down. Yours is the work that Heaven imposes for wise purposes. No act of hand or heart or brain in this world is lost; its effect is more lasting than the granite hills, for it will remain when earth and sea shall pass away and the "elements melt with fervent heat." Each blow you strike, each acre you till, each contribution you make to the world's wealth will bring its reward.

Think not that your humble trade or calling is of no consequence, you are the Monarchs of the World, for you feed, cloth and support it. If you have uneasy longings after something better, if your ears would like to catch the silvery notes of fame and you desire the luxuries of riches, and you cannot accomplish these, be not discontented, these things bring thorns and sorrows that you know not of and you will be no happier if you possess them.

Be content with what is allotted to you, and in all things do your duty, and you are the peers of the loftiest and equals of the best. Your name may not sound in "song or story," but the farmer with his little farm in debt, struggling hard to get an honest living and support his family, who rears up his children to be good citizens and useful men and women, and does his full duty to God and man; the mechanic that toils early and late at the forge or bench and struggling perchance in debt, misfortune or poverty to do his duty and rear his offspring in the right way, and leading an honest life, dies as he lived, fighting the world's battles bravely with his harness on his back; the poor widow in her weeds and with her helpless orphan children clinging to her for bread, goes nobly out into the cold world and gives up the labor of her life to get food and clothing for the little ones and to bring them up in honest paths and in the fear of Heaven, keeping alive through temptation, sorrow and toil the noble womanhood that was given her and leading a pure and blameless life; these and such as these are the true heroes of this world, and such in the eternal judgment book they will be recorded."

At the time of the re-assembling of Congress in December, 1869, the American people were much wrought up over the war for Cuban Independence then desolating that island, and the same desire for intervention was manifest which plunged the nation in war thirty years later and brought an end to Spain's dominion in America.

On December 13th, Mr. Ward presented a petition signed by over 72,000 residents of New York State asking Congress to recognize Cuban independence and said:

"I wish to say that it seems to me that the suffering of these people in Cuba in the cause of liberty, equal rights and justice appeal to our commiseration and sympathy; that the struggles of the people in Cuba in asserting their independence and equal rights challenge our highest admiration. And I think it would be unbecoming the American Congress to refuse even to listen to the petition of the people of my State asking that the suffering cry of more than a million people almost within our own borders, struggling for life and liberty, should be heard; and that we should allow the petition to be read, is the least we can do. I ask unanimous consent that the petition be read at the Clerk's Desk."

The petition is as follows:

TO THE HONORABLE CONGRESS OF THE UNITED STATES:

We, the citizens of the American Union, in behalf of the principles written in our charter of national independence, and in the name of liberty and the sovereignty of a people struggling to be free, respectfully petition that your honorable body do accord to Cuba the rights of a belligerent Power, and at once recognize the independence of her sons from the tyranny of a foreign yoke which for more than a year they have maintained unaided, by the triumph of their arms.

This was referred to the Committee on Foreign Affairs, but with no substantial result.

Had Congress at this time intervened before Cuba was desolated by the ten years war and before Wyler's policy of Re-concentration reduced the population by 40 per cent., the ultimate result would have justified it.

On January 14th, 1870, in the House, in discussing the reconstruction of Virginia, Mr. Ward defended the report of the Reconstruction Committee, which advocated admitting Virginia on terms, i. e., requiring her to guarantee the civil rights and the franchise to the blacks. This requirement had not been made of Tennessee, but had been made in the case of the other reconstructed States, and Mr. Ward urged that it should especially apply to Virginia. His per-oration is as follows:

Mr. Ward. Did the gentleman never hear of a bond without a penalty, of an obligation without a penalty? From his remarks it might be supposed he never heard of such. I suppose an obligation can be enforced without a penalty; and what we propose is to enforce this fundamental condition by the power of the Federal Government in whatever way

we are entitled to enforce it under the Constitution of the United States.

Now, sir, we are told, and I must be brief, for I do not desire to occupy the whole time allotted to me—we are told by my colleague from New York [Mr. Wood] that we cannot in good faith impose any further conditions on the State of Virginia. He says that we agreed to accept her as she is substantially, and that it would be bad faith in us not to carry out the compact. Now, Mr. Speaker, that is a serious allegation. But to show you how much foundation there is for that allegation I shall read the seventh section of the act under which we authorized the President to submit the question of the constitution of the three States, Virginia, Mississippi, and Texas, to the people. The closing provision is this:

“That the proceedings in any such States shall not be deemed final or operative as a complete restoration thereof until their action shall be approved by Congress.”

Now, the gentlemen say in face of this provision that we are guilty of bad faith to the people of Virginia if we impose further conditions which we deem essential for the security of the people of Virginia and the security of the nation. There is a reservation, and we are standing upon that reservation and imposing upon Virginia conditions such as we have imposed upon all the States which we have admitted under our reconstruction laws, with the single exception of the State of Tennessee, which we were deluded into admitting without any conditions under the leadership of the gentleman from Ohio. We are told, sir, of the glory of the Old Dominion, its honor, its power, its history; we are told that the old State of Virginia was a grand old State—the State of Madison, of Washington, of Henry, of Pendleton, of Randolph, of Monroe. Those men gave us the Constitution; those men were for union and for Government; those men pulled down the Confederation and built up the Federal Union. But their sons have degenerated. There came another epoch, another era of blood and carnage; there came the time when McClellan retreated down the peninsula, when Virginia's hands were at the nation's throat, there came a time when the hostile power of Virginia hung like a cloud over your capital.

There came a time when Virginia's sons, led on by Lee and Stonewall Jackson, threatened the nation's life. There came a time when rebels took possession of the State government of Virginia. There came another time, thank God, when the rebel army was overthrown and Virginia lay prostrate at the nation's feet. Then we demanded of her guarantees that would protect the loyal men of that State by distinct enactments. The “first families” rejected provision after provision that was submitted to them. The “first families” stood defiant and furious until Grant was elected and the Republican party took triumphant possession of the Government, and then

they cringed around the knees of power and begged to be let in on such terms as they might prescribe. I tell you, Mr. Speaker, while I do not intend to be uncharitable, I have no faith in rebels of this generation. I believe, with few exceptions, they respect and fear but one thing, and that is the power of this Government; and while we have got that power, I would insist upon enforcing it. And now, sir, when Stonewall Jackson and Lee and the Confederate Congress have been swept away we stand upon the ruins of the old State government, we propose to build it up and cement it in fundamental law upon the eternal principles of right, justice, and equity, that all men shall be protected in the right to the ballot and the jury-box; and we propose to petrify those rights in their constitution, so that when storms shall come hereafter they cannot be lost or overwhelmed; that treason may raise its hydra head no more; that the land of Washington, Jefferson and Madison may be restored with a true republican government to its old place in the Union, there to remain forever, realizing the hope that inspired those heroic men when they dared and achieved so much to obtain our national independence; that the Union of these States should last for many centuries to come, securing to all men within its borders the priceless blessings of civil and religious liberty.

Virginia was subsequently admitted with the restrictions.

During this term Mr. Ward passed a bill providing for the holding of an annual term of the Circuit and District U. S. Courts in the City of Elmira, a privilege which that city still enjoys.

On March 23rd, he delivered a speech on polygamy in Utah which he regarded as one of his best efforts. Extracts from it are as follows:

In everything I see in reference to this institution of polygamy does it become me now and here to condemn it. It has been condemned by the sentiment of a century, and it has received the condemnation of all honorable and proper people. Whenever you degrade women you degrade all. That institution which debauches the mother, which dishonors the wife, which disgraces the daughter and sister, strikes at the foundation of all just government and free institutions. Say what you may of your great Republic, plead as you may for its success, glorify as you may over its stretching from ocean to ocean and from the frozen regions of the North to the Gulf of Mexico, reaching its influence throughout the globe, Christianizing and beautifying the world—say what you may, it all rests upon home virtue. It rests upon the love, its rests upon the integrity of the mother and

wife; and whenever you debauch the home and household you corrupt all; and it is the homes of this country, North, South, East, and West, where purity reigns, where virtue reigns, where this Republic is to live, and upon that superstructure to-day, with God's blessing, it is permitted to stand.

I ask you, honorable gentlemen, where would you have been if your homes had been brothels and your mothers concubines? How often in the history of your lives can you look over the desert track of your existence and recall all that has surrounded you, and at the same time recall the flaming sword which seemed to stand at the gate and kept you from doing evil. I ask you, when you remember this, what it was that preserved you so well? What were more powerful than the early influence of a mother's guidance and the lessons of love and duty which spring up in every virtuous household? These principles, learned in the homes of the land, are what have saved you from every peril that may have beset your path in life. I remember very well one who was pure and beautiful, and who twenty years ago they buried on the banks of the James. I remember very well whose counsel it was hung over my childhood like an angel beam and protected me from a thousand harms. I pay this tribute to her name. I speak of these things because it is proper, and we are called upon in relation to this matter to go to the root of all government, and that is the household. Say what you may of the woman of Utah; say that they acquiesce in this system; refer if you please to their conduct in reference to this bill; but you cannot change their nature. Six thousand years have rolled over this earth and still it is the same with women. She will admit of no partnership in her affections. She will admit of no division of her regards. While man is controlled by schemes of ambition, which he pursues over land and sea the woman, the true woman, has but one great ambition, and that is to make her home a paradise. You break down that home, you destroy that feeling, and you crush her, you tend to make her a waif, you tend to make her a debauched and dishonored thing, you leave her at the mercy of every wind and tide that may assault her. And when your legislation encourages this state of things I assure you, Mr. Speaker, that it strikes at the very foundation of free institutions.

In June he introduced a resolution in the House to remove the tariff on coal, which was passed in spite of opposition from Pennsylvania, and his ever present inclination to joke was manifested in the same month when a resolution to appropriate moneys for an expedition to the North Pole was being considered, by moving an amendment that a like sum be appropriated for an expedition to the South Pole, as Con-

gress should not discriminate in favor of either Pole.

Mr. Ward took a decided stand on the proposal to repeal the income tax law, a species of taxation now growing in favor, and his remarks on June 2nd, on that subject, are as follows :

“Mr. Speaker, I have refrained from taking any part in the debates which have grown out of financial questions which the Committee of Ways and Means have presented through their tariff bill and the bill now before the House. I have preferred to listen to what gentlemen might say who are more able to address the House on this subject than I pretend to be. Sir, to my dull apprehension it is not apparent what great evil there is to grow out of the continuance of this income tax. It seems to me that the opposition to the continuance of this tax springs from a very small portion of the people—less than three hundred thousand—so much so that it has become a special interest, and we all know how liable we all are to be controlled by special interests to the exclusion of the great mass of the people. Special interests get hold of the newspapers. Special interests besiege our committee-rooms, and besiege us as we come to our seats daily, follow us to our rooms, and press their special claims upon us; and we are apt to forget in the midst of all this the interest of the great mass of the people pursuing their peaceful avocations at home, who require us to represent the mass well as these special interests.

Now, sir, in taking into consideration the question of taxation we should take a comprehensive view of the whole question, State and National. We have two systems of taxation in this country very much independent of each other, and each almost absolute in its power. Now, look over the State tax, which is the main tax affecting the people of the country. Where do you collect your State and municipal tax? You collect them from the land, from the agricultural interests. You collect them from the men who have an interest in the soil, because the soil is apparent and the tax-gatherer can reach it. Personal property escapes taxation in the States almost entirely; this species of property, perhaps, can be taxed better than any other, yet we all know it is not included in State taxes to any great extent. When we come to look at the national taxes, how do we find them? We find the principal tax which affects personal property under our internal revenue system is this tax on incomes. It is about the only tax which reaches to any extent the large amount of personal property in this country. If you abolish this tax then you abolish about the only remaining tax on personal property, except the tax on bank deposits and circulation. What else do you do? You abolish the only tax which reaches the income



of the bondholder. While I have never been in favor of taxing the bonds absolutely, as we have not the legal power to do so, cannot do so in good faith, I have always felt that the income from those bonds should be made to contribute its proportion in defraying the great expenses which the national debt has imposed upon the people. But we are told that this tax is inquisitorial. So it is; all taxes are; they pry into a man's affairs, and seek to reach his hidden means. An honest man will not be troubled with this as he will make his fair return to the assessor and pay his tax; but the rogue needs all the machinery of this law to make him disclose what he tries to hide. It is said, as a reason for not continuing this tax, that many dishonest men pay no income tax and shirk it, while the honest men have to pay it. That is true of all taxation, more or less true of all obligations and duties that men owe to society, to their country and to their Creator. Good men perform them; bad men seek to, and do in the main, evade them. Would you, because of that, abolish all taxes and do away with the performance of all obligations and duties that the interests of society and the welfare of the State demand?

As poorly as this income tax is collected the Government realizes more than thirty million dollars annually out of it. This, as we all know, comes mainly from the rich, from the men who live in palaces and have their thousands and millions of income. A. T. Stewart's income is \$3,000,000 a year, upon which he pays \$150,000 a year income tax. Shall we take this tax off of him and distribute it around among the farmers of the country and mechanics who have all they can do to support their families and pay their taxes now? Some one must raise the money. Is it not better that the rich should pay it out of their abundance rather than the poor out of their poverty? But we are told that this tax operates seriously on those who live on salaries, and have nothing else to depend on. This bill you will observe, Mr. Speaker, now exempts \$1,500, \$500 more than the old law. This change is just, but I am in favor of no greater exemption. I think that the man who gets more than that amount of salary can better afford to pay an income tax on the excess than the small landholder or business man who is already overburdened with his load of State and municipal taxation.

But, sir, as a general principle, I am in favor of a reduction of taxation. We now collect in excess of the needs of the Government \$100,000,000 a year. That is more than is necessary; sixty or seventy million dollars are enough. Let us reduce thirty or forty million dollars, but let not that reduction come from the luxuries, such as tobacco and liquor; let it not come from the few who have large incomes and plethoric purses, but let it reach the business of the masses as this bill proposes. Strike out your petty taxes, your licenses on trades and occupations, amend your tar-

iff, take off your duty on coal, reduce it on sugar, tea, coffee, molasses and salt. Some of these articles come from abroad and are not produced in this country. The principle of protection to home industry is not seriously infringed in these reductions. These articles enter into the consumption of every family in the land. How would honest gentlemen appear to their honest, hardworking constituents, to take the income tax of \$200 a year off of their own congressional salaries and leave the heavy tax upon these necessaries of life? For one, sir, I most earnestly protest against that policy which protects the few at the expense of the many."

A few days later he spoke on a bill prepared by the Committee on the Judiciary in accordance with a resolution introduced by him on March 12th to regulate the naturalization of aliens, a practice at that time attended with many irregularities in the city of New York, where 70,000 naturalization papers were issued in one year, where one judge naturalized over 1,000 daily for twenty-three days and one witness was used in over 500 cases. After reciting these and similar facts and accusing Tammany Hall of stealing by this means the electoral vote of New York in 1868, Wm. Ward concluded as follows:

"If you allow party prejudice, party tactics, or a fear of being misinterpreted by German or Irish constituencies, if you allow anything of that kind to control you in voting on this bill, that which is now but a speck so far as the whole nation is concerned, will grow until it covers the whole land, and ballot-box stuffing will become a general evil; and when that is done, gentlemen may as well bid farewell to the liberties and free institutions bequeathed to us by our fathers and secured to us by the blood of our brethren during the recent rebellion; then all the glorious privileges which have come down to us will be frittered away, and anarchy and discord will settle on the Republic, and the proud name of America will go down into gloom of eternal night.

All we have is the ballot. The ballot stands between the rich man and the poor and between the poor man and the rich. The ballot stands between the oppressed and the oppressor. The balance stands between the ignorant and the wise, between the designing and the simple.

But, sir, whenever you make the ballot an instrument of fraud, whenever you have brought about that state of affairs everywhere which exists in New York, when the honest people of my district and of other districts shrink from voting because they know they will be counted out, that there

is no use of going to the polls, for they will be cheated no matter how many votes they may cast; when that state of things prevails generally throughout the country, there will be no longer any hope for the preservation of our free institutions. I say to this House and to the country that the Government which we in part represent on this floor will, so far as Republicanism is concerned, fade and disappear like the baseless fabric of a dream."

This bill, unfortunately, did not become a law.

Mr. Ward was violently assailed by the Tammany organs in New York for his activity in this matter.

During this session he offered several bills providing bounties for volunteers who enlisted early in the war, and continued to oppose many appropriations.

During the spring and summer of 1870 the question of Mr. Ward's re-nomination for a fourth term was energetically discussed all over the district.

In February an unsatisfactory collector of Internal Revenue for the District had been summarily removed, A. J. Avrill, by name, of Bath, and Anson Congdon, of Clarksville, Allegany County, had been appointed in his place. Avrill had made a hard fight for retention and his friends in Steuben County were vindictive, however, his removal seemed to be for the best, and in accordance with the wishes of the party leaders as stated by Ebenezer Ellis and William W. Smith, leading Republicans of Bath, and friends of Mr. Ward's, in letters written to him urging the removal.

In Chemung County General Gregg was again a candidate, but a more formidable adversary, Mr. Ward's old time friend, H. B. Smith, disputed with Gregg for the delegates. Judge Brooks was also in the field, and all of Mr. Ward's friends finally supported Smith, who secured the delegates.

S. F. Hayt, of Steuben County, had also become an active candidate, and the politicians of the district were restive over the principal of rotation in office which Mr. Ward's three nominations had violated. From all over the district

came reports of unusual activity on the part of various persons who were opposed to him, A. N. Cole and the Wellsville Free Press bitterly attacking him. Mr. Smith earnestly urged on the ground of past relations, that he, Smith, should be given the nomination. Men whom Mr. Ward had befriended and appointed to office deserted him, among whom were C. S. Cole, Assessor of Internal Revenue of Corning, and H. C. Fisk, of Wellsville. On the other hand men like Ebenezer Ellis, A. A. Van Arsdale, Thomas Beecher and Dr. Pratt were unfaltering in their friendship.

The Buffalo Express at this period says :

We see that some opposition to the re-nomination of Hon. Hamilton Ward is manifesting itself in the Twenty-seventh District. We hope that the Republicans of that district will not allow Mr. Ward to be retired from Congress now, whatever claims other candidates may seem to have to the honor of the representative office. He has served them too well and his services have been too valuable, not only to them, but to the public and the party at large. Mr. Ward has been one of the strong men in Congress since he held a seat there, occupying a position and exerting an influence which it will be hard to find any successor who can readily command. Such men ought to be retained in Congress so long as the good work that they have been doing is not fully done.

The old feeling that the game was not worth the candle as indicated in the letter to Col. Scott in 1868, was still strong and partly influenced by this, partly by the importunity of Mr. Smith and his friends, and partly by the knowledge that he must begin to provide for his family, and that at this time his wife desired his constant presence; Mr. Ward on August 23rd wrote the following letter :

Belmont, Aug. 23, 1870.

To my Constituents:

At the solicitation of many friends, and, I believe, with the approval of a large majority of the Republican party of this Congressional District, a few weeks ago I became a candidate for the 42d Congress.

Active opposition sprung up in the District, coming largely from sources that gave assurances of support when I became a candidate; and

a warm and somewhat bitter contest has arisen culminating in forcing a call for the election of Congressional delegates in Steuben County on short notice. A fair consideration of my claims in the face of much calumny and excitement becomes impossible in the short time allowed, especially as for domestic reasons I cannot leave home to give further personal attention to the canvass. Under the circumstances I feel it my duty to withdraw from the contest, and am therefore no longer a candidate. I thank my friends for their long continued confidence and support.

In conclusion let me say that the mission of the Republican party is not yet ended. It is the duty of us all to heal the party dissensions, and press on with undiminished effort to secure the continued ascendancy of its policy and principles.

HAMILTON WARD."

Of this the Corning Journal says:

"We publish to-day a letter addressed to his constituents by the Hon. Hamilton Ward, who declines to be a candidate for re-nomination.

Mr. Ward has been a faithful representative from this district, and acquired a position and prominence in the House which enabled him to exert a marked influence upon legislation. He has been one of the most industrious and reliable members, and his experience gave him an unusual influence. We know this from personal observation, as we noticed the uniform respect accorded him by his fellow-members in the House and out of it, and when he made a speech it commanded unusual attention. He has been an able advocate of the policy of reconstruction. He has served the district laboriously and at no personal advantage. No shadow of suspicion attaches to his name and his reputation for strict integrity is unblemished. His official record does him much honor and he is entitled to the commendation of being a faithful public servant whose reward is the consciousness of having done his duty."

The withdrawal was generally regretted throughout the District by the masses of the party.

H. Boardman Smith of Chemung was finally nominated and later elected.

Domestic duties and obligations occupied much of Mr. Ward's time, and his attendance on the last session of the 41st Congress was uneventful. On February 10th, 1871, he presented a petition of the Homeopathic School of Physi-

cians of the State of New York, asking for the incorporation of a National University, at Washington, and on the following day opposed the expenditure of moneys on the government of the territory of Alaska recently acquired by the Johnson administration from Russia, there being no indication at that time of the extensive gold mines which have since made the Klondike and Cape Nome household words.

On January 20th, 1871, a son was born to Mr. and Mrs. Ward at No. 1730 F Street, now 1722 F Street North West, Washington, D. C., who on the following Whitsunday was christened Hamilton, at the Episcopal Church in Belmont, N. Y.

After Mr. Ward retired from Congress and the political atmosphere cleared, much regret was manifested throughout the State by the people generally that he had not continued to represent the district.

The Elmira Advertiser contains the following :

The Hon. Hamilton Ward, who has served the people of this district with so much faithfulness and ability during the six years past, retires at the end of the present session. We deem this a proper occasion to re-express in the strongest terms the sense of proper appreciation for the high qualities he has exhibited and the great services he has rendered. Not once in all his long and honorable career has he hesitated or stumbled in his duty. True to the principles of the Republican party as the needle to the pole, he was awarded that perfect confidence which his faithfulness deserved. In returning to private life he will rest upon an honorable reputation fairly earned. He comes with no added wealth save that which is inseparable from the riches of an untainted name. Having thus demonstrated his fitness and capacity for public station, we shall be surprised if other and higher honors do not soon await him.

The lot of a conscientious public servant is indeed a hard one. Mr. Ward had devoted six of his best and most vigorous years to the service of his district; he had attained

a national reputation; he had become one of the party leaders on the floor of the House; his speeches were read all over the land, and some of them were so highly regarded that they were used to instruct the young in eloquence. He had been among the first to brave the wrath of Johnson, and that battle won, he had steadily and perseveringly, even at the expense of party censure, guarded the public funds against the reckless extravagance of that period. He had been one of the guiding spirits of the Re-construction, and had withstood the soft sentimentalism of too much forgiveness. While he had sat in the counsel of the mighty his course on all public questions had been that of a man of the people, he had been fearless and energetic in the discharge of every duty from the impeachment of a President to the pensioning of a crippled veteran, and at the end he found himself poor in purse, weary with the heavy years just passed, with a business destroyed and a profession forgotten, facing new necessities and new trials. But the fortitude and energy with which he began again enabled him at a later period to endure much severer trials.



## CHAPTER VI.

### Civil Life. 1871-1879.

For a time Mr. Ward was busily engaged in picking up the threads of his neglected law practice. It was worse than beginning anew; with a broad knowledge, a ready wit, a brain energized by vast responsibilities and conflicts of national moment, the petty affairs of rural life could not have been inviting. From a horizon whose boundaries were the limits of nations his interests were suddenly reduced to the little village in the valley. From participating in impeaching Presidents, amending constitutions and reconstructing States, he came back quietly and uncomplainingly to petty lawsuits, his musty little office and his daily five-mile walk among the hills. Debts had accumulated, expenses had increased, other lawyers had secured his clients, but with resolution and energy he took up the struggle with poor results at first, and with much humiliation and distress of mind. but as the years went on events yielded to his persistency and his business returned. To this was most of his time given, but public affairs still held their charm for him.

In the fall of 1871 Mr. Ward was elected a delegate to the famous Republican State Convention known as "The Syracuse Convention." In this convention he was an adherent of Horace Greeley and Governor Fenton. The principal dispute in the convention was as to the admission of contesting delegations from New York County. Mr. Ward finally suggested that the vote be divided and one-half be given to each of the delegations. This was supported in a speech

which roused great enthusiasm, and which carried the convention with it, although a large majority of the delegates were supporters of Conkling. Conkling then took the floor and in one of his most powerful speeches turned the tide and Mr. Ward's proposition was defeated by a narrow margin.

Of this convention Charles E. Fitch of Rochester, a man long prominent in literary and political circles says:

"It is nearly thirty years since I first knew and admired Hamilton Ward. The occasion was that of the holding of the Republican State Convention in Syracuse in 1871. It was a time of earnest and even bitter contention within the party. Faction was rife and there were portents of coming disintegration, if not of dissolution. The main controversy turned upon the admission of contesting delegations from New York City, the one headed by Horace Greeley and critical of the administration of President Grant, and the other marshalled by Thomas Murphy, then the principal federal office holder in the metropolis. Mr. Ward was a delegate from the County of Allegany. He had already had a brilliant Congressional career and was an acknowledged leader of his party in the southern tier. He was prominent throughout all the deliberations, but was especially dauntless and wise in proposing the admission of both delegations, each, however, having a half vote. In presenting his plan, he necessarily crossed swords with Senator Conkling, then in the full flush of his fame and universally recognized as the exponent of the administration and the dispenser of its patronage. In the battle royal that ensued, the Senator made a speech which is still remembered as one of his most fervid and forceful utterances, but Hamilton Ward, alert, resourceful, adroit, and, more than all, sagacious and patriotic, a foeman worthy of his steel, would have carried the day, save that the well drilled forces of the administration excelled in numbers and had the coherence which public patronage too often produces. His defeat, however, did not diminish either the personal standing of Mr. Ward, nor

stain the integrity of his public record. It was a defeat which redounded to his credit. Had he succeeded, much of the subsequent dissensions within the party would have been placated and the ill-starred Liberal Republican movement, with the hostilities it engendered and the humiliations it caused, would have been avoided."

The Greeley delegates were very grateful to Mr. Ward for his interposition in their behalf, and by a resolution he was formally thanked by the New York County Committee and Asher Barnett, one of the delegates, in a letter to him, dated Oct. 7th, suggests that "the time may come when you will be called upon to occupy the seat of one who now disgraces it." (referring evidently to Senator Conkling). It is interesting to note that the friendship between Mr. Ward and Senator Conkling, which lasted until the death of the latter and which had a profound influence on Mr. Ward's career, sprang from this antagonism which engendered mutual respect.

Time went on and Mr. Ward devoted most of his energies to his profession. The Greeley movement on the part of the so-called Liberal Republicans, while it was a protest against the favoritism and extravagance of the Grant regime, enlisted his sympathy, but when it became an organized movement to disrupt the Republican party he held aloof. Many Democrats, however, claimed that he was secretly supporting Greeley, and to conclude the matter he wrote a letter to his old friend, Dr. Pratt of the *Corning Journal*, which was widely copied and which is as follows:

Belmont, Aug. 15, 1872.

Dr. George W. Pratt:

Dear Sir:—Yours is received, referring to newspaper discussion on the subject of my position politically, and should have been answered before but for the pressure of professional duties.

I do not know why the newspapers should be troubling themselves about me. I am holding no office, and am seeking none, and only want to be "let alone" to attend to my business. Some of the newspapers have

done me great injustice in representing that my position was doubtful; others still greater injustice in asserting that I was waiting to determine which was to be the "winning side."

I wrote you some time ago how I felt, and that I was for Grant. I think still that our true safety lies in his election. I have criticised freely some of his acts, which need not be repeated here, and for this reason, I suppose, some people have regarded me as unsound, as many persons cannot understand why a man should refuse to hide all the faults of his party and his candidates, and to magnify all those of the opposition. Unless he is unsound at heart, I think in politics, as well as in other matters, we had better keep to the truth, and admit frankly such mistakes as the President has made. His letter of acceptance seems to concede that he has committed errors, and proposes to avoid them in future. At least the sharp criticisms of the campaign will admonish him in that direction.

I have uniformly insisted that the administration of public affairs by the present administration has been a great success in these respects:

The laws have been faithfully executed; the Union men of the South have been protected in all their rights; a large amount of the public debt paid; public credit re-established, and general prosperity has attended the business interests of the country.

I have great respect for Mr. Greeley as a man, and believe him sincerely opposed to fraud and corruption, public and private.

Had he remained in the Republican party, and been the nominee of that party, I could have cheerfully supported him for President. But, pray, what can Mr. Greeley do with the Republican party against him, and driven as he will be, if elected (to obtain that support which his administration will need and must have to rescue it from absolute failure) to the Democratic party?

Will they not demand wrong changes? Will they not require a new policy? Will not the former rebels who constitute a large influential portion of his supporters demand some unequivocal recognition?

It will not satisfy the party who elected Mr. Greeley should he tread in the beaten path of his immediate predecessor. He must do something different. Will that change be as to the finances? Shall we hear again the old proclamation "that the way to resume specie payments is to resume?"

Will it be as to the Kuklux and other laws, whose enforcement is needed at the South? It will be as to some or all these things, and that demand will be peremptory, and cannot be resisted; and so Mr. Greeley and the comparatively few Republicans who go with him, will they not be swallowed up in the great "tidal wave" of the Democracy, and found in the end to do many things they now shrink from? History will only repeat

in a large scale what has occurred in Tennessee, Virginia and Missouri. In each of these States the Democracy put forward a Republican for Governor, and taking a small portion of the Republicans with them, by the movement elected him, but took good care to elect at the same time a Democratic Legislature. What was the effect? The hitherto Republican State became intensely Democratic, and remains so. The greater swallowed up the less.

I hail with great joy the adoption, by the Democracy, of the constitutional amendments and the "new departure." If they mean all this the nation has taken a great stride in the direction of permanent reconstruction and peace. I will not question their sincerity here, but it is due to the question and to ourselves to say that we must be permitted still to think that we are quite as capable and trustworthy to take charge of the nation, and preserve all the fruits that we have won, as to trust them to the Democracy and former rebels. We must still be allowed to remember that not a Democrat in Congress, by vote or deed, has ever acted up to the professions of the "new departure."

At least we must expect mischievous legislation if the Congress is not Republican. The opposition believe the reconstruction laws oppressive and unjust. Will we not have an amendment here and there? Will the reconstruction laws be enforced in "spirit and in truth?" Will they be enforced at all? I was greatly alarmed in reading an editorial in the Tribune under date of June 28, 1872, under the title of "Representative Government in Alabama," in which the reconstruction acts are sneered at, if not directly assailed.

Again, if Mr. Greeley is elected, the last disability is removed from the last rebel, and Jeff Davis, Robert Toombs, and John C. Breckenridge can return to the Senate of the United States. I have fought too long and hard against such a consummation as this to consent to it now.

The Cincinnati platform contains the suggestion, and the Greeley press are teeming with the idea that the rights of the States have been invaded. We have much mysterious talk about "centralization." Mr. Schurz is taking up and earnestly repeating the old Democratic clamor about the "sovereignty of the States."

Now, what does all this mean? Does it mean that all protection is to be withdrawn from the Union people of the South? Does it mean that the collection of the federal revenue in the South is to be taken from the hands of those who favor its collection and placed in charge of those who think the South should contribute nothing to the payment of the national debt or the expenses of the government?

Does it mean that civil rights bills and other acts of Congress to secure the rights of the people of the several States should be repealed, and that the Republican party in its great work of compelling the "in-

urgent States" to be Republican in deed as well as in form, has gone too far with the power of the national government? It certainly means some or all of these things, and if any, can we who helped do this work, now aid in its destruction? They are treading upon dangerous ground. This is just the point at which Calhoun began to teach forty-three years ago. First it was "State sovereignty." Then it was the right of the State to judge for itself whether the government was right or wrong in a contest with a State. Then came the doctrine that in case of such difference, and a collision came, the citizen owed his first and superior allegiance to his State. Then, as a natural consequence, though Calhoun had passed away, came secession, rebellion and the Confederacy.

The danger under our form of government lies not from the general government, but from the States. State pride, interests and attachments are stronger than those entertained for the nation.

The State is the immediate home government of the citizen; he feels it more operating upon all his rights, social and business affairs, than the other; and when the hour of trial comes, his first feelings and desire is to go with his State.

Suppose a state of war existed to-day between the loyal State of New York and the Federal Government, can any one doubt where the sympathies of the majority of the people of this State would be? The tendency all the time is to strengthen the parts and weaken the center. This tendency should be combatted in all our public action and not increased.

There is but one safe course, my friend, for us to pursue; whatever may be the resentments of the hour or the interests of individuals, we should be guided by principle. Our path of duty is plain—to stand by the old ship; there are pirates, no doubt, on board, and the craft has seen some foul weather; but the ship is sound from heel to topmast, and there is a good man at the helm, and he will keep her steady in the breakers.

We know that we are safe where we are. It is dangerous to change. We know that under the Republican party the nation has been saved; its honor preserved; its faith kept, and general prosperity has come to the people. Will we have all these under the new guardians? For one, I am not willing to try the experiment.

No man can regret more than I do the break in the party in this State. Good and honest men have gone from us. I tried hard to prevent this in the Syracuse convention last fall, but my feeble voice was not heeded in the uproar. Had my peace proposition been there adopted, much of this could have been prevented; but that is past and the past is irrevocable, and we must now deal with the stern future that is close upon us as best we may. Please pardon this long letter.

Truly, your friend,

HAMILTON WARD.

The course adopted by Mr. Ward was that of Republicans generally and Greeley went to a defeat more overwhelming than any in the history of the country.

In 1873 Mr. Ward took considerable interest in the Senatorial contest and rendered much assistance to Col. A. J. Wellman, the successful nominee.

On the 27th day of August, in this year, a second son was born at Mrs. Gleason's Water Cure, Elmira, N. Y., and was christened John Chamberlain, after Mrs. Ward's father.

In 1874 Mr. Ward delivered the 4th of July address at Salamanca, and often afterwards related with much enjoyment how the audience suddenly departed to view a fight between two Indian squaws in an adjoining field, Salamanca being situate on the Cattaraugus Indian Reservation. In this year H. B. Smith was a candidate for a third term in Congress; Harlo Hakes of Steuben was also a candidate. The number of delegates apportioned to each county was such that Allegany could nominate with the assistance of any other of the three Assembly districts. The delegates were elected by districts. Mr. Ward supported Mr. Hakes, and after a fight secured the Allegany County delegates and nominated Hakes, who, however, was defeated at the polls by Charles B. Walker, of Steuben, the Democratic nominee, who carried both Chemung and Steuben.

The early part of the year 1876 was devoted largely by Mr. Ward to defending his old friend and associate in Congress, Dr. H. Van Aernam of Franklinville, Cattaraugus County, against charges preferred against him as Commissioner of Pensions by an "ex-Confederate House," and in July both Mr. Ward and his client were examined before the House Committee on Pensions. The defence, however, was so vigorous that the prosecution was abandoned, and the Northern Press commented on Mr. Ward's success in a favorable manner. Dr. Van Aernam was a most interesting and scholarly man and continued to be one of Mr. Ward's warmest friends until his death.

The Presidential campaign of 1876 was a most exciting one, and every effort was put forth by the friends of Roscoe Conkling to secure for him the nomination. On May 27th



Alonzo B. Cornell, one of Conkling's campaign managers, and later Governor of the State, by letter urged Mr. Ward to go to Cincinnati to assist him. He, however, did not go, and it is worthy of note that he was never a delegate to a National Convention. In this year the county was harmonious politically and while Mr. Ward had the judicial delegates the Congressional delegation was for David P. Richardson, of Angelica. J. H. Hungerford, of Corning, was nominated and later elected.

In this year began Mr. Ward's contest for a judicial nomination, which, although long drawn out, at length had a successful termination.

Since Martin Grover, Allegany had been without a resident Supreme Court Justice and much inconvenience had been and in the future was to be caused thereby. Therefore there was a favorable unanimity of sentiment in the county when Mr. Ward's candidacy for that office was announced. The Elmira Daily Advertiser of Aug. 21st, 1876, contained the following:

At the recent Republican County Convention of Allegany County, delegates were chosen favorable to the nomination, of Hon. Hamilton Ward for Justice of the Supreme Court. The vote was by ballot and was unanimous, every vote being cast for the delegates favorable to the nomination of Mr. Ward. This is a tribute to his character and capacity no less complimentary than deserved. The following resolutions were also unanimously adopted:

"Resolved, That the delegates chosen to represent the County of Allegany in the convention for the 8th Judicial District, when called, are respectfully requested to use all honorable means to secure the nomination of Hon. Hamilton Ward, as Justice of the Supreme Court.

Resolved, That this convention accompanies the presentation of their distinguished candidate with expressions of fullest confidence in his ability, wisdom, integrity and fitness for the high position to which we trust to see him elevated."

We greatly hope that the friends of Mr. Ward will be successful in the effort they are making to promote him to the bench. The people of this Congressional District remember with satisfaction his long and faithful service to them and to the country during the most exciting and decisive years of re-construction. Through all those years the eloquent voice of Mr. Ward was always heard for the right, and his vote is recorded for

every one of those great and beneficent measures which constitute the crowning glory of the Republican party. His old constituents in Steuben and Chemung will rejoice in the probability of his once more being called to public life. Mr. Ward is not only a true and undeviating Republican, but he is a learned and able lawyer, a profession to which he has devoted himself assiduously since his retirement from Congress. The Judicial District in which he resides has many eminent lawyers, but none, in our judgment, who are more thoroughly fitted by public experience, by legal learning, by native ability, and by integrity of character, to discharge the duties and adorn the office of Justice of the Supreme Court than Hamilton Ward. We shall look with a good deal of interest to the result of the Judicial Convention, in the hope that a nomination so eminently fit and commendable shall not fail to be consummated.

As at the present time, the vote in the judicial convention was by Assembly districts, each district having two delegates. There were fifteen Assembly districts in the Eighth Judicial District, and Allegany, with but one district, was in the southeast corner. All her political affiliations were with the counties east of her and the contest was almost a hopeless one. The district was composed of the counties of Erie, Niagara, Orleans, Genesee, Wyoming, Allegany, Cattaraugus and Chautauqua, and each county had one or more candidates. The convention was held in Buffalo, Sept. 17, and was long drawn out.

Beginning with his two votes, Mr. Ward's strength gradually rose until on the 39th ballot he received 11 votes. The voting continued until 83 ballots had been taken, the last of which resulted in the nomination of Albert Haight, then County Judge of Erie County, and now one of the Judges of the Court of Appeals, and a distinguished jurist. Other candidates were Henry A. Childs, of Medina; A. K. Potter, of Lockport; L. M. Bangs, of Leroy, and James O. Putnam of Buffalo. The result of this convention was loyally accepted by the defeated candidates and Judge Haight was elected by the usual large Republican majority.

Mr. Ward's record in Congress was still of much assistance to him, and the votes which came to him in the judicial convention were doubtless somewhat on this account. The New York Sun, always Mr. Ward's friend, still remembered him, and in a long editorial, Oct. 18, 1876, referred to his

honesty and opposition to improper appropriations, condemning the Republican candidate for President, General Rutherford B. Hayes, for his course as a member of the 40th Congress in failing to support Mr. Ward's opposition to certain contractors claims for ship building generally adjudged to have been improper and which Mr. Hayes had voted to allow.

On this and other accounts the Sun supported Mr. Tilden, the Democratic nominee, who carried New York.

Mr. Ward attended the Philadelphia Centennial this year with his wife and children.

Almost all of the first half of the year 1877 was given up by Mr. Ward to the preparation and trial of the Hendryx case, one of the most remarkable murder trials ever held in New York State. The tragedy was described in the Wells-ville Daily Reporter and Democrat, a special daily paper, and the first daily in Allegany County, printed exclusively to report the case, as follows:

"Early on the morning of Friday, July 7th, 1876, the citizens of the quiet village of Cuba were thrown into great excitement by the report that the house of Henry C. Hendryx had been entered by burglars during the night, and that Mrs. Hendryx had been shot and was in a dying condition, and that Mr. H. had been wounded in an encounter with the desperadoes. It was alleged that Hendryx's pocketbook was found in the yard outside, from which had been taken ten dollars. The people of Cuba quite generally accepted this theory—though not all. The editor of the Patriot visited the scene, and the following is an extract from the article which he published concerning it

Mrs. Hendryx was shot first, the ball undoubtedly being intended for him as he sprang from bed to grapple with the burglar. The bullet passed through Mr. Hendryx's shirt, and entered the abdomen of his wife. Mr. Hendryx followed the assassin to the door, where he was fired upon again by, as he thinks, an accomplice of the first assassin. The second shot took effect in Mr. H.'s thigh. Mr. Hendryx also has one of his fingers shot off. But whether it was done at the time his wife was shot or while he was pur-

suings the assassin, he cannot tell. Our entire village and the entire town is most fearfully excited over this almost double murder. Word of the terrible crime has been telegraphed far and near. Every man has formed himself into a vigilance committee. A crime of this magnitude perpetrated in our quiet village, on one of the most prominent and respectable families here, has shocked the entire community, and all are wild with excitement.

Mrs. H. lived a few days, suffering intense agony, and died. As investigation proceeded, the mystery deepened. As the mystery increased, excitement multiplied. Notwithstanding Hendryx's friends accepted in general terms the theory which he presented, there were a few who did not, and although the excitement gradually subsided (the Coroner's jury failing to elicit sufficient proof to censure him) there were those who believed a foul wife murder had been committed, and who quietly set about investigating the case.

The relatives and friends of Mrs. Hendryx appeared before the grand jury at Angelica at the October term, a little more than three months after the murder, armed with sufficient evidence to procure the indictment of Hendryx.

It was made to appear to the grand jury that the theory of a burglary and murder was inconsistent and unreasonable; that a brave and faithful watch-dog in the house had given no alarm of such an approach; that, although himself only slightly wounded, Hendryx gave no alarm from 2 A. M., the hour of the shooting, until daylight or after; that three shots had been fired that same night, according to admission, from Hendryx's revolver, after daylight, as he claimed, to rouse the neighbors; that an intimacy was known to have existed between the prisoner and a certain Mary Webber—"Molly," as he spoke of her—both before and after the shooting, which was unbecoming and suspicious, &c.

Hendryx was much excited during the sitting of the grand jury. He came to the jury and counseled with friends to aid him, and here was arrested while awaiting the result. From that time to the present he has remained in the jail at Angelica awaiting the trial which has now begun."

The defendant, Henry C. Hendryx, was a farmer of about 32 years of age, a resident of the town of Cuba, and of good reputation. His wife had formerly been a Miss Amsden, of one of the prosperous families in the county, and was highly respected. The woman, Mary Webber, was a respectable widow, a first cousin of Hendryx and a resident of Cazenovia, Madison County, N. Y. Perhaps no case ever tried in Western New York created more interest. Certainly Allegany County was never so much aroused. The local papers reported the trial in a way which would have done credit to a metropolitan journal, and to some extent satisfied the curiosity of those who were unable to gain an entrance to the Court room. The District Attorney of the county, C. N. Flenagin, retained as counsel for the people Hamilton Ward and Frank Sullivan Smith, a son of William Smith of Angelica, one of the political leaders of the county. Frank Smith was an energetic, studious young man, and took charge of the medical side of the case, which was quite extensive. He has since become one of the leaders of the New York bar. For the defendant, Horace Bemis, of Hornellsville, was the principal counsel, and associated with him were E. D. Loveridge, Robert Armstrong, and Harlan J. Swift of Cuba, and O. S. Vreeland of Salamanca. Judge George Barker of Fredonia presided, and Elisha B. Green and Charles H. Beckwith were the Justices of Sessions.

The first trial was held at Belmont and Court opened Monday afternoon, July 22nd. The jury was drawn in three hours. Its members were: Ira G. Lesuer, Boliver; Lewis H. Ackerman, Willing; Luke B. Mason, Genesee; Perry Wilber, Boliver; W. A. Hewitt, Willing; Frank Krusen, Willing; Willis Bower, Amity; Erastus F. Root, Genesee; John Foster, Wellsville; Andrew J. Armstrong, Genesee; William B. Green, Independence, and Andrew J. Griggs, Independence.

The trial lasted two weeks and attracted attention all over the United States. Both Hendryx and Mrs. Webber were sworn, and unflinchingly denied the charges made against them. The jury retired on Saturday, February 3rd,

and on Monday, February 5th, was discharged by the Court, having reported its inability to agree upon a verdict. It was understood that ten voted for conviction, one for acquittal and one uncertain. The juror voting for acquittal was the foreman, Lewis H. Ackerman, of Willing, who it was said shared the peculiar spiritualistic beliefs of the defendant.

Both the prosecution and the defense immediately prepared for another trial, and at the next term of the Court of Oyer and Terminer, which was held in Angelica, in June, the case was moved. Judge Albert Haight, then in the first year of service, presided, and his fairness and impartiality gave general satisfaction. The counsel were the same as on the first trial and the jury drawn to try the case was as follows:

Charles B. Kendall.	Arthur Clark, Granger.
Paul Dow, Rushford.	Daniel Bennett, Granger.
Thomas Ewart, Grove.	John Grunder, Jr., Grove.
Martin M. Mills.	Samuel Thornton, Grove.
Martin Lyon, Rushford.	Andrew J. Fenner, Almond.
Humphry Dunning Burns.	Calvin J. Jenks, Grove.

After three weeks trial, 72 witnesses being sworn by the people and 53 for the defendant, the jury, after a brief deliberation, returned a verdict of guilty of murder in the 2nd degree, and the Court sentenced the prisoner to imprisonment in Auburn State Prison for life, in which prison he still exists. Mr. Ward's summing up in this second trial was one of his greatest efforts, and has fortunately been preserved.

#### ARGUMENT OF HAMILTON WARD.

May it please the Court and Gentlemen of the Jury: The Grand Jury of this County have presented to you for trial, Henry C. Hendryx for the murder of his wife. The District Attorney, in the discharge of his duty as one of the people, and as the representative of the people, has brought the case on for trial.

Under the law of the State, by the appointment of the County Judge, and at the request of the District Attorney, I have been associated with him, to represent with him the people in this prosecution.

No private parties are here except the defendant. No persecution is here against him. No feeling of malignity is represented by us. We do



not represent the Amsdens; we do not represent the Hendryxs. We represent the people.

We have but one duty, gentlemen, under our oaths to perform, as you have, and that is to see that this prisoner has a fair, honest and impartial trial. If he is innocent we do not want him convicted. If he is guilty we demand that the law shall be vindicated and society protected. We entered upon this case with no other feeling or desire. We desire that the public shall be protected. That he shall have all the benefits and sweet charities of the law, and all the presumptions in his favor that it gives him, and that the people shall have all the protection that it gives them.

We recognize this as one of the most solemn cases that has ever come before a human tribunal, and we have pursued it day by day, week by week, hoping and hoping—hoping gentlemen, that somehow, in some way, a light would fall upon us, as it did upon Saul, of Tarsus, as he journeyed toward Damascus, that should lighten up this unfortunate man's case, and should point out in some way that some other man had done this deed besides him.

We have waited for his counsel to speak and have listened to him carefully. We have heard all the witnesses; we have sympathy for that aged mother that sits by his side, with that sweet devotion that a mother only can have; we have sympathized with the friends that have come from a distance to stand by him through this trying ordeal, and we respect them. We have sympathized with the aged father of the murdered woman, as he stood upon the stand, testifying with trembling voice and choking accent. We have sympathized with the sisters and brothers, as they came before us, one after another; and it is a case that peculiarly calls for all of the softest sympathies of our nature. But, gentlemen, we are bound to say, that we have nothing to do with any of these considerations. This is not a question of feeling, or of sympathy. And you full-grown and middle-aged men, men who have all the responsibilities which society and the laws have imposed upon you, must consider this question upon its merits, upon the evidence, and as that evidence points, so you must decide. And if consequences come—consequences that are painful, we have only to remember that we have done our duty, and that we have nothing to do with the consequences. And if men will violate law—commit the highest crimes known to the law, break the peace of society, and the good order of a community, and strike at the very vitals of society—although they entail misfortune upon their friends—still, duty, manifest, unflinching and stern duty confronts us and we must do what is right, and what the law demands.

Now, gentlemen, I will proceed to examine the questions involved in this case. I do not expect to speak of them all, and I ask of you, if I should omit anything, that you will not think I attach no importance to it,



for you will see that in the short time I shall occupy in this case, I have not the opportunity to attend to everything. We have sworn over a hundred witnesses and spent three weeks' time in the trial of this cause, and it cannot be expected that it can all be crystallized together in the time that I shall occupy in addressing you.

On the night of the 6th of July, 1876, in a little house upon a hill side about a mile from the village of Cuba, lived the prisoner and his wife, his little boy, a hired man, and a woman of whom I shall speak by and bye. Although this woman had been at this house every night right along from the month of May, so far as we know, except when the prisoner took her out riding, or took her on a visit to other places,—yet by the conceded evidence in the case, and as she herself swears, for prudential reasons of her own she was absent on the night of the 6th. The hired man was also gone, and he explained the reason of his absence; he was gone to visit his family. We see Mrs. Hendryx the evening before in the village of Cuba with her husband, and so far as the evidence goes, that was the last cheerful hour of her life. They have taken occasion to prove that at that time she was joyful. The next occasion that we call your attention to is at their house, where these three persons, the prisoner, his wife and little boy, occupy that house alone. About two o'clock in the morning, from the statement of the prisoner, his wife is fatally shot by his side. Shot, while sleeping in his own bed, and so far as this case shows, no other human being was there, except himself and the little boy. The first person we find there in the morning is Mary Webber, and she discovers nobody there except this prisoner, his wife and little boy. That the woman received the murderous shot then and there, is conceded, the shot of which she died. And so far, although a year has elapsed; a winter's snow has come and gone; spring has brought its flowers with their fragrance; and the summer time has now come with its bloom and beauty, and thousands and thousands of minds have been trying to discover the murderer of Cynthia Hendryx; detectives have been brought into use; the jails and prisons have been ransacked; they have examined and looked with that keen scent with which men will look when they are on the track of blood; and yet, gentlemen of the jury, suspicion points to no one but the prisoner. No one else is found upon whose head rests the least taint of suspicion. Even the vagabonds whom Mr. Swift followed, turned out to be myths. His Honor would have rejected their evidence if I had objected to it, but I did not want to do that. If there was any evidence pointing to anyone else I wanted it to come out. But it comes back to this, and back to this only, that every time the finger swept around the dial it settles at last and rests upon a single spot. (Pointing to the prisoner.) Men were reluctant to accept this conclusion. This man had served his country well upon the battle field. He had been kind to his parents. He had borne a good reputation in

the community. If they could have got rid of the ugly fact that the life of as sweet, pure and upright a woman as God ever created had been foully taken away, it would have been different. There would have been no need of putting this county to this vast amount of expense. But they could not do that. Everything was shaped to that man's mind and in his interest until he was arrested. The coroner's jury met. They did not want to fasten the stain upon him. They were made up of his friends, companions and neighbors, some from the same secret organization that he belonged to. And even in the face of all the terrible evidence that enveloped him they did not want to fasten the guilt upon him, and charged the shooting on some person unknown. Dr. Ashley tried to take Hendryx to the door that morning and adjust the shirt, and see if the wounds on his person could not have been done by an outsider. The old man Amsden with broken heart and trembling limbs hesitated before he accused him. Mrs. Grove, with her dark suspicions and the knowledge she had, hesitated; they all hesitated, but still it grew. You cannot tell how, nor why, but still it grew. The little cloud soon overspread the whole Heavens. That great mysterious process by which human life is to be preserved and this terrible crime punished was at work; and that is the reason that "murder will out." Hide it as you may, bury it as you may, "blood will tell"; and human instinct will work out the murderer. It has worked him out in this case gentlemen of the jury. We are told this man's character is good. Indeed, it was. Had there been the least taint upon his character he would have been arrested the next morning and without delay.

Now gentlemen how did this man fall? He had a good wife, a bright child and a pleasant home, they say. How did he fall? Ah, gentlemen, how did our first parents fall? How have many men fallen, all through the checkered periods of the world's history? The page of history is filled with the overthrow of the bright lights of the world. And we have seen the tombstone raised over the good name of many a fallen friend, who has gone step by step, down into his moral death. It is not limited to any particular time of life, the youth and middle aged alike succumb, and it is a danger which surrounds us all; all who are frail human beings. And it becomes us all to watch with vigilant eye, lest in an unwary moment we may be destroyed.

In the fall of 1875 a woman came into that section for the purpose of attending the funeral of a relative. She came prepared to stay but a short time, bringing but a scanty wardrobe. There seems to have been but little acquaintance between her and the prisoner, although they were related. They had lived apart from each other all their lives, and when they came together they met almost as strangers. There was nothing particular in their relationship that should keep them apart, because we know that it is not an uncommon thing for marriage to take place between

cousins. It seems that soon after she came here she began to get pretty well acquainted with the prisoner.

Of course we cannot point out all the little stages and approaches by which the deed was brought about. These little things are not always published or put into a newspaper, but at any rate, we know this, that in May, a short time before the application to insure the life of Cynthia Hendryx, these two people took a ride to Franklinville. Previous to that they had a long consultation in the barn. Mrs. Hendryx wanted to go to Franklinville. The hired man, Kimball, offered to do the milking if they would get a man to help and let her go, but she was not permitted to do so. They had the ride. That was for some purpose. They had a conversation in the barn. That was for some purpose. So in April when it was cold these people were setting up in the barn. Was it "Cousinly Affection"? Was it "pure womanly instinct" that prompted all this? And then, gentlemen of the jury, what do we have? We have the application to insure the life of Cynthia Hendryx for two thousand dollars, dated the 19th day of May; after the barn scene; after the ride to Franklinville when Mrs. Hendryx was not permitted to go. What else do we have, gentlemen? We have the application to insure Mr. Henry Hendryx against accident. Prudent man, is he not? Too poor to pay the premium. Had to give his note for it. Never had been insured in his life before. Mrs. Hendryx was a strong, healthy woman. Himself a strong, healthy man. Mrs. Hendryx 31, and he 32. In the prime of life. In the very vigor of manhood and womanhood. Why when a man gets his life insured it is for the benefit of his family; to protect them in case of his decease. Did you ever hear of a man's getting his wife's life insured to protect himself? He knows and feels, if he is a good and true man and husband, that so long as his right arm is spared, and his heart is right, he can take care of that woman and child. He does not have to go and hunt up an insurance company, and give his note for the policy. I do not claim that he insured his wife simply to get the insurance, but it was part of the murderous scheme and a link in the terrible chain that is being wound around this prisoner.

Then we have them down to Mr. Kinney's and Mr. Hendryx talked about going down the river. And I am now giving Mrs. Webber's statement. You will remember that the principal witness in this matter is in the grave; her voice is forever still in death. Silently she sleeps, in that sleep which knows no waking. But Mary Webber is here. She tells us that when Mrs. Hendryx talked about going down the river, that she suggested that she should stay and keep house for her. And she did stay and keep house. And what housekeeping it was gentlemen. There was house-keeping seven days, and a ride four nights out of seven; and one day ride. Four night rides and one day ride, and Kimball says, that they came in at 9, 10 and 11 o'clock at night, and Mrs. Webber does not deny it. Now I

don't know but this is all "cousinly" and right, but, did you ever have such a cousin; and if you did, do you think your wife would be perfectly passive and calm under the circumstances? Don't you think pretty soon after that, you would get the precise hint Cynthia Hendryx gave her husband at the breakfast table, about a week before she died?

What else? Why they go to Pennsylvania, and Kimball says that Mrs. Hendryx wanted to go with him, and Hendryx put her off. And Mrs. Webber does not deny that, gentlemen. Of course, they couldn't claim but what he was telling the truth, when he is supported by such an immaculate institution as she is. They go to Pennsylvania. They ride together. One lady saw them in an attitude which she says she did not think was just the thing for a man with another than his wife. Counsel thinks he could risk himself under similar circumstances without committing any sin, and do it in such a way that even the most refined lady would not impute any thing improper to it; but there was something in that occurrence that struck the witness that it was not proper.

Now what were these people talking about all the time? Counsel says they might have been at home, or gone into the back lots, if they had any improper intentions. No, no, gentlemen, the thing was in the glow; it was a new thing. The blood was fevered. There was something that had taken complete hold of this man. In his daily routine about the farm, attending to his duties, he had lived peaceful and quiet with the young woman that was his wife. They had lived in peace, and the tempter had never come to him before. If he had been a "man of the world"; been accustomed to intrigues and licentiousness; if he had walked about with the sisters of shame and death; it would not have been so apt to have taken hold of him. It was a new thing. These rides were rides of pleasure. What did they talk about on the trip to Pennsylvania? What did they talk about two or three hours in that bed room, on that bed that was "mussed" at Stannard's Corners? Gentlemen of the jury, they were concocting the murder of Cynthia Hendryx.

It is true gentlemen, that every feature of the evidence, whether it comes from the people's side, or from the prisoner's, throws a lurid light upon this dark, foul deed, and upon these actors. Now they come back, and I am not going to trifle with this jury by saying that this evidence does not establish improper relations between the prisoner and Mrs. Webber. If this evidence does not establish such a state of things, nothing will establish it. If you refuse to believe Mrs. Dodge, Mrs. Amsden, and Kimball, and all the other witnesses in this case, that point out these adulterous relations on this road of crime, then no argument on my part will do it. I assume that the moral nature of the man was crushed. That the serpent had entered his Eden; that another woman had obtained the mastery over him. And now, gentlemen, he enters upon the broad path of death and hell. A path full of quicksands and pitfalls. He enters upon an ocean of

storms and tempests, without rudder, or compass; and) after that his wanderings are manifold and terrible. His sins are piled up like mountains one upon another. And so it is, gentlemen of the jury, when a man departs from the path of integrity and truth; when he leaves the circle of his family and goes out in the world in pursuit of other associations; he hardly knows, —and I have almost said, God hardly knows,—what he will do.

But to come back to the case, he procures this insurance. That was a bye play; an instrument. The great thing was to get possession of this other woman. But counsel says he had possession of her already, and he says it is wonderful to him why he should have done this deed for her. And he asks why is this, again and again.

Gentlemen, that was a question that was asked a great many years ago; asked by a wise and godly man; and you will find it recorded in holy Writ. He says, "there be three things which are too wonderful for me, yea, four which I know not: the way of an eagle in the air; the way of a serpent upon a rock; the way of a ship in the midst of the sea; and the way of a man with a maid." That is the thing that confounds my friend on the other side. He does not understand the last. It was not understood thousands of years ago. It will never be understood. There was something about this besides mere affection and sentimentalism. I am not going to say that after the death of Mrs. Hendryx that all these meetings meant illicit intercourse. Counsel says, if this man was guilty, why so open and so bold? I say, gentlemen, there was a deeper reason and a different feeling than all that,

A murder had been committed. Suspicious eyes were upon this prisoner and that woman. The house was thronged night and day. Suspicions came upon every breeze, and permeated every crevice of that house. They had entered the zigzag path of crime, and as soon as a man does that he loses his self-control, and acts in an unnatural manner; and, gentlemen of the jury, that is one of the means pointed out by Providence for the detection of crime. All criminals are foolish. No man or woman has got head enough to commit murder and carry it through successfully. This man had committed murder, and this woman knew it. Why were they in the bedroom two or three times a day? Why did she interrupt him when he and Mr. Bruce were talking? Why did she interrupt two or three other witnesses in their conversation with the prisoner? Why were they at the barn together? And why did they lay by each others side? It was because they were carrying a terrible secret. They could look to no one else; and the storm was gathering, and the heavens were lurid, and black; and they came together whenever they could to console each other. It was not the mere desire of illicit intercourse that they thought upon. They had buried a household, and now he was in the deep sea of trouble floundering in all directions.

Now, what is done? Mr. Bruce is waited upon two or three times, and enquired of about this insurance. Counsel has told you that Mr. Hendryx did not suppose that the insurance matter was all right. I tell you, as I understand the evidence of Bruce that he did substantially inform Mr. Hendryx that the thing was in just as good a position as if the policy had come and the note had been given. That his rights would be just as perfect. And what does this man ask Bruce? Gentlemen, did you weigh that? It weighs a ton in this case. "If anything should happen Mr. Bruce; if any thing happen are the policies good?" Mr. Bruce assures him that it is just the same as if the policy had been received and paid for. Now it is true that the like policy was not made payable to him, but it was not his fault. He tried to get it made payable to himself. Tried to get his poor wife to have it made payable to him. And, gentlemen, the accident assurance policy of his covered a double idea. First, it would give him a weekly allowance by and by when he should shoot his hand and leg; and in the second place he could claim it was payable to his wife, a pretext to have hers made payable to him.

And the counsel on the other side has got a name for every body on the People's side. Kimball is a "hell-hound"; all the Amsdens are perjured; Maggie Hawson is a "perjured wretch;" Bruce is a "detective;" and your humble servant a "popinjay." And I suppose when the history of this case is written, we shall step out in our new character, and the counsel will be entitled to a patent for his invention. It is very easy to call people names, anybody can do that.

Gentlemen, Mr. Bruce has detected more rascals and sent more criminals to State Prison than any other man in the county. I have known him for years, and if we had a man like him in every community to look after rascals, and devote his time to the preservation of the public peace, to the preservation of your family and mine, we should not have so much crime. Perhaps we should not have had this long trial. Now, what does this man Bruce say? He says the prisoner came to him two or three times and talked with him about it. Wasn't this insurance an item in the case? While Mrs. Heudryx was there with this bullet in her kidney, and was mourning, and mourning, and was asking for him, when he was closted in the bedroom with his paramour; when she was languishing in death, what was he doing? Ah, the insurance was on his mind! He didn't seem to have an opportunity to weep just then. None of the thirty witnesses that can swear to just the number of tears on his cheek didn't seem to be around at that time. What was he doing? Why after Mrs. Webber had taken him into the bedroom and put down his pantaloons, and adjusted that bandage at this delicate place, he was ready for business. He goes out and wants to have his wife assign this policy to him. This was this grief stricken man, gentlemen; this was the man that counsel



says bowed his head by the side of the dead face of his wife and wept until he was taken out. He goes to the old man Amsden to have him get his wife to assign it and he rejects him, and then he goes for Mrs. Philbrick. And counsel has a name for her too; he tells us with a great deal of satisfaction on his face, how completely he has demolished Mrs. Philbrick. I have known Mrs. Philbrick for many years, more than I have the counsel. She was an honored wife and mother, in my village for many years. Her daughter married one of these 'prejudiced' Amsdens, and she happened to be on the scene of the murder about as early as any one, and against her will, the people have brought her here to testify. And I suppose it is permitted by the law, for the counsellor to abuse all these ladies. And the first thing that he did was to miss-quote her. I tried to correct him. Notwithstanding the terrible admonition that I had received but a little while before, I undertook to correct him; and he turned upon me in a manner I haven't got over yet. The shock upon my nerves was great. But I will correct him now, gentlemen, and will say to him here and now, that I do not desire to make any misstatements; and I will thank him to interrupt me at any time that he thinks I am doing so; and I have no doubt he will only interrupt me when he honestly thinks I am mistaken.

Now counsel goes at her, and when she expresses some reluctance to tell what she went into the bedroom for, counsel says she would not tell him why she went in. That is a pretty broad assertion. I undertook to tell him that was not her statement when I received the crack over the head from which I am now suffering.

What Mrs. Philbrick said was, 'I don't think I am obliged to tell.'

I have it from the Reporter's minutes; and it seems to me if he wants to be fair, he would not have stated it in the way he did. If it be true that learned lawyers can go at witnesses with pick-axe and shovel, and witnesses sit patiently by and say nothing, why then perhaps Mrs. Philbrick was wrong in resenting; but, gentlemen, I think if there were more Rena Amsdens in the world, that could scalp two lawyers at one shot, there would be less impudence and abuse of witnesses when upon the stand, by lawyers.

Now I go back to the bedside scene concerning this policy. The old man said, 'I don't care about that now,' 'I don't want her disturbed with that now.' It seems to me that the husband would have thought of that. I don't believe, gentlemen of the jury, if burglars got into your house and shot your wife to death, that you would be looking up her father the next day to get him to go into her bedroom to get her to assign an insurance policy upon her life to you. The old man calls Mrs. Philbrick, and she goes in to that suffering woman, who is struggling between life and death; between hope and fear. Oh, she wanted to live; the world with its bright



scenes to her young hopeful heart was very dear. She was the mother of as bright a little boy as ever God gave a mother. She felt she was in danger of death, still she hoped to live; and there was only one soul in all that town, one spirit in all that locality that had any other feeling but what she should live, and that nothing should come between her and that quivering hope, to lift her back to life; and the only hope for her recovery was absolute composure and quiet. There was only one that wanted her to realize that she might die, and that was Henry Hendryx. And so he proposes to have her last minutes tormented by the assignment of the insurance policy. Don't tell me this insurance has no part in this transaction. Mrs. Philbrick goes into that bedroom, leans over the bed. Martin Grove follows a little behind. What is done? Does Hendryx stay in the parlor? No. He follows after and with the stealthy tread of a cat he goes in there to overawe her and says something, and she looked at him and repeats the old story that had been put into her lips before: 'Well if Henry's policy runs to me, it is no more than right that mine should run to him.'

Now, gentlemen, I think that the understanding was existing between these two;—that out of this insurance money they were to go abroad beyond the reach of this scandal, and there enjoy the fruits of that crime. This woman was a poor sewing woman without a cent. They wanted money with which to operate in their new field; and hence it was that he was not willing his wife should die and he only receive one-third of the insurance, and his little boy two-thirds; but he wanted it assigned over to him so that he could enjoy it with his paramour. Gentlemen, am I right? Can you conceive of any other reason for this scene at the bedside? Now, gentlemen, what else? On the 6th of July they go to old Mr. Amsden's; there was great propriety in going there the day before the murder. There was great propriety in showing attention to his wife the day before. Has not the evidence already disclosed to you that this man was a man of invention, and a scheming man? He calculates things beforehand. He is planning. If you are not satisfied of this you will be before you get through with this matter. Now I am speaking of premeditation; because before the people can convict of murder in the first degree they must show premeditation. Now upon the 3d or 4th of July, that poor wife took her last journey down to Cuba village, on foot,—to do what? They prove it.

They wanted to prove it. She took her last journey down there on foot to buy this wretch some strawberries because she said his appetite was poor. Poor soul. Her last sun is about setting upon her, and she trudges to the village to get strawberries for the husband of her youth and the father of her child. Where was the carriage that had taken Mrs. Webber out four or five times a week? Where was her husband at that time? There was something on this man's mind, gentlemen; and when a

man has something on his mind that troubles him it does affect his appetite. But where was he when his wife was going for this luxury for him? Up in the woods practicing. This is the weapon. [Exhibits the revolver to the jury.] Why this Irishman that they have brought here says he was sitting down by himself. He didn't know what he was doing. He had his boots off, and the Irishman thinks he was paring his nails! with his revolver by his side.

Did he go up there to shoot "chipmucks," as he says? We don't generally shoot chipmucks with this sort of a weapon, do we? The Irishman on the other trial swore there was only one shot fired; and since that first trial he thinks there might have been two shots. He has been talking lately with Counsellor Swift. There were seven charges in this pistol. When he took it up in the woods that day there were seven loaded barrels. When Isaac Amsden found it the next morning after the wife was shot, there were seven empty chambers. What was this shot up in the woods for? They have taken occasion to show that cartridges are not always reliable. They will get damp and out of order. Didn't he want to know if the cartridges were in order and the pistol all right?

Now there was to be a trial of mowing machines July 6th at Isaac Amsden's. I do not know whether he was invited or not, but we have reason to believe that he went over there for the sake of appearances. He took his wife with him. That same premeditation that made him try his pistol in the woods, made him go with his wife to Isaac Amsden's. As he sat at the table, they noticed that he was nervous; that his hand shook. There was gathering upon him the murkiness of hell and murder. Brave as he is, and courageous as his army comrades have proved him to be, he shook a little as he looked into the face of his wife; and she gazed anxiously upon him. Did you ever go anywhere and have something happen to you? Would not your wife discover it first of all? The wife hovers over her husband like a guardian angel. She saw that his mind was troubled. That man that was to send her to the grave with this deadly weapon. She saw the guilty flush upon his brow, that will not be removed forever. The next day she saw the stain of murder upon his hand, which "all the rain in the sweet heavens" can not wash out. They came home that night.

And now we reach the crisis in this matter.

Mary Webber, as I told you before;—and I ask your pardon for repeating it;—I don't know why they proved it, for unless they too were moved by this silent impulse which always brings out the truth, that mysterious influence which no man can account for; but they proved that she left there that night for prudential reasons of her own. It would not do to have her there. Now he goes to bed, and where does he lie, gentlemen of the jury? He tells witness that he was in the habit of sleeping on the

fore side; that on that night he was on the back side, and why he was there, or how he got there he did not know. You see gentlemen on this map where the bed was. Close to the wall on one end and one side. If he had been on the fore side, and his wife was shot, how could he have said that it was burglars that did it. He knew better, and so he tells this bungling story, that he was on the back side. It was for a double purpose. First, to show that his wife was shot by others, who were on the fore side of the bed. Second, community would think the burglars shot at her mistaking her for him. He had sense enough to know that if he was on the fore side of the bed, others would say he would have received the shot first. Here was more premeditation.

Gentlemen, so far I believe I have stated undisputed facts. It is an undisputed fact in this case that this pistol was in the bedroom that night. That it lay there with cartridges in it, within four feet of the bed. There had been one cartridge discharged, and there were six remaining in it. He was there with his wife alone, so far as the evidence shows, and he had this weapon, of the right calibre, and capable of producing this result. And there were the physicians, who, with their great cruel knives dig into this poor woman's body and find the bullet, and that bullet fits his pistol. Counsel tells you there are a great many 22-100th cartridges. That is true, but when you consider that this pistol was by his side, that the ball found in her body fits it, and that he was out in the woods shooting the day before, the conviction comes to you, it all tells you, that he was the guilty man who did the deed. Is there any dispute about this? We have a man entangled in the meshes of a strange woman; we have the insurance policy; we have a midnight murder; the ball in her body fitting his pistol; then we have the extraordinary circumstance of his being on the back side of the bed. Do you need more? Though he bore all the good character that Satan had before he was cast out of Paradise, it would be damning. I tell you, gentlemen, this case is stronger than though a dozen witnesses stood by and saw it. Counsel complains about circumstantial evidence, and says that there are one hundred and fifty cases where men have been hung innocently; has he said anything about the tens of thousands of cases where guilty men have been hung? Has he said anything about the thousands of guilty men who have gone clear through the neglect, misconduct or stupidity of jurors? Why, here the counsel is calling Maggie Hanson a "perjured wretch," upon circumstantial evidence. How? Because they claim she could not see into Claytie's room from the place where she said she stood. Yet you must not convict this guilty man upon circumstantial evidence. Circumstances like these point unerringly to the truth as plain as characters graven upon the heavens in broad clear light, so that "he who runs may read;" and if you cannot depend upon such circumstantial evidence as this is, you might

as well abandon your prisons, and open their doors, and let every prisoner go free. It has always been the argument of criminal lawyers, when in a desperate strait, either that their client was crazy, or that he should not be convicted upon circumstantial evidence.

Why do they not put the little boy Claytie on the stand? They have had possession of him for months. He is old enough to tell. Nobody but Mary Webber is put upon the stand that knows anything about this business.

Now, gentlemen, what further have you in this case? The prisoner is found in the morning at the house. The wife is alone in her agony. It does not appear where the little boy was. He claims to be very much shocked and grieved, but certainly feels encouraged when this woman comes. Now the question is asked, why kill such a woman as his wife was, for such a woman as Mary Webber? That is their question. I don't know, gentlemen, what you would do; or what I would do. I don't know what the learned counsel would do under such circumstances. Perhaps most of men would not commit murder. But there was that breakfast scene; there was this guilty woman; there was the gentle wife. This proud, high-spirited woman had some talk with this man at the breakfast table, a week before she is shot. It was in the presence of Kimball, to be sure. But who was Kimball? He wasn't our man. The people have had nothing to do with him. He was the defendant's hired man. Kimball was honorable, and knew enough for him to employ him. He tells two or three witnesses that Kimball was a good boy. Counsel tells you that we brought Kimball here; and that he is a "perjured scoundrel," and "hell hound," and for that reason you should damn and taint the whole case. Gentlemen, it was the duty of the District Attorney, who has prepared this case with singular care and great fidelity, and has shown an ability in this case that even his most intimate friends did not suppose he possessed; it was his duty to bring him here; to bring Fred Hanson and Maggie Hanson here. Do you believe that the District Attorney would induce this man to commit perjury? Away with such ideas! They are just as vague and unsubstantial as all the counsel's talk, and are unbecoming and indecent. Counsel says Kimball did not swear to that before the Grand Jury. There he is mistaken again. There is no proof that he did not swear to it; and I affirm that he did swear to it before the Grand Jury. He makes great merriment of this poor man because he didn't fix the time exactly then, as he does now. What did he say? "They all got to talking at him and he hardly knew his head from his heels." If you have been a witness before a Grand Jury, you know something of it; and his expression is, "they all got to chanking at him and he hardly knew what he was about." You can understand this. He don't fail in any material statement, and when he is confirmed on three

important points by this interesting woman, Mary Webber, I say they cannot but say his statement is entitled to belief.

I say that Kimball is entitled to credit. Has Bruce got him to commit perjury? Has Dr Young? Has the District Attorney? Has Isaac Amsden suborned him? In the name of Heaven then who has induced him to commit perjury? Nobody. If this were a private controversy, then there might be a reason for it. But they say he has a prejudice towards this man because he could not get his pay. How absurd. No, no, that man told the truth, and he did not tell half of the truth; if he had been as shrewd an observer as Mrs. Hanson was, he would have seen more. But he did hear the breakfast scene and nobody contradicts it. One week before the murder Mrs. Hendryx did say: "That woman must leave or I will;" and he did say: "I furnish the provisions and I will keep what woman here I please." Suppose such a thing had come up in your family. Suppose you were in guilty liason with a woman, and brought her right into your own house, and two weeks before had brought her trunk and indicated that she was settled there for life. Would your wife rebel? The climax would come pretty quick. What would you do? You would have to choose between those two women. The life insurance policy had been written. The long conferences and rides have been had. The new affection has taken absolute, absorbing and overwhelming possession of him. There was no satiety for his lust. The Devil was in his blood, and fire in his veins; and he choose between these women then. Some men would have run away to a foreign country and there enjoyed their illegitimate affection with their partner in crime. Some commit murder. In olden time they used to poison. But the skill and science of the chemist would seek out the arsenic, and many a man has been hung, who has tried to get rid of his wife in that way, and many a man with good character, too. That method, if conceived by the prisoner, was abandoned. But he was a man of schemes, and a plotter. Ah! we must have burglars! And under the cover of night, and under the pretext of burglars, he shot his wife. Is not that the fact? They say there was the most unrestrained affection between this wife and Mary Webber, and when we put a witness on the stand to call out the words of this wife, to get her statement, two learned counsellors spring to their feet with frowns on their faces, and fright in their voices and say, "to that question we object." Oh, yes, when we sought to call out the words of that woman as she was passing to her grave, words which would have here the full force of prophesy, and all the God-like sanctity of truth: when we try to give that statement of hers, we are met by the strict rules of the law. Could we go to that grave and call her back to portray those scenes when she watched day by day, and saw her husband breaking away from all those holy ties which bound him to his

home and family; when she saw him sliding day by day down to ruin and death; could we call her back here, we should have this matter explained. She was a proud, as well as a loving woman, and as long as she had any hopes of his reclamation, would she go out on the housetops and proclaim his shame? No, no.

They told us with a flourish of trumpets that they were going to prove that these two women stood on the stoop with locked arms and bade this husband farewell when he left for the Centennial. Mr. Champlain got here and he dissipated that illusion. He didn't see any locking of arms. They have called the prisoners relatives to prove that she lived on intimate terms with this woman. She did not proclaim to his relatives what was going on in her heart.

We will refer to another circumstance. That man says that there in the gloom when the wife was in the agony of death, in the darkness and terror of that terrible night, that she approached him and wanted him to "marry Molly." Whatever saint-like qualities you may believe, gentlemen, that Mrs. Hendryx may have possessed, you know she never made any such request; and you know when this man tells it to us, that he tells a falsehood. And does an innocent man lie about a thing of that kind? No, gentlemen. That other woman had got possession of his soul; and when Mrs. John Grove said to him in so many words, "sir, you had better not come to my house with that woman;" when Mrs. Arvilla Grove spoke in all the disgust of her woman's nature, and said just what any other true woman would say under the circumstances, "there is no Mate Webber about me," they were the most natural remarks in the world, and it speaks volumes in this case.

When they are suspected, Mrs. Webber is sent to Cazenovia, and he sees Cook and has a talk with him about the matter; and he tells a man down to the village, "that whatever people may say, he shall obey his wife's last requests." There were three persons he wanted to conciliate; Cook, Rena Amsden, and Isaac Amsden. He wants to consummate this much for Mary Webber; and he wants their consent to his marriage with her. He goes to Mrs. Rena Amsden, the last day of his wife's life, when the last shadows of this world are fitting before her;

"When she hears a voice they cannot hear,  
That bids her not to stay,  
And sees a hand they cannot see,  
That beckons her away,"

he is talking with Rena Amsden about a ring he says his wife wanted her to have. He had not the courage to tell her then about the other requests that he tells Cook and Isaac Amsden about later, but he talks with her



about a ring, and about taking Clatie. He says the wife requested that the morning she was shot. Do you see? He don't say anything to Rena about a gold headed cane. But Rena must be conciliated. You have seen that this bright, keen woman Rena, was looking into this business, and she must be conciliated. And does counsel say now that any stain is to be thrown upon Rena Amsden? And does the younger counsel say, does he have the indecency to say that she was not just what she should be, when the prisoner himself says that Mrs. Hendryx laying upon her death bed, said that she wanted her little child given to the care of Rena Amsden? In September he again tells Rena about the wife's request and says that Cynthia the morning of the day she died, when he was alone with her, requested that Rena should have the ring that Cynthia wore, and the little boy. Rena at once says, "why, Henry, you told me this the day she died, and said she requested it of you the morning she was shot before anyone came." Rena remembered this first conversation; it was burnt into her soul and Charles, her husband, remembered it also.

Then he talks with Cook about going to Cazenovia; and he tells Cook there on that morning after she was shot, that she had requested him to marry—who? Mary Webber! To most of women in such circumstances it would be the last thought that would enter their mind, that their husband should marry anybody. Nine-tenths of them would shudder and shrink from the thought of any other woman possessing their husband but themselves although they were in their grave. That she should make such a request concerning a pure and true woman would be singular enough, but that she should request it with Mary Webber! Oh! Oh!!

Cook advises him to tell Isaac Amsden, and he does; but what does he tell him. Nothing about Clatie, but that his wife had requested that he should give him a gold headed cane, and the prisoner should marry Molly. Nothing about a ring. A cane was to conciliate Isaac Amsden. And the old man says, "If that was her request I have nothing to say." And then Mrs. Webber takes the stand and has the effrontery and impudence to say that he wrote to her in September. Just about the time he was fishing about Isaac Amsden and Rena. That he wrote to her in September telling her Cynthia's request. They had the letter. Why don't they produce it? They dare not, gentlemen of the jury. I speak of these things to show the overmastering power of this woman over the prisoner, and this man of good character is telling great falsehoods. She took possession of him before the life insurance was procured. She hovered over him by the death bed of his wife, and she haunted him day and night. Whatever might have been his character before, he was now gone, and completely in the hands of this bad woman.

So the breakfast scene occurred, and matters were precipitated. The



pistol was tested and the cartridges were found to be good. The hired man went away, and Mary Webber went away, and in the darkness of night the deed was done. Why, gentlemen, was this same wandering Genii of the night? Was this some Ignis Fatuus of the moor? Was it some spirit of wickedness that burrowed in the earth, that murdered Cynthia Hendryx? No, no.

It is found in the morning that there are no tracks. What is found in the bed of the woman; and what is found out on that stoop? A few drops of blood.

[Counsel then illustrated from the map the place where the blood was found on the stoop.]

If you believe the statement which he makes he never passed out that door until he did the shooting in the morning, to arouse the people. That blood did not come from Cynthia; it came from him. Then he was not wounded when he said he was, climbing over his wife? If he had been, the blood would have been here, gentlemen, by the door on the inside [illustrating]. These are little tell tale drops, but they tell terribly. From all his accounts he had nothing on but his shirt when this occurred; and it is proved by the lips of twenty witnesses that this is the garment.

[Exhibits the shirt in question.]

He was found with a wound on the outer side of the left leg about a foot above the knee, his left leg about here. [Illustrating.] The wound showed two round bullet holes an inch apart one-half inch deep. He had another wound, a bullet hole from inside out, coming out at root of left fore finger. [Illustrating.] He was found with a bruise on the outer end of this left thumb. All these wounds, gentlemen of the jury, were on his left side. He has been proved to be a right handed man. And now the learned counsel tells us that he has ransacked all the books, and he never heard of a case of self-inflicted wounds to hide a murder. Why did he not look into Taylor's Medical Jurisprudence, and other works on medical jurisprudence? He would there have found many such cases. There is another thing about these self-inflicted wounds; they are never inflicted by a man of low character. They are done by persons who think they have enough character to carry them through. If a man has got a character, and stands well in a community, people will hesitate to believe that he would do such a thing. What further was there, gentlemen, about this self-inflicted wound? This wound on the leg. And I am talking about facts. That wound was oblique; the inner bullet hole was higher than the outer one, just one-quarter of an inch. This obliquity, gentlemen, of this wound, is one-quarter of an inch to an inch; three inches to a foot; six inches to two feet, of one foot to four. What is remarkable further about it is, that the obliquity of that shot is just in a line and at a place where it would be if a man should

pinch up the flesh with his left hand and shoot with a pistol held in his right, in this way. [Holding leg up between his thumb and finger, and holding the pistol muzzle against his leg.] These facts are undisputed. Now suppose a man was going to inflict a wound upon himself, where would he do it? He would do it upon his left side if he was right handed. He would do it where it would do the least harm, like the fleshy part of his thigh; where it would not strike an artery or vein of importance; where he could take hold of the flesh himself easily. And do you notice the singular fact that this wound is just where a man naturally would put his left hand when he puts it down, and that it is just where a man would take hold if he wanted to pinch up his flesh; and that it is in just the direction that it would be if a man did it with a pistol in his right hand; these facts are all conceded. If a man wanted to inflict a wound he would not pinch up the flesh much. And if he wanted to get up just the least bit of flesh possible, and not injure himself much, he would grab up just about one inch. It might depend upon the position of the limb as to how easily he could get hold of his flesh, but he could easily put it in a position where it could be relaxed.

Gentlemen, the next morning after the shooting the prisoner was found with a striped shirt on, the lower end of the flap of which would extend to his knees (exhibits the shirt again), this is it. There was a hole in it which looked like a bullet hole, blackened and burnt around the edges on the left side of the shirt; about three inches below where it would cover the prisoner's heart. He called attention of a number of persons to this hole that morning, saying the hole was got in the shirt that night; was not there the day before. The most careful inspection of this shirt could find no other hole in it except a small hole just the size of a bullet fitting the prisoner's pistol which was discovered a few days after about three inches below the burnt hole, the ball evidently passing from inside of the shirt out, showing clearly an exit hole for the ball that made the first hole, and that the garment had been folded at that point, and between the two holes. There were no powder stains about the exit hole. The outer end of the left thumb was powder stained or burned, so was the inner wound of the leg. If I am right in these powder stains, it decides this case of itself. Let me refer to some of the evidence on that subject.

Edwin S. Bruce says: Saw his thumb next morning; black around the end. Saw hole in the shirt, it looked black around it and burnt.

Henry A. Mead says: Prisoner showed next morning hole in the shirt, and said it was not there the night before; got it in the night somehow.

Dr. Young testifies: Am the coroner who conducted inquest; prisoner handed me the shirt as the one he had on the night of the shooting; it was

burnt around the edges of hole. Examined the hole with a microscope and saw particles of powder in the hole. Joseph Palmer shortly after inquest found the exit hole on a close examination of the shirt in my presence.

The same science that detects the arsenic in the stomach, detected the powder in this hole. Only the modes are different.

Conway Campbell says: I saw the thumb blackened with powder morning after shooting. I called George Amsden's attention to it.

George Amsden says: Conway Campbell called my attention to powder on the thumb, and I saw it. He showed me hole in shirt and said that was calculated to fix him. It was burnt and powder stained around hole.

Wm. Campbell says: Thumb was black on outside to thumb nail. He said it was blood; it looked like powder.

Amasy Fuller says: The inside wound on the leg was black around it. Saw thumb; it was black around the flesh and at the end of thumb the thumb was bruised.

Mrs. A. Fuller testifies: Saw thumb, it looked a dark brown at the outside and end.

Ransom Rowley says: He showed end of thumb and said "there is where ball burnt his thumb."

Charles Amsden says: Saw hole in shirt next morning; it was blackened around it.

Mrs. Rena Amsden says: He showed me hole in the shirt. It was burnt around. I thought a coal of fire had dropped on it.

Harvey Graham says: Saw thumb. It looked powder burnt. I said the person must have been close to you. He said he guessed not, it was a bruise.

Joseph Palmer says: Prisoner said he got hole in shirt that night and he thought it was made by a ball. I looked for exit hole and found it in presence of Dr. Young.

Joseph Palmer says: He showed me hole in the shirt and said he got it that morning getting out of bed. It was black around.

John F. Renwick says: He pulled up his shirt and showed me hole in it. It was black around it.

Dr. E. A. Willard testifies: The inner wound on leg had fine particles in like powder. The inner wound showed signs of burning around it part way, on the upper part there were no signs of burning.

Why was there no signs of burning on the upper part of the wound, gentlemen? Because the thumb protected it. And here is a most damning circumstance. Drs. Young and Willard both testify that they found an irritated surface around the inner hole except at one point; and that was the place where the thumb would entirely protect the flesh on the leg and prevent irritation. Ah, how wonderfully circumstances point out this dark

murder. And right here permit me to say, if there was powder in that inner wound, how did it get there? There is no pretense by them that it got there from that side. Can you tell me how a man can reach around and shoot him in this way? From the outside. Or can you tell how a man could stand over this side of him and shoot through that shirt flap, and get powder into that wound, and no hole in the shirt.

Dr. Reed says: Hole in shirt looks burnt. The pistol must have been held within from 2 to 4 inches of it.

Wm. E. Jackson says: He showed me hole in the shirt. It looked black around it. Said it was a close call.

Mrs. Philbrick says: I did up the finger for him early next morning. It was black above the second joint.

Curtis Smith says: He showed hole in shirt to Bruce and said it was a close call and that he got it the night of the shooting.

Martin H. Grove says: I saw the thumb. It was black at end. The inside wound on leg looked dirty. Had a powdery appearance.

He showed me hole in shirt. It was powdered around as though shot by a pistol close by. He said the shirt was new, put on the day before and the hole was not then in it.

John A. Grove testifies: Saw the hole in the shirt next morning; said he thought he got that when his wife was shot.

His thumb was stained black at the end and burnt.

Now, gentlemen, is this evidence or is it not? Counsel talks about reasonable doubts, and every fifteen minutes he conjures you in the name of God, not to let your reason act here; because he don't want you terrified in your after lives with the thought that you have convicted anybody.

There is evidence, the evidence of nineteen witnesses; demonstration, beyond any possible cavil, that there was powder stains upon the thumb, and there were powder stains on this hole in the shirt. Now, gentlemen, if it be true that this prisoner inflicted this wound, and made that hole in the shirt, he is guilty of murder. There is no escape from it. There is no earthly reason why he should do it unless it was to make evidence in his favor and hide crime. There was no crime committed there that night except the murder of his wife. Then the crime that he was inflicting this wound upon his person, and putting this hole through his shirt to hide, was murder. If burglars had broken into that house and had shot his wife, would he have wounded himself and blackened his shirt?

The learned counsel with all his ingenuity, and I must say with all his assurance, hadn't the audacity to claim that if he made this wound, and this aperture in his shirt, but what he did commit the crime. Now if you are convinced that there was powder stains upon the thumb, shirt or leg, either of these places, you are convinced that the pistol was held close to the place of shooting. They have produced some witnesses that

say they did not notice the powder, did not see it. The fact that you gentlemen might examine a garment without the question of powder being raised, and one of you see specks of powder, and all the others do not, it does not follow but what powder was there or that the person who said it was mistaken.

They put Dr. Seneca Allen on the stand; and what does he tell us—a very fair man evidently. Why he investigated this shirt business with others the next morning, and the prisoner told him then that he had that shirt on that night and that that hole was not there the day before. And then the doctor asked him, “do you smoke?” “No.” “Might you not have made it with a pipe or cigar?” “No.” “Couldn’t you have got it on the cars by a cinder?” “Oh, no; I haven’t been on the cars.” If anything was needed to show that this hole was made by powder, they have supplied the missing link by putting Dr. Allen on the stand.

And then they put a lady on the stand; a cousin. And she tells you that all the other clothes were sent away to be washed. So that it seems in the mysterious movements in ferreting out this murder, that their witnesses supply the missing links, towards the establishment of the truth; showing, gentlemen, that murder will out. Proving absolutely that this terrible witness of that night’s deed [showing the hole in the shirt] was made with a pistol ball. Now, gentlemen, this hole in the shirt does not look exactly like a bullet hole now, they say. It never did; because when the fire communicated with it, it followed and burned the threads a little and left a square hole, as you will see by a close examination of it.

Now, gentlemen, there is another feature connected with that shirt, and that is this, that the prisoner himself was the first one to call public attention to it. It was not noticed until he pulled it up and exhibited it. He knew it was there. He attached importance to that thing thus early. Why did he attach importance to it? Because it was one he had manufactured, as the marks of the burglary. One of the things he had put there to hide the murder. And so it is, that when a man departs from the path of safety and good morals and enters upon the devious track of sin and death, every step he takes, every time he moves, every word he utters turns against him, until the terrible aggregation of evidence is gathered in one overwhelming mass, and will crush and destroy him. It is proved from declaration of the prisoner, and from all these witnesses, that this hole was made that night. Here is that hole, [illustrating on his own person], it is right over a vital part. The pistol was fired at full maximum velocity. Where would the ball have gone if it had been fired by a burglar? Would it have struck the soft part of a man’s body and deflected? Would it, for the special accommodation of the counsel, have slid down a man’s leg and disappeared? I don’t believe any of the doctors would have sworn that was possible. They might have sworn it was possible to turn the Mis-

Mississippi River so it would run to the north, but they could hardly swear that that ball could dance around a man's skin and not leave a scar.

Gentlemen, do you know that room is only fifteen feet square, and that a ball fired from any part of that room would not be a spent ball, in any sense? Dr. Robinson tells you, and your own experience tells, that these balls do not begin to expend their force until they have traversed over two or three rods of space. So there was no spent ball there. No chance for deflection. Now, gentlemen, if that ball was fired at him by a burglar that night, it would have struck the prisoner; or if the shirt was one side far enough so the ball escaped his body it would have gone out through the backside. They have brought witnesses to swear, and this counsel says that if a ball was fired at its maximum velocity against a window pane it would cut a hole clean through it; without breaking the glass and make a clean cut. So you see that if the ball was fired from the outside by another person it was a physical impossibility for it to have disappeared without hitting him or cutting a hole in his shirt behind the hole of entrance.

Now, gentlemen, counsel claims that some one else made the small hole just under the other which we say was the ball hole. Nobody but the prisoner ever made it, gentlemen.

Now we come to the wound upon the leg. There are two theories in regard to that. Our theory is supported by all the other evidence in the case. Their theory is refuted by all the other evidence in the case. In the first place the jury are supposed to have some common sense, and that is the reason they are put into the jury box. And when doctors, professors, and other learned gentlemen come before you, their testimony is to be weighed by what you believe to be common sense, and what agrees with your understanding, like any other witness. Now, gentlemen, do you believe it is possible for a bullet to enter the limb here [illustrating] in the soft, fleshy part, and go down half an inch, and come up and out, within an inch of the point of entrance, without the flesh was pinched up? You do not believe it possible; nobody believes it possible although all the doctors may swear to it, that you can gather together between here and the Grecian Archipelago. Here is the shape of the prisoner's thigh. [Showing diagram.] Dr. Young has been most outrageously abused because he has made a cast of the prisoner's leg, and even when it is shown that his cast is more favorable to the prisoner's side of the case than to ours. But here is the correct shape of his thigh, (showing a pasteboard indicating the size of his thigh and place of hole). There are two marks, one inch apart, indicating the entrance and exit of the ball. Now, gentlemen, if their theory is correct and this flesh was not pinched up, you would find that the ball came down here to this point and went out, showing that the shirt was below the wound and the ball could not have passed



from the outside unless through the flap. Good Heavens, they talk about deep facia down there deflecting a ball! If you believe the prisoner's theory, you have got to discard your own senses, and believe that the ball instead of going on a straight line, deflected without anything to deflect it and the ball at full force.

Gentlemen, in a case of this importance, where a human life hangs upon the result, it seems like an insult to a jury to talk such things to them. Dr. Smith tells you it is an impossibility. I don't know what counsel thinks of Dr. Smith. Dr. Smith and I have had differences; and I don't know that we are particularly cordial now; but I respect him, and I do not believe him to be a man that would bound a prisoner on to his grave by false evidence. And if counsel means to convey any impression of that kind, or that he was capable of being influenced because his brilliant and talented son has been an assistant in this prosecution, he has committed an unpardonable insult to Dr. Smith; and I think my learned friend will regret it, when he looks the matter carefully over. It was with great reluctance that Dr. Smith testified; and I alone am responsible for his coming here. I knew he had been a man that had had great experience in the army, and in his profession, and I believed it to be the duty of the people to have him come here and give us the benefit of his opinion. And, gentlemen, he has come upon the stand and simply told what he believed; and what was true and what was his duty to say, and he says it is an impossibility for this man to have been wounded as they claim he was.

In reference to the testimony of Dr. Minor, I do not understand him to say that such a thing is possible; he says, it might be possible with a spent ball. Counsel has read from his testimony, and he says it might be. Gentlemen, does this case hang upon bare might, sweetly under the tongue, as evidence, then we might as well abandon any prosecution of criminals. Drs. Reed, Robinson, Stacy and other physicians agree with our position; and I say it in the name of common sense, do you believe that this pistol ball was fired within fifteen feet of this leg, and that it dipped down and went in half an inch, and came out within one inch of the place of its entrance?

But we have the elder Dr. Willard, who swears to inversion and eversion. We do not want to get confused. If we can see anything in his evidence or in any other witnesses evidence, that will show that burglars committed that deed, or probably committed it, no man would be more glad than I to send this prisoner out into the world with God speed; no man more glad to do it than this grey haired man, the father of his murdered wife. Dr. Willard says that when a ball goes in, it presses in the edges of the flesh, making what they call inversion; that when it comes out it makes what is called eversion. That is true as a general proposition. It



is true with old-fashioned round ball; it is true with large balls. It is true, because when the round ball strikes the flesh, it strikes a considerable surface and presses it in; and presses out a considerable surface when it comes out. But balls which are small as this pistol ball is, with a little point almost like a needle, striking the flesh at full velocity, that it would cut a hole clean through a pane of glass; why, gentlemen, it is like sticking a pen-knife through your flesh. There can be no evidence of inversion or eversion, from such a bullet. Dr. Willard thought he saw it, but it is not the first time he has been mistaken in this case. He thought the holes two inches apart; and we have measured them, and they are only one inch apart. He says that his first impression was that Mrs. Hendryx was laying upon her back when she was shot; then he changes his opinion and thinks she was laying upon her side. There was one thing that he said there that shows there was no eversion, and that was his remark in the presence of Amasa Fuller; and what was that? "Here are two shots." And why? Because there are two perfectly round holes. If he had seen there eversion or pouting out, he would not have said that. Now, gentlemen, he looked upon it with the suspicion in his mind that it was committed by burglars. Every one at first looked upon it so, and the evidence has shown how they kept talking about burglars; and I don't know but Dr. Willard thought he saw the eversion; but he was confused about it. Why did he tell Mr. and Mrs. Moses that the shot came from the inside? Did that old lady come upon the stand and perjure herself? Did Samuel Moses do it? He has resided at Cuba for years, and is a respectable and substantial citizen of that community.

But Dr. Willard's opinion in the matter amounted to no evidence. It is unsupported, and contradicted by all other evidence in the case. You cannot put your hands upon your hearts and say you believe it is true. Take the evidence of Dr. Otis Allen; he is of the same opinion that Dr. Willard was, but he has the same difficulty to encounter that Dr. Willard had; and he had but little experience in such matters. If it was supported by other evidence in this case we might attach some importance to it, but it is not. If that ball had come from the outside, where would it have gone out? And how in God's name would it have got in? You may talk about that inversion and eversion, but here is something practical. Tell me how a man running around in that room in the night, with his shirt down in the usual way;—for there was no one holding it up, I presume, although counsel has imagined wonderful things about running around in the night time in his shirt only, but I never knew a shirt to raise itself up, did you?—then tell me, gentlemen of the jury, as men of sense, could that shot have come from the outside, and not come through that shirt there? [exhibiting shirt and illustrating]. They have brought men here from the coroner's jury to tell us that this shirt was examined before

them, and they all tell us that there were no bullet holes in it except this one on the left breast. Why, gentlemen, taking the obliquity of this shot from the floor up as they must claim it was, what do we have? The obliquity you remember is one inch in four. If you will allow me to illustrate. [Counsel illustrates on the floor.] You remember they claim the shot was fired from the outside. The wound on the thigh is two feet eight inches up from the floor. On that same range, if the pistol was nine feet off, it must have rested on the floor. If it had been farther off the wound would be higher. It would have been impossible by the range of the shot on the thigh, precisely as they locate it, for that pistol to have been farther off than nine feet, and it must have rested right on the floor at that distance. It was thirty-two inches at the leg, to the floor; and at one foot from the leg it would be about two feet four inches, I leave off the fractions; at two feet from the leg the pistol would be about two feet one inch high; at three feet from the leg it must be about one foot nine inches; at four feet it would be about a foot and a half; at five feet from the leg it would be about a foot and two or three inches; at seven feet from the leg, it would be less than eight inches; and at nine feet from the leg the pistol must rest upon the floor. So you see that this burglar, from the outside that fired the bullet into his leg, could not have been over nine feet from him. If he had stood right by his side he would have had to hold his pistol down to a point below the height of the wound. Do you believe he took all that pains? If he was under the table, as some of the witnesses say the prisoner says he was, then there was a distance of eight feet, and he would have got on his knees to shoot him and held his pistol to the floor. What nonsense! What trifling to talk such stuff! What a wonderful ball that must have been. It skipped around and performed all the antics of a harlequin. It got down on the floor, and got up under his shirt without even touching him; it went in his leg, and came out again within an inch; it got out from under his shirt, and conveniently went away; and after it got from under his shirt, it went up and struck the window casing. It beats all the bullets I ever heard of, and I believe if I had asked some of the defendant's doctors if it was possible for a bullet to do all this, they would have said it was possible. And yet, gentlemen of the jury, you have got to believe a burglar made that shot. I waited for my learned friend to explain this; I waited in suspense, but he did not do it, because with all his ingenuity, and he has got a large share of it, he could not do it. And I venture to say that there is no power on the earth or under the earth that could do it. Have you any doubt that this flesh was pinched up? Then the ball came from the inside, gentlemen; then it was inflicted that night. It could not have been inflicted by a outside party, unless he had an accomplice, unless in the darkness of night that bad woman came and helped him. We have not proved she was there, we will not surmise it. Then he did

it. There is no escape from that proposition, and if he did, then he committed this murder. And so it is that the means devised by man, by which to escape from the consequence, and punishment of sin, and folly, often return upon them, and are the very instruments which lead to their conviction.

Before I close I want to speak again about another piece of evidence in this case over which there is some contest. The prisoner claims that this little hole down here, on the left side of the shirt, the exact hole which you see there indicated by that little appearance, was made after this shooting; and they pretend to say that that ball did not make it because it was not found until Mr. Joseph Palmer found it. That is true, it was not; but was it not there, gentlemen? If not, who put it there? Did one of the Coroners Jury put it there? Did Dr. Young put it there? What nonsense.

Dr. Young has shown some zeal in this matter. He was one of the officers elected by the people to do just this kind of business. It was his duty to examine and enquire. They examined for holes and did not find this at first. Why? Because that large one was the overshadowing hole. They did not find any stain around the hole because it was folded under. Why are there not stains on the inside of the shirt? Because the ball came through another part of the shirt first. Why did they not find it when it was in the possession of Mr. Palmer, or before that? Because they did not turn the shirt inside out as Mr. Palmer did when he discovered the hole.

Did Dr. Young testify falsely for the purpose of hanging this man? I tell you, gentlemen of the jury, if a man should say that outside of the Court room where the counsel is protected by the false legal notion that he can say anything in the Court room and not be accountable for it,—it would be dangerous for him. Did Dr. Young punch the hole in that shirt for the purpose of manufacturing evidence? Oh, no, gentlemen, it is another piece of impudence that has characterized this whole defense.

Let me again refer to the hole. We go back to the examination of the shirt before the Coroners Jury. They do not find it. The search for crime is often long and devious. Now they say Joseph Palmer is eighty years of age, and he is. He turned the shirt inside out, and put it upon the table and searched for the hole. Why did he find it? It was before the hole was made from the inside out, and hence could not well be found from the other side. He had a magnifying glass at the time, but he says he did not discover it with the glass; but he had the glass in his hand and was examining the shirt thoroughly. He knew, as you and I and everybody else knows, that it was impossible for a man to have made that while the shirt was on the prisoner, unless there was an escape hole or it went in his body. They found the hole, and what does that prove? It proves that the shirt was pinched up. It is on the left side, the same side as the wounded leg, so you see what was running in this man's mind. The fact

of this shot through the shirt and the fact that the exit hole was just about where it would be folded up, if a person was going to pinch it up and shoot through it, shows that our theory is true not only as to this, but as to the leg.

Gentlemen, is there anything more to be said upon this subject of the shooting? Why upon the subject of this eversion and inversions the doctors all agree that if the flesh was pressed up in this way as we claim, the inversion, if any, would be on the inside of the leg and the eversion would be on the outside of the finger. Dr. Willard says he found eversion on the back or outside of the finger.

This garment you see here now bears the traces of powder stain and the self-inflicted shooting by the prisoner. It is conceded that it was on the prisoner that night; it is conceded that it was made that night; it must be conceded that this hole could not have been made by anybody else, and therefore he has manufactured false evidence to conceal his crime.

What further does he do? John Grove, Isaac Amsden, Bruce and a number of others, when they see this wound, in the thigh, and hear his story, make an examination around the outside door and window casings for the bullet. They take this piece of casing, [exhibiting it] and run their fingers along the edge of it. You can see here where the paper comes; it does not come out to the hole. You see here now where the paint is; it does not come out. They find no bullet, no bullet holes. It does not follow absolutely that they would find it, if it was there; but I do say, that taken in connection with the other facts, it shows it was not there the morning of the shooting.

You remember Dr. Ashley tried to get this shirt in the same shape that it must have been in when the shot was fired, to account for the holes, and he could not do it. It is made a subject of inquiry, and he wants to know where that bullet went to, after it went through his leg. If it was shot from the door; if it went in from the outside where did it go to? They look all over the casing and do not find it. Time passes on, gentlemen, and this man discovers that it is important to find a bullet or bullet hole in this particular place. He goes and makes a statement to Mr. Swift, a brother to one of the counsel for defense, and a man whose statement you will not question in connection with this case. He tells him he "has found a ball;" that there were people there, but he did not let them see it. That he "dug it out with a butcher-knife;" "and there is the ball," showing Swift a 22 ball. So you see that same plotting man that got the insurance; that got over to the back side of the bed; that did all these things; was now manufacturing evidence to show where the bullet went to, after it went from his thigh. Is there any thing else to this, gentlemen? Manufacturing false evidence! Would an innocent man do that?

An innocent man making an indentation in this casing, and saying he had got a bullet out of there, and saying it was just the height of his leg. Why, we had the lady on the stand here, and why was she not examined about that? Why did they not show by her that the paper covered over this hole if so? Why is all the evidence on this subject kept back? It is proof that this man was there in September manufacturing false evidence in this case.

He put this hole through the shirt; he tells this extraordinary story about his wife wanting him to marry this woman; and when confronted by his inconsistency, he denies that he has told the first story. This same man is manufacturing false evidence again to cover his tracks. Gentlemen, if you can pile up circumstances mountain high; if there is any such thing as proving a fact by circumstantial evidence, does not this prove it? Why don't they bring witnesses to prove something about this ball in the casing? His own relatives kept the house. If the ball was there they could have shown it; they would have seen it. No, the ball was not in the casing, he dug the hole we find here himself. If I put the identical ball in this hole in the casing that was found in the kidney of Cynthia Hendryx, you will see that it cannot go in there and a man's fingers go over it without finding it. It was a 22-100th ball that was found in Mrs. Hendryx; and that is the kind of a ball, if a burglar shot her, that would have been in the burglar's pistol; and that is the kind of a ball that would have been found in the casing. So you see that in any aspect of the case the claim of the prisoner in regard to the ball in the casing is false.

It would seem to me, gentlemen, that I have wearied your patience long enough, in presenting to you the views of the people; and that it was unnecessary in view of the overwhelming evidence already referred to, to address any further remarks to this jury. But I am admonished by the fact that this case is one of great importance, and a case that has once been tried, that it is my duty,—however wearisome it may be to you, and however exhausting to myself,—in justice to the people which I represent, that I should go over this case somewhat fully. I pledge you, however, to be as brief as I can be, in discussing some of the features of this case which I have not, as yet, presented to you; and it will be necessary to return somewhat to the evidence that I have gone over on several subjects. Now the counsel that last addressed you, after various manipulations of his hand upon the limb, remarked that there ought to have been a stain left around the limb, that was not found. If I caught the point of his argument, it was, that the stain had ought to have been above, and not below the wound. Perhaps upon his theory that might be, because he placed his hand in an unnatural position, in one that no person would take,

if he intended to inflict the wound upon himself. Now we are not to suppose that this man intended to wound his hand. That was an accident. He inflicted this wound in the hurry, and under great excitement; in the dead of night, with the shrieks of his wife in his ear, with the little boy Claytie in the bedroom, he inflicted this wound; and it is not to be supposed that he did it with the utmost deliberation. His object was to take up as little of the flesh as possible, as I have before stated, to fire below his finger probably, but he got it a little too high. It did not occur to him that if he shot through, it would wound his finger. He intended to get his pistol below the point of his thumb and he only struck the point of his thumb, when it was in that position.

Now a portion of that thumb would cover a portion of that wound on the leg. It would cover that portion where the doctors say there was no inflammation. It would cover the place where there was no redness. How wonderfully are we thus able to trace the hand that did the deed.

Now I want to advert again to the evidence of the elder Dr. Willard; he says that he thinks the ball went from the outside in. There was one thing that came out from the testimony of Amasa Fuller and Mr. Wilson. They did what Dr. Willard was not able to, they described the precise position that Dr. Willard and the prisoner occupied on the bed at the time of the probing, and they say the doctor probed from the inside, out. They are clear about it. The Doctor says he should expect in using a probe to get it through the track of the ball; to finally force it through the same way the ball went. And the evidence of these gentlemen is that the probe was put through from the inside, out.

Now, gentlemen, there is another piece of evidence that my learned friend says he does not know the meaning of, that he does not know what importance it has in this case. And that is, the stain upon Cynthia Hendryx's window. It was the mark of a man's hand. It stood there like the characters upon the wall of Belshazzar's palace.

Now I will call your attention to Charles Amsden's testimony on that subject: 'Hendryx showed me the stain on the sill. He had found it. It was a stain like cow manure of the shape of a hand. Now the question arises, what importance had that evidence in the case? I will tell you. There had been a search for burglars about these premises, and it was discussed whether or not they had entered the house. It occurred to this man's mind that he could manufacture evidence that burglars had been in his wife's bedroom, by putting the stain of a man's hand on the sill. It would go to show that some one had grasped the sill in attempting to effect an entrance into this bedroom. Isaac Amsden did not put it there; none of the physicians put it there; none of the persons swarming around the house put it there. It was not there the morning after she was shot.



The women had their wet cloths and put them over the window sill. They would have detected a manure stain, they would have seen it on their cloths. Two or three witnesses examined that sill the morning after the shooting especially and did not find it. I submit the fair inference is, they did not find it until it was pointed out by Henry Hendryx. Did burglars put it there? Did you ever hear that burglars, in making an entrance into a house, go and fill their hands with cow manure and then grasp the window sill?

Now, gentlemen, there is another branch of this case that I desire to call your attention to, and that is the inconsistent and absurd accounts which this man gave of the shooting. I agree with you that a man awakened in the night by burglars in his house, might be so much excited that he would give confused statements regarding it. He might be so excited that his statements would not be exact. But, gentlemen, all the time he would be telling the truth. Every time the truth would come to his aid; he might not tell all the story at once, but every time the truth would come out when the full statement was made, and in the right direction. You put a witness upon the stand, and if he is telling a true story, however humble and inferior he may be, he will tell it every time alike, nor will all the ingenuity of learned counsel make his statements vary on material points. But if he is telling a false story it does not require the most skillful and practical lawyer to detect it. If Hendryx had made different statements on immaterial points only, we could have overlooked it, but he varies on the material points as well. He tells that he had his pistol out shooting one or two days before that, and they proved by McCarty that such was the fact; and then he tells others that he hadn't had his pistol out in three months. Now the utmost confusion cannot account for that. I will trace along some of the inconsistencies in his statements. We will commence with Mrs. Graham. He tells her that he "followed out to the door; the burglar was ahead and shut the door; then he opened it and was shot from the outside." This was his story to Mrs. Graham, and the first time he told it; the story he told before Mr. Mead and Dr. Ashley got there; but they told him he could not have been shot from the outside, that the ball must have come from the inside.

He tells Harvey Graham that "he was shot from the outside of the dining room, and that the wound in the thigh and finger were made at the same time."

He tells Mr. Mead "he thought he was shot from the outside." Mead tells him that "he was shot by a man under the table." That was before Bruce came. When Bruce came, he tells him "that he thought he was shot by a man under the table," using the same language that Mead had used. He tells him that his money was gone.



He tells Adam Lester that "he did not have but fifty or seventy-five cents in his pocket-book, and tells two or three other witnesses that he had from eight to ten dollars." Now if he had ten dollars in his pocket-book, he would have told that alike every time. No confusion would account for such a variance in his recollection as that.

He tells C. M. Rude in his first conversation "that he thought it was some one under the table; and he grasped for some one as they were passing by." In another conversation ten days after the shooting he tells him "that it came from the outside of the door, but the doctor said it came from the inside."

He tells Wm. Campbell that, "he went up in the woods with the girls to shoot chipmucks, two or three days before the shooting, and that there were two or three charges left in his pistol when he got back." Why should he insist in accounting for the number of charges in this pistol?

He tells Amasa Fuller that, "he thought the shot came from the pantry door."

He tells John S. Renwick that, "he heard a shot; that he went to the door and opened it, and was shot from under the table, in the hand and leg at the same time."

He tells Dr. Young that, "he was positive that he was shot in the thigh at that time, as he felt it. That he was positive he did not shoot his thumb and finger when he went out to give the alarm, as he felt it before."

He tells two or three witnesses that "the night was dark and foggy, so he could not see any one," yet he tells John Grove and Mr. Haines that "ninety rods away he saw the little boy, at four o'clock in the morning, wave his hand to him that all was right."

Now I say, gentlemen, that some of these discrepancies might be accounted for by the condition of a person in great trouble; but that will not account for such great contradictions as these.

Two witnesses swear that Mrs. Hendryx thought it queer, and wondered why the dog did not bark, "because he generally made a fuss at such times." Are they going to dispute her? Dare they question the accuracy of her statement? We cannot bring her here to testify to it, but here are her words. The dog was shut up in the shed. And the circumstance attracted the attention of Mrs. Hendryx at the time so much that she spoke about it. Gentlemen, do you believe a man ever had a watch-dog about his premises, but what would give the alarm in such an emergency; and does not the fact that he did not bark give a terrible significance to the matter?

But counsel says with great assurance, that it is proved in this case, that the statement made by Henry as to the manner in which he was shot,

was endorsed by his wife, or that she listened to it and made no dissent. It does not appear that she heard any of the conversation in the dining room when he was giving an account of the shooting; nor does it appear that he gave any account of the shooting in her room. Gentlemen, she says, and it is in proof in this case, "that she saw no burglars." Her words come to us from the grave, and she says, "I saw no burglars." And when he was giving an account of the transaction in the other room to Dr. Ashley and Mrs. Hendryx disputed him when Mrs. Graham was present, she was asked to state what Mrs. H. said, when counsel rushes to his feet to exclude her declarations. No, gentlemen, they want no words from this dying woman. They desire no declaration from her lips. They want her to sleep quietly in her last resting place, in her bloody shroud; but they do not want the last sentences her lips ever uttered, because they weigh against this prisoner. Perhaps she never suspected that he killed her. Perhaps she carried to her grave the harrowing thought, that the hand that had clasped hers before that holy altar, as they started together in their journey through life, when he solemnly promised to love, cherish and protect her; the hand in whose embrace she gave her love, her life, her all; the hand whose duty it was to shield and protect her from the storms and tempests of life; that this hand had done the foul and inhuman deed, at least there were some things that this dying wife suspected. She has given us some glimpses of her thoughts, and they are in censure of this man. I have grouped them together in order that you may refresh your memory in regard to them. They are only a few simple sentences, and what are they?

She tells Rena Amsden, "it would look better for Henry to be lifting me, rather than to be calling upon others all the time." These are the utterances of that dying woman, and her words are words of gold. They dare not dispute them.

On Sunday evening when they were in Claytie's bedroom—he and Mrs. Webber—Mrs. Grove went to him and said, "Henry, Cynthia thinks you ought to stay with her some." This is sworn to by Mrs. Graham, and they say that she has no prejudice. She says, "he was not as attentive to her as he ought to be; he only lifted her once, and that was when she asked him; and she said she should think he might lift her some of the time." And then she said, as the light of life was going out, "Oh, Henry, they are blaming you for all this."

Mrs. Olinda Amsden says, "he asked her to kiss him, and she shook her head; he asked if he could kiss her, and she assented." Mrs. Philbrick and Martin H. Grove testify to the same thing.

Mrs. Grove says, "Cynthia says she would like to have you stay with

her part of the time." This was the first week, and she adds, "they were in Claytie's bedroom sitting on the bed, and her arm was upon his shoulder." A beautiful place for him, when his dying wife was calling for him. "When he came into his wife's room, she pointed her finger at him." What did that mean? There were no words of complaint. There was the husband of her youth and the father of her child, against whom she spake no words of accusation, but there was that silent finger pointing out to him what was passing in her soul. Ah, gentlemen, that finger will point at him forever. He may go free, if you please, and walk once more upon the green earth, while she is slumbering beneath it; he may take this Mrs. Webber and go with her to the uttermost parts of the earth; he may fly to the darkest recesses of the caves, or seek the top of the highest mountain, or the farthest island of the sea; but the finger of that dying wife will point at him still. While human tribunals may refuse to do their duty, or may shrink from the responsibility of meeting out justice to him, thank God, there is, in the great range of His providence, retribution, swift and sure.

Mrs. Stebbins swore on the other trial, that she "did not think he was in her room as much as he ought to be." And they prove that Rena came in and Mrs. Hendryx enquired of her where Henry was. She still wanted him with her; she was still yearning for that husband to pay her a little attention; praying for a little consolation, as she lay there upon her bed of suffering, with his pistol ball in her body.

Gentlemen, does the learned counsel say, in the face of all this evidence, that he would have shunned his victim if he had murdered her; and from the fact that he did not shun her, he did not murder her? Why, does he not shun her? Was it not marked? Was not that wife complaining day by day of his negligence? Suffering as she was; requiring three or four persons to be constantly with her. She was continually haunted with the thought of the negligence of her husband, when he should have been the chief one by her side. Yet counsel says he did not shun her, and in the next breath he says, "suppose we concede that he was not with her as much as he ought to be; we will concede it;" as I understood him. "If it will be any gratification to their side, we will." He says, "if he had been guilty of this murder, he would have been with his wife, to have averted suspicion," and the very fact that he was not with her, he argues, was proof of his innocence. You see to what inconsistencies and dire straits even my learned friend is driven, to sustain the sinking case of his guilty client.

But there is another thing about this that I want to call your attention to. I told you this pistol had seven barrels. You have seen it here.

Gentlemen, have you noticed the singular fact that the discharge of every one of these barrels is accounted for in this evidence? McCarty says, as we claim, that there was not but one shot in the woods. Mr. Swift has seen him since the other trial, and now he thinks there might have been two; but I take it you will construe his testimony as being, that there was but one shot in the woods. When Hendryx came down to the house then there were six loaded chambers, and one discharged. Where are the rest of them? One is in his wife; that is two. One is through his leg and finger; that is three. One is through his shirt; that is four. Where are the other three? The watchman Maloney, who staid up that night at Cuba village, says he heard three shots successively about four in the morning. Another witness says she heard three shots. There, have you got the seven? Do you see how terribly this evidence chimes in, and proves the number of shots, and proves this man guilty?

But we are told there were burglars there. And I suppose I must talk about that a little. I have hardly the patience to do it. If there is a human being within the sound of my voice that believes there were burglars there, I am mistaken. Why, there were some burglars over at Olean and Jamestown. They might have been in Hendryx's house, it is said. Have you any idea that burglars would come into a house and go right up to the bed and shoot a woman, when there was no danger? And do you think that burglars would rush out of the house, take a man's pocket-book, rifle it, examine his papers and carry off the money, leave the papers, and then come back and shoot his wife for it? Why, gentlemen of the jury, Cynthia Hendryx again tells us that the house was fastened the night before. And when this man is questioned on that subject, what does he say? He does not say some worm of the earth has crawled through the cellar, or that some one had found the trap door and got through, or that some fell creature of the air had found the chamber window and got in that way. That sort of nonsense was reserved for the counsel to tell us about. That was the result of his imagination, after he says he went and looked over the premises the last time. No, no, this man does not pretend that there were burglars in there unless they got in the back dining room window. There was a table under that window, and other things which made it improbable that a burglar could have got in there without disturbing them. Major Eldridge testifies that the prisoner said he did not see how anybody could have got in without disturbing these things. And that morning it occurs to these people who were investigating that a burglar might have got into the bedroom window. They go under the window and there is soft earth, but no tracks under the window. Ah, but there were some burglars by Van Ness' house in Cuba village, and when Van Ness went out in his night dress, he could see them. But they were burglars that ran away on being seen. They

were not shooting burglars. And the counsel would have you believe that these men in the bright moonlight, when Robert Adams was taking his saleratus water in his house without a light; when another man was counting his cattle on the hill by moonlight; when another man was looking at the time of night on his clock by moonlight, that these persons at Van Ness' not knowing where Hendryx lived; not knowing anything about the cellar door Bruce sat on, and did not see; that these burglars had gone past banks and stores, and people who had money, and through a whole village, and had gone up to this humble dwelling, where they had no reason to suppose that they could get a single dollar; they had gone there, and the very first thing they did was to shoot Mrs. Hendryx; and the next thing they did was to shoot the husband. Now, gentlemen, you have a right to take into consideration the habits of burglars. They never fire unless they are attacked. Unless it is necessary. It is the professional burglar that fires when discovered, and it is tramps who run. According to his own story, he went out upon the trap door, and nobody was to be seen. Search is instituted, and all kinds of attempts made to find these burglars. The whole community is aroused to the importance of the fact, but no trace is found. It seems to me, gentlemen of the jury, nonsense to talk about it. Where is the proof of burglars? Where is the circumstance to show it? Every fact excludes it. The character of the wound, the hole in the shirt, the circumstances attending the examination of the premises the next day, the improbability of burglars getting in there in that manner, all go to show its absurdity. The probability is that if there had been burglars there that night, that in a few hours they would have been caught. No, no, gentlemen, this was but a pretext. It was one of the contrivances of this man to evade suspicion. Here were three persons in that house. Here was Claytie; and where is he? If there were burglars in that house why is he not produced to prove it?

Now, gentlemen, there is another circumstance I want to call your attention to. The Coroner had made up his mind to have a post-mortem. Hendryx ascertained that it was to be done, and he goes to two of his wife's brothers and tries to persuade them not to have it, and to go to the Coroner and prevent it. He tells the remarkable story, as a reason, that his wife objected to being cut up; he had heard her talk about these things before. Do you think Cynthia Hendryx and her husband had ever discussed the question of her being cut up, if she was killed? No, gentlemen, it was one of the further contrivances to cover up this crime, and it is one of the evidences by which we are able to point out this man as the guilty party.

And now, gentlemen of the jury, what is your duty? Has there been

a murder committed? Are you satisfied that the prisoner is guilty? If you are, what is your duty? You know, gentlemen, that the safety of community, the safety of the life of every married woman as she lies down at night, depends upon the protection of her husband; and the safety of your own daughters as you give them out into the world under the protection of some man, the peace and welfare of society, all demand that when this crime is established, it should meet with speedy and proper retribution. Some of you may have a lurking dislike to capital punishment; but you should remember that after the flood had abated from the face of the earth, and God flung His bow into the heavens, among the first commandments which God gave Noah for his guidance was, "Whoso sheddeth man's blood, by man shall his blood be shed." And eight hundred years later, amid the thunders of Sinai the commandment was given by Jehovah himself, "Thou shalt not kill," and He supplemented this by another decree that, "he that smiteth a man, so that he shall die, shall be surely put to death." These commands are above our law, above our consciences, above everything. They come from the Almighty, as a guide for the security of all human beings.

Gentlemen, you are the conservators of the public peace. If the jury will not do their duty, society will tremble, and the foundations of liberty and peace and good order will perish away. Judges can do nothing; District Attorneys can do nothing; witnesses can do nothing; public sentiment can do nothing, unless the jury discharge their duty.

It comes to us from the prisoner's own mouth that he knew how the other jury stood. It is a delicate subject to talk upon, but I feel bound in the discharge of my duty to allude to it. This is the second trial. We believe this man guilty. We believe the law should be vindicated. We came into the case without malice, and notwithstanding the insinuations of counsel, we believe that we have conducted it fairly. We say that it is plain that this man knew before the jury came in on the other trial that they would disagree. A witness is put upon the stand and he says that the prisoner told him after his return from the other trial, that they knew all the time how the jury stood, and they would try hard to have the next jury stand in the same way. All this only goes to show that the man that put the bullet in the casing; the man that put the stain on the window; the man that put the bullet in his leg; the man that put the hole in his shirt; the man that murdered his wife; the man that went to Cook and tried to get him to use money to debauch and corrupt the grand jury, and to prevent his indictment for murder; that this man was in some way informed how the other jury stood, and wanted to pack this. I say this because duty requires me to. We must do that and not shrink from it. It may be painful to us; it may be painful to



the prisoner; it may be painful to the District Attorney, and to all concerned in this case. But Cynthia Hendryx was murdered, and in the name of God is there no retribution. We see her there at her home that night, a well woman; we find her the next morning by his side, in the agonies of death. And now,

“Her part of all the pomp that fills  
The circuit of the Summer hills,  
Is that her grave is green.”

Gentlemen, there is no satisfaction in life, like the consciousness of duty well done. When you reflect upon this trial in your after lives, there will be no satisfaction so great as the feeling that you have done your duty. You may say this is a hard place to put you; so it is. I say it is a hard place for the prosecution. It is a hard place for my friends upon the other side. All that this man could have, he has had. All the protection; every charity of the law; the support of all the friends he needed; all the money required; two long trials; one long searching year in which to find out some way in which to prove himself innocent. And now, gentlemen of the jury, what is your duty, upon your consciences, and your oaths? Counsel talks about giving the prisoner the benefit of a reasonable doubt. Gentlemen, it must be a reasonable doubt; a doubt that you can give a reason for. If you acquit this man, you must see a highway out of this case in which you can travel. You must give a reason to your neighbors, your consciences and your God. It must be no speculation. It will not do for you to talk about deflecting balls, nor about this being a murder by burglars as a reason for his acquittal, in my humble judgment. When you are convinced, when your reason is satisfied, your duty is plain, and you will be approved of all men, and at peace with yourselves.

And now, gentlemen of the jury, I have stood by the grave of Cynthia Hendryx these many days. I hope you will permit me as I depart from it forever, to cast one garland upon that grave, and pay one tribute to her memory. Whatever may be done, I thank God that Cynthia Hendryx lived. Her unselfish and devoted life will not be lost. The history of her virtues, of her pure life, of her deep affection for this man, will be known as far as the history of this case extends; and the influence which she left behind her will fall upon this afflicted family, and upon this little son like the holy dew of Heaven. It is thus that good lives have their reward. It is thus that good actions are remembered. And though she was sent before her time, and though she was greatly neglected in her last hours by this prisoner, and though her soul was pained to see her husband gone astray as she passed away for-



ever, and though she had suffering such as but few human beings have ever borne, yet she will reap her reward. "After life's fitful fever," she sleeps peacefully and well. But, gentlemen of the jury, shall it come to her through the mysteries that connect the seen with the unseen, shall her guardian spirit as it hovers over her little son, come to know that this jury had set her murderer free, and consigned her little son to the care of Mary Webber? The answer is with you.

The result in this case was secured through a mastery of detail, and the ability to mould into a harmonious theory the scattered circumstances and events that went to indicate the defendant's guilt. Mr. Ward often spoke of this case in later years, and this with one other, the Macken case, he was wont to regard as his greatest forensic triumphs. He never defended a murderer.

Since leaving Congress Mr. Ward had been getting more and more interested in State politics and always attended the State conventions. In the fall of 1877, at Senator Conkling's request, took an active part in the campaign. It was hoped at that time by the party leaders that the Republicans could carry the State on account of the dissatisfaction felt by Tammany Hall against Gov. Robinson and the up State Democrats. This feeling, while it did not defeat the Democratic ticket in 1877, brought about that result in 1879.

Mr. Ward was a delegate to the State Convention which met at Rochester, in the former year and which was famous for Conkling's denunciation of George William Curtiss. He was put on the Committee of Resolutions, and was very active in the convention in his support of Conkling's policy; speaking once in defense of Senator Platt's speech as temporary chairman, and once in support of the Anti-Administration sentiment in the platform.

In 1877 and 1878 Mr. Ward was retained in litigations to set aside town bonds issued for railroads which were never constructed, a form of obligation easily incurred and under the weight of which many towns and counties in this country are struggling. In the case of Wilson vs. The Town of Caneadea, reported on appeal in the 15th Vol. of

Hun's Supreme Court Reports, at page 218, he won a notable victory for the town, relieving it of a \$20,000 bonded debt. He also secured a similar result for other towns in the county, the point raised being that a majority of the taxpayers, exclusive of those who paid only a highway or dog tax, had not signed the petition on which the order granting permission to issue bonds was made.

In this year there was considerable talk of returning Mr. Ward to Congress, and lengthy complimentary notices appeared all over the State in the press.

On April 30th the New York Sun says :

It is understood that both parties in this State will embrace the occasion of the fall elections to raise the standard of our membership in Congress. There is room for improvement, especially in the country districts where the rule generally prevails to restrict the representative to two terms. The effect of this unwise system has been to throw the membership into the hands of small politicians, with here and there a notable exception. The better plan would be to send a man of brains and integrity to Congress, and then keep him there. Some States have done this and consequently they have far more influence in the House than the great State of New York.

We hear that the Republicans of the Allegany district are thinking of nominating Hamilton Ward, who formerly represented them for six years. Mr. Ward is a gentleman of ability, and took active part in the business of the House, and was conspicuous for his opposition to extravagant expenditures, and to everything that bore the slightest resemblance to jobbery and corruption. The district will do well to nominate Mr. Ward, and we hope other districts, both Republican and Democratic, will place in the field this fall a list of able, worthy candidates so that New York may exert her due share of influence in the next House.

And even the Democrats and opposition press had nought but words of praise.

The Hornellsville Times said that Mr. Ward "served the district with uniform faithfulness and conspicuous ability, and at the end of his service he retired from public life a poor man, but with a reputation for honesty worth more to him than riches."

The Elmira Gazette, the leading Democratic paper of the district, said on May 6th: "There is one thing in Ham's favor, he is no dummy, when he gets to Washington you know he's there," and the Allegany County Democrat of May 3rd said:

Since our knowledge of the politics of this Congressional district, no Republican who has been elected to Congress has compared with him in ability. He was in the House during the most exciting period in our country's history, and while there made himself conspicuous, and this district had a voice which was heard and respected.

He went to Congress at a time when jobbery and pecualtion run rampant among the members, but was ever found an uncompromising enemy to all kinds of venality. He entered Congress poor, he returned poor. However we may dislike his politics, this much we can say to his everlasting praise. He is a man of brains and great force of character. He is one of the hardest workers in the State. It is true he has had great ambition, and this has been alluded to by some as a crime; but a man without it is worse than a gutter snipe. He has his enemies, but he who can count none has that in his head which nature abhors—a vacuum.

No effort was, however, put forth by Mr. Ward to secure the Congressional delegates and they were given to Mr. D. P. Richardson of Angelica, who was nominated and who served two terms in Congress.

Mr. Ward was a delegate to the State Convention of 1878, which met in Saratoga, and made a member of the Committee on Resolutions. The platform recommended by this Committee and adopted by the convention contains one of the earliest declarations for "sound money," as it is now known, the greenback craze at that time having taken some hold of the popular mind. The only nominee of the convention was George F. Danforth, of Rochester, for Judge of the Court of Appeals.

The forepart of 1879 was devoted by Mr. Ward to the preparation and trial of the Macken slander case. Mary C. Macken vs. James L. Macken, and it is to be regretted that Mr. Ward's summing up of this locally famous case has not been preserved, as the circumstances especially appealed to his nature, and offered the best possible opportunity for a

display of his talents as a jury lawyer, then perhaps at their best.

The Elmira Advertiser of June 25th contained this editorial description of the trial:

#### THE ALLEGANY COUNTY SLANDER CASE.

The last case tried at Angelica, Allegany County, at the Circuit Court, last week was that of Mary W. Macken against James L. Macken, for slander. The parties both reside in Wellsville, and move in the best circles of society in that village. The plaintiff is the wife of Dr. Merritt Macken, a brother of the defendant. The alleged slander imputed unchastity to the plaintiff in very explicit language. The trial commenced on Wednesday of last week, and closed on Saturday. The attorneys and counsel were Hon. Hamilton Ward, Clarence L. Farnum, Frank S. Smith, for plaintiff, and Hon. Horace Bemis, B. C. Rude, Rufus Scott, George U. Loveridge and O. A. Fuller for the defendant. The Judge closed his charge, and the jury retired about 6 o'clock Saturday evening. At about 8 o'clock the jury came into court and rendered a verdict in favor of the plaintiff for eight thousand dollars. It has been one of the most remarkable trials that was ever known in the history of Allegany County, and will justly rank as a *casus celebra* in the annals of jurisprudence everywhere. When the verdict of the jury was announced, a shout and cheer went up that made the walls of the old Court House shake, and a rush was made for Mr. Ward and his client, while congratulations were in order. While Mr. Ward was summing up half of the eyes in the court room were dim with tears of sympathy for the woman, and it was evident that she must recover a verdict. Although he has met with great success as a lawyer, yet the result of this trial has been the grandest forensic triumph of his life. What seemed to his opponents like ropes of steel, were brushed away like cobwebs, and with a scholarly diction and masterly skill, he carried the jury by storm, as was evidenced by the large verdict of \$8,000 in favor of the plaintiff.

The judgment stood, and the defendant, who had put his property out of his hands, spent six months in the Steuben County Jail under a body execution. Nothing was collected under the judgment. Dr. Macken restored his wife to her place in his home, but her subsequent conduct did not justify her "vindication."

In this year Mr. Ward became an active candidate for the office of Attorney-General. The row in the Democratic

party rapidly coming to a head gave assurance of Republican success, and Roscoe Conkling, then the undisputed leader of the party, was favorable. In the spring various papers throughout the State advocated this candidacy, and the ever friendly Elmira Advertiser of May 3rd urged him as a candidate of the southern tier.

The Hornellsville Tribune of May 10th said:

“Our Republican contemporaries of this section are pushing the nomination of Hon. Hamilton Ward for Attorney-General on the radical ticket this fall. We do not know that we have any objections, and are rather inclined to believe that they would not be entertained if we had. Mr. Ward is a gentleman who has the faculty of making many very warm and enthusiastic friends, both in his own party and out, as well as gaining many very vindictive enemies in his own political household, which on general principles, is in his favor, as it shows he is not accustomed to the lowest wiles of the politician, for he would put himself as much out of the way to do a favor to the humblest constituent as he would to snub a cheeky and importunate claimant of political importance. There is one thing that we will say for the bald headed little banty, and that is that he was in Congress and in high official favor during the worst era of radical rascality, fraud and rotteness for three terms, and came away poorer than when he went in.”

There was a general feeling throughout the State that the nomination would be a proper one. Through John W. Vrooman and others, Herkimer County, Mr. Ward's birth-place, was brought into line, and letters from prominent men all over the State indicated an approval of his candidacy.

The convention assembled at Saratoga on Sept. 3rd, and Mr. Ward attended at the head of the Allegany County delegation, which was as follows: Hamilton Ward,, H. H. Wakely, W. R. McEwan, Charles S. Hall, Frank S. Smith and Hiram Dimmick.

Many famous men were in this convention, men who swayed public opinion and controlled public affairs. Another generation will forget them, but they are entitled to a

place here. There was Charles Emory Smith, of Albany, now Postmaster-General; E. C. Mersereau, of Broome; Dr. Van Aernam, of Cattaraugus; Walter L. Sessions, whose brilliant political sun was to sink in a Senatorial bribery investigation, and ex-Governor Reuben E. Fenton, of Chautauqua; C. C. Dwight, later Justice of the Supreme Court and Sereno Payne from Cayuga, now Republican leader in Congress; Charles S. Fairman, of Chemung; S. A. Kellogg, of Clinton, now a Justice of the Supreme Court; B. Platt Carpenter, of Dutchess; James D. Warren and James H. Roberts, later State Comptroller, of Erie; Vice-President William A. Wheeler, of Franklin; Titus Shepherd, of Herkimer; Jacob Worth, for years the party boss of Kings; E. A. Nash, now a Supreme Court Justice, and James W. Wadsworth, of Livingston; General Daniel E. Sickles, Charles H. Trainor, William H. Laimbeer, Cornelius Van Cott, Robert Ray Hamilton, grandson of Alexander Hamilton; Thurlow Weed, Chester A. Arthur, later Vice-President and President of the United States, and Levi P. Morton, later Governor of New York and Vice-President, of New York; Richard Crowley, later a Member of Congress, and Timothy E. Ellsworth, leader of the present State Senate, of Niagara; Roscoe Conkling, of Oneida; E. G. Lapham, later U. S. Senator from Ontario; Henry A. Childs, now a Justice of the Supreme Court, of Orleans; Hamilton Fish, Jr., of Putnam; William E. Kisselburg, of Rensselaer; George William Curtiss, of Richmond; James W. Husted and Ira M. Hedges, of Rockland; Leslie W. Russell, later Attorney-General and Supreme Court Justice, and G. S. Erwin, of St. Lawrence; C. A. Hawley, of Seneca; Franklin D. Sherwood and Stephen T. Hayt, of Steuben; Thomas C. Platt, later United States Senator and party leader of Tioga; George H. Sharp, later Speaker of the House, of Ulster; Henry G. Burleigh and Isaac B. Baker, whose feuds have made Washington famous, and W. J. Humphrey, Byron Healy and George G. Hoskins, of Wyoming.

The Conkling, or anti-administration forces, were in control of the convention, but they wore their laurels calm-

ly and made no effort to disquiet Vice-President Wheeler, George William Curtiss and Judge W. H. Robertson, the administration leaders. The ticket nominated was as follows:

For Governor—A. B. Cornell, of New York.

For Lieutenant-Governor—George G. Hoskins, of Wyoming.

For Comptroller—J. W. Wadsworth, of Livingston.

For Secretary of State—General J. B. Carr, Rensselaer.

For Treasurer—N. D. Wendell, of Albany.

For Attorney-General—Hamilton Ward, of Allegany.

For State Engineer—Howard Soule, of Onondaga.

The platform was brief:

The Republicans of New York, pledging ourselves anew to National supremacy, equal rights, free elections and honest money, declare these principles:

First—The Republic of the United States is a Nation and not a league. The Nation is supreme in its own constitutional sphere. It is girded with power to guard its own life, to protect its own citizens, to regulate its own elections and to execute its own laws. The opposite doctrine of State sovereignty is the baleful mother of nullification, secession and anarchy. Republicanism stands for National supremacy in National affairs and State rights in State concerns. Democracy stands for State sovereignty, with its own twin heresy, that the Union is a mere confederacy of States.

Second—To refuse necessary supplies for the Government, with the design of compelling the unwilling consent of a co-ordinate and independent branch to odious measures, is revolution. To refuse appropriations for the execution of existing and binding laws is nullification. We arraign the Democratic Representatives in Congress as guilty both of revolutionary attempts and nullifying schemes, and we reprobate their action as calculated to subvert the Constitution and to strike at the existence of the Government itself.

Third—The safety of the Republic demands free and pure elections. The Democratic Congress has attempted by dictation, by caucus, by threats of starving the Government, and by months of disturbing agitation, to break down the National election laws. We denounce this effort as a conspiracy to overthrow the safeguards of free suffrage and to open the ballot-box to the unchecked domination of the rifle-clubs of the South and



the repeaters of New York. We declare our uncompromising opposition to any repeal of these just, protective laws; and the Republican Senators and Representatives in Congress for their resistance to this attempt, and President Hayes, for his veto messages, deserve and receive our hearty approval.

Fourth—The Republican party neither justifies nor tolerates military interference with elections. It seeks only to protect the ballot-box from the interference of force and fraud. It repels the false charges and denounces the false pretences of conspirators, who, while professing free elections everywhere, sustain mob law in the South; while inveighing against troops at the polls to protect citizens, refuse to prohibit armed clubs from surrounding the ballot box to intimidate them; and, while affecting that the soldier's bayonet will overawe free electors, remain silent when the assassin's bullet seals the fate of political independence.

Fifth—We call upon the people to remember that the Democratic party forced the extra session of Congress without warrant or excuse; that it prosecuted its partisan purposes by revolutionary methods; that it persistently obstructed resumption, and still constantly presses disturbing measures; that it reopened sectional questions closed by the National triumph, and threatens to repeal the war legislation; that its Southern element answers conciliation only with violence; that its hope of success rests alone on a solid South, and that its triumph would make the solid South the ruling force of the Nation. We recognize that the great body of the people who defended the Union, of whatever party name, are equally patriotic and equally interested in good government, and we earnestly invoke them to unite in resisting the dangerous designs of a party organization under the sway of those who were lately in rebellion and seek to regain in the halls of legislation what they lost on the field of battle.

Sixth—The successful resumption of specie payments, despite Democratic predictions and hostility, is the crowning element of the Republican financial policy. Followed by returning National prosperity, improved credit, a refunded debt and reduced interest, it adds another to the triumphs which prove that the Republican party is equal to the highest demands. Our whole currency should be kept at par with the monetary standard of the commercial world, and any attempts to debase the standard, to depreciate the paper or deteriorate the coin should be firmly resisted.

Seventh—The claims of the living and the memories of the dead defenders of the Nation conjure us to protest against the partisan and unpatriotic greed which expels old Union soldiers from their well-deserved rewards, and advances Confederate soldiers to their places.

Eighth—As the pledge and proof of its economy in State administration, the Republican party, in spite of prolonged Democratic resistance,

proposed and passed the Constitutional amendments which restrict the expense of the canals to their receipts, and reforms the whole system of canal and prison management, and by extinguishing the public indebtedness and relieving the people from any further tax; therefore it effected a great saving in State taxation. These fruits of Republican measures the Democrats have brazenly attempted to appropriate as their own. Appealing to the records in support of our own declaration, we pronounce their claims unfounded, and hold up their authors as public imposters.

Ninth—The inequalities of taxation, which press most upon those least able to bear them, should be remedied. To this end the Republican Legislature created a commission to revise the assessment and tax laws, and to reach a class of property which now largely escapes; and we remind the people that this salutary reform was unwarrantably defeated by the present Democratic Executive.

Tenth—Moneyed and transportation corporations are not alone the works of private enterprise, but are created for public use, and with due regard to vested rights it is the clear province and the plain duty of the State to supervise and regulate such corporations as to secure the just and impartial treatment of all interested; to foster the industrial and agricultural welfare of the people, and with a liberal policy favor the public water ways and maintain the commercial supremacy of the State. We look to the inquiry now in progress, under the direction of the Legislature, to develop the facts which will guide to all needed action.

One of the surprises of the convention was Senator Conkling's advocacy of Mr. Ward's nomination, the only candidacy supported by him on the floor of the convention. This action was an agreeable surprise to Mr. Ward and his friends, it having been previously understood that Mr. Frank Smith was to nominate.

The New York Tribune, describing the nomination, says:

Hamilton Ward, of Allegany County, was then suggested for Attorney-General. E. D. Morgan, of New York, nominated General Henry E. Treman, of New York. Senator Conkling, to the great surprise of the convention, then addressed the chair. In a deferential manner he said that he would like to take the liberty to point out that the southern tier of counties had no representative on the ticket. He had known Mr. Ward in Congress, and could testify that he was a man of great ability, and one that in the darkest hour of the rebellion served his country loyally in the House of Representatives. He felt at liberty to say this because Mr.

Ward was a gentleman with whom he had not always agreed on political questions. Mr. Morgan thereupon withdrew Mr. Tremain's name and Mr. Ward was nominated by acclamation.

The usual approval of the ticket was manifested and the Tribune of the 4th said of Mr. Ward:

Hamilton Ward, the candidate for Attorney-General, has had a notable life. He was born in Herkimer County, July 3, 1829. When he was four years old his parents removed to Virginia, where they remained till he was eight years old, when they returned to New York and chose a home in Chemung County. There he grew to manhood, and while a very young man studied law at Elmira. He was admitted to the bar at Cooperstown in 1851, and soon afterward selected Phillipsville (now Belmont), Allegany County, as the place where he would begin to practice law. He has ever since been a resident of the place. When a young man he was twice elected District Attorney of Allegany County. Years passed, and Mr. Ward became a prominent member of the Republican party in the western part of the State. In the year 1864 he was elected a member for the XXXIXth Congress from the XXVIIth District, which was composed of the counties of Allegany, Chemung and Steuben. His services were such as to win him a re-election to Congress in 1866 and 1868. He declined a re-election in 1870, and retired from Congress a poor man, his law practice having been neglected by him in order to properly perform his official duties. While in Congress he was a member of the Committee on Claims, of the Committee on Reconstruction, of the special committee appointed to investigate the assassination of President Lincoln, and of the special committee which drew up the articles of impeachment against President Johnson. Mr. Ward was then, and is now, emphatically a "stalwart Republican."

And the next day remarked:

(Hamilton Ward, who was nominated for Attorney-General, has had a State reputation for many years, having served in Congress for a number of terms and distinguishing himself there by his radical Republicanism.)

After the convention Mr. Ward went at once to Washington to secure if possible the hearty support of the admin-

istration for the State ticket, and had a long and favorable interview with the President.

On Sept. 8th Vice-President Wheeler wrote the following letter to Mr. Ward:

My Dear Sir:—

In pursuance of a resolution passed by the Republican State Convention held at Saratoga on the 3rd inst., you are hereby informed that you are nominated as its candidate for the office of Attorney-General of the State of New York.

Very truly yours,

W. A. WHEELER, Pres'n't of Convention.

The Hon. Hamilton Ward.

And on the 24th Mr. Ward accepted the nomination as follows:

Belmont, N. Y., Sept. 24, 1879.

Hon. William A. Wheeler,

Pres't of the Republican State Convention.

Dear Sir:—

I have received your letter informing me of my nomination by the State Convention held on the 3rd inst. at Saratoga as the Republican candidate for Attorney-General.

I accept the nomination and with the greater pleasure because of the unanimity with which it was made.

The office is one of great trust and responsibility and if elected I shall endeavor to discharge its duties with strict justice and impartiality to all the citizens of the State.

Very respectfully yours,

HAMILTON WARD.

In the campaign which followed Mr. Ward spoke in almost every county of the State, and his services were in particular demand on account of the inexperience in public speaking of the other nominees.

He made the fight to some extent on national issues and expressed his disapproval of the policy of the administration concerning the Southern outrages.

He spoke in Rome on Oct. 2nd as follows:

## HON. HAMILTON WARD'S ADDRESS.

Hon. Hamilton Ward, of Allegany, the Republican nominee for Attorney-General, was introduced and received with applause. He paid a tribute to the statesmen of Oneida County. Horatio Seymour, notwithstanding the man of Gramercy Park, is the recognized head of the Democracy of the Union, and Roscoe Conkling stands unchallenged as the chief of Americans. God grant that his life be long spared for his imperiled country. The coming election will decide the position of the Empire State in the next Presidential contest. The voter in New York has more responsibility than any other voter in the country, because all the other States ask what is New York to do. The issues before us are national. We are to determine which party is to elect the next President. The men who for four years tried to destroy the Union, have by stupendous folly got control of the legislation of the United States, and you who have lost your sons and buried your brothers, you who stand on the pension rolls of the Republic—you must get down on your knees to Confederate brigadiers to ask an appropriation for pensions. You have to face the record of 15,000 martyrs in the South, who dared to assert their right to the ballot and to public speech and public assemblies. I know you are weary of the question of the South, and in this time of your returning prosperity you would like to put the ghostly picture behind you. But as guardians of this land you must be just, and see that our flag floats over a freeman, and that not even the lowest is deprived of his rights. You must see that the government is for and by the people. In seven years after the close of the war, by the bulldozing polling in six of the States, there remained not a single Republican Representative in Congress and but two Senators, and the seat of one of these contested. Over 74,000 Republican votes were silenced by the white leaguers and night raiders. The South was a solid Democratic South. The 24 Representatives and ten Senators secured by the shotgun policy, placed the House and Senate in control of those who for many years tried to force down the Union. No other nation can show such stupendous folly. I was a humble member of the three Congresses succeeding the war, and never voted to relieve the political disabilities of any rebel. It was a generous era. Lincoln, Johnson and Greeley were generous. We made three amendments to the constitution, the 13th and 14th. The 14th amendment provided for representation in Congress. The brigands have us by the throat, and they ask what we are going to do about it. I answer we will decrease the representation. Such a man as Grant will have the power and will to execute the law so that no more such shameful proceeding will occur as recently occurred in Texas. In that State a clergyman and his

Republican friends met in a barn to consult on politics. The white leaguers and night raiders shot down six of them, and they were buried in the ditch like dogs. The minister wrote to Washington to the Attorney-General in substance: Is your flag a mockery? Is not every man entitled to protection? The Attorney-General replied, telling him to apply to the courts. If the nation can not protect its citizens, it had better crumble in the dust. The Attorney-General made that answer, knowing that the country was ruled by men who for four years tried to overthrow the country; who furrowed it with graves; who placed on it six thousand millions of debt. The Southern Republicans are not cowards and slaves. They retreated by the light of their burning dwellings and the gloom of new-made graves. The rebel leaders came back from the field trained in war, and they turned their arms on those poor, ignorant men and decimated them. The North, in its security, once said, the sin of slavery will not be visited upon us. It is no affair of ours. But the war came, and you are now suffering the result. Learn from this history. As long as you permit the constitution to be violated in the South and injustice to be done, you must expect that God's judgment will be visited upon you. There is blood upon the skirts of the South. I say to the South the blood of Cornelia Chisolm and of 14,000 martyrs to liberty stains your hands, and all the sweet rain from heaven can not wash it out. It cries out to the justice of the North. It will be aroused and New York will roll up 50,000 Republican majority.

The Republicans of New York have nominated A. B. Cornell for Governor. I am glad you respond to the name, because in these times of speculation and fraud it is refreshing to find one man who all agree is honest. We who remember the reign of Credit Mobilier, the speculations of Tweed and the "honesty" of Tilden, and wishing to preserve the country in its integrity, want honest men. When the man of Gramercy Park was trying to evade the income tax, Cornell was trying to pay what the government decided he was not bound to pay. Cornell's life has been ransacked from A to Z and he has been found a strictly honest man. He has taken the position that people have rights as well as corporations. The Republican party has taken a position on the subject of taxation, and appointed a committee to equalize it.

The speaker then alluded to the other candidates. Mr. Hoskins he knew to be a good man, who served with distinction in Congress and made a very good presiding officer. James Wadsworth is a farmer, and a son of one of the brightest and bravest who laid down their lives to save the nation. Mr. Carr, candidate for Secretary of State, was a brave soldier who went out as private and returned a general, having earned all his promotions by wounds and blood. You know Howard Soule. I am author-



ized to say that he is an honest man, and in no sense the tool of corporations. With such a ticket, the man least entitled to support is the humble individual before you.

I know Governor Robinson. With all his good qualities he is not master of the situation. It is the voice of Robinson but the hand of Tilden. This trickster, this cipher alley man, whom the Democracy have undertaken to promote over Horatio Seymour; who has grown rich as the attorney and agent of corporations; who in 1868 was the guilty instrument of the Democratic organization and by whom the Republicans of New York were defrauded out of their electoral vote. This man, or rather his cousin, who offered Bawdy Nash, the poor negro of South Carolina, \$50,000 to turn over the electoral votes of that State to Tilden. It was the nephew or uncle who tried to capture Louisiana, and who undertook to get the one-armed Governor of Florida to betray his trust. The man who made Hayes President; who enabled him to veto the outrages and swindles in the shape of Confederate Congress bills, could not be corrupted or debauched. When you hear Democrats talking of corruption among Southern Republicans, remember Sam Tilden's barrel of money was not big enough to buy them.

The speaker read from the Albany Journal facts and figures going to show that under eight years of Republican rule the canals had been more profitably and economically managed and more of the canal debt had been paid than under the next eight years of Democratic rule. Governor Robinson says the canals under his administration were self-supporting, but neglects to say that the Republican Legislature had made things so that they could not be otherwise. The State prisons have been self-supporting because of the contract system; but in order to prevent that in the future, the Democratic convention at Syracuse did not forget to denounce the contract system. All these pretenses of reform by this Democratic Governor are sham and fraudulent.

The speaker then turned his attention to the finances and refuted the arguments of the Greenbackers at some length.

The address was plain and straightforward and very effective. The speaker was very frequently applauded.

This speech did not meet the approval of the Administration or "Half-breed" wing of the party, as it was beginning to be called, and the President protested against Mr. Ward's speeches, and the Administration press demanded that he be recalled from the stump, but without effect; later in the campaign he made several speeches in New York City which provoked favorable comment from the metropolitan press.



At the election Nov. 4th, the entire Republican ticket was elected, except the State Engineer and Surveyor.

Cornell, whose opposition was divided, had a plurality of 42,782. John Kelly, the Tammany leader and candidate, receiving over 77,000 votes. No Tammany candidates opposed the remaining Democratic nominees, and Hoskins' plurality was 188; Wadsworth, who was the only candidate receiving unqualified half-breed support, had 5,927 plurality; Carr had 2,029; Wendell had 2,683; Ward had 4,426; he ran 834 ahead of his ticket in Allegany County, being especially strong in the towns of Amity, Andover, Belfast, Scio and Wellsville. He also ran about 2,000 ahead in New York. This caused much surprise, as Mr. Ward had never been well known in New York, except when he was savagely assailed by the Tammany press for his position on the naturalization laws in Congress. The result, however, was brought about by two causes. During the campaign he had met John Kelly incidentally on a train, and Kelly apparently pleased with Mr. Ward, intimated to him that he would run him ahead in New York. The other cause is set out in a newspaper article printed in 1890, and is as follows:

An interesting incident was related at the meeting of the Allegany County Association of Ex-Union Prisoners held at Belmont, New York, on June 18, 1890, which we believe has never before appeared in print.

There was quite a number of old soldiers present who had suffered the horrors of Andersonville and other noted rebel prisons and who could feel a special interest in the narrative, and it will also be interesting to old soldiers generally.

The incident was this: When the Hon. Hamilton Ward was a member of Congress from the Twenty-seventh New York District, which comprised the counties of Allegany, Chemung and Steuben, shortly after the war he noticed sitting at the door of the patent office in Washington, a young man who was an apparent physical wreck and who bore unmistakable evidence of having suffered the privations and hardships of prison life. Mr. Ward had had occasion on two successive days to visit the patent office and seeing the man there the second day, like Lazarus at the gate, he asked him why he was there, what he wanted and whether he could render him any assistance. He told Mr. Ward that he had been confined many

months in the Andersonville prison and was anxious to get an interview with the Commissioner of Patents to see if he could not get some little employment for temporary help which he very much needed, but that he had been unable to get even an interview with the Commissioner.

Mr. Ward was indignant at this and as Congressmen can readily get admittance to any of the public officers he took the man immediately before the Commissioner and had him state his wishes.

A rule prevails at Washington that before giving an applicant an appointment he should be recognized as from and charged to some Congressional district and recommended by some member of Congress.

The poor fellow was asked what Congressional district he was from and whether he could get the influence of his member of Congress, and he was obliged to confess that he could not procure any such influence, when Mr. Ward promptly said: "I will recommend him and you can charge him to the Twenty-seventh New York Congressional District." And he added: "Mr. Commissioner, I believe my constituents will justify me in saying that whenever a poor and needy soldier with a good record wants a place in your office you can charge him if necessary to my district, and I file a standing recommendation for his appointment."

The man got a place in the patent office. He remained there until his health was somewhat restored and then resigned his place, called on Mr. Ward and thanked him for his kind offices and said he had some friends in New York City where he was going to see if he could get into business.

This was in 1866.

Time rolled on and Mr. Hamilton Ward was a candidate for Attorney-General of the State of New York in the fall of 1879. This State was close and the campaign was exciting. The Tammany Democrats had bolted the Democratic nominee for Governor, but supported the rest of the Democratic ticket. While this scism promised to elect the Republican nominee for Governor, it did not look so well for the other candidates on the Republican ticket that had to meet the united efforts of the Democracy. Mr. Ward had gone to New York City to look after the campaign. While there he received a note from a gentleman saying that he would like to meet him on appointment, or if Mr. Ward could not see him personally he wished he would send him (the writer) twelve hundred pasters upon which were printed his name as the nominee for Attorney-General, as they could be used to advantage.

Mr. Ward made an appointment at once to meet the gentleman, who told him that he was very anxious to procure his election, that he was a member of a large manufacturing firm in New York City that employed seven hundred men. Five hundred of them were Democrats and voters; that the men had all heard of Mr. Ward and knew what he had done for

him (the speaker) and they all wanted to vote for him. Mr. Ward was greatly astonished and inquired the reason.

The gentleman said: "I am the person who was in the Andersonville prison and whom thirteen years ago you helped to a position in the patent office at Washington," and told Mr. Ward his name.

It is needless to state that the pasters were furnished and to the astonishment of his country friends Mr. Ward was considerably ahead of his ticket in the city of New York.

In some counties Mr. Ward ran slightly behind, but the result as a whole was very gratifying to him.

And now, after an interval of nine years, he returned for a second time to public life. The office of Attorney-General was of course more in line with his profession than his service in Congress had been, and he retained his clientage and kept open his law office. At this time he was the picture of robust health and vitality and carried his fifty years with an ease a much younger man might have envied. His hair was grey and he wore a heavy redish mustache and burnsides, having shaved off his beard several years before. His weight was about 175 pounds and he always wore a closely buttoned double-breasted frock coat and high hat. He was especially careful about the fit of his gloves and shoes, having remarkably small hands and feet. His habits were simple and his bearing was genial and unassuming.

## CHAPTER VII.

### Attorney-General.

On the 1st of January, 1880, Mr. Ward assumed the duties of his new office, and took up his residence at the Delevan House, on Broadway, now the site of the new Central Depot. He retained as his first deputy William B. Ruggles, of Bath, a Democrat and first deputy under the previous administration.

His other appointees were as follows :

Charles I. Everett, of Utica, 2nd Assistant.

John C. Winslow, of Watertown, Clerk.

William E. Yager, of Oneonta, Clerk.

W. Ellery Davis, of Belmont, Stenographer.

He occupied a suite of offices in the old State House, northeast of the Capitol.

Under the laws of the State of New York the Attorney-General is the counsel for the people in all actions to dissolve corporations. And has the power to call receivers of the corporations to account. The abuse of trusts of this sort was as common then as it is to-day, and one of Mr. Ward's first official acts was to issue a circular letter, directed to all such receivers requiring them to state the date of their appointment, the amount of assets received by them, the sums of money disbursed, the costs of the receivership and the length of time necessary to complete their trust. This course was favorably commented on, and Justice Noah Davis of the Supreme Court wrote the following letter to Mr. Ward, which he afterward consented should be made public :

"New York, January 31st, 1880.

Hon. Hamilton Ward.

My Dear Sir:—I am very glad to see by this morning's Tribune that you have taken steps to inquire into the management, by receivers, of the affairs of insolvent banks and insurance companies. You can hardly do the public a greater service than by most thoroughly pursuing this investigation and procuring the enactment of laws that will prevent the abuses which may be developed.

In the popular mind the administration of justice is brought into great discredit by the wrongs alleged to have been committed. I trust your investigation will show how far this impression is unjust toward the Courts, and where it properly belongs in cases in which it is well founded.

I beg you will not hesitate to follow up the investigation till every abuse is discovered, and its repetition prevented by severe and effective law.

I am very respectfully,

NOAH DAVIS."

On February 27 Governor Cornell, at the request of the Albany County District Attorney, designated Mr. Ward as counsel for the people to prosecute an indictment for murder in the first degree against John Hughes, a middle-aged man of little reputation, residing in Albany, who was charged with having murdered Albany's leading criminal lawery, William J. Hadley, at his office on March 4, 1879, by stabbing him with a butcher knife. Hadley owed the defendant some money and the defense was insanity, partially caused by brooding over the debt. The trial was had in the old State house. It began in the latter part of February, 1880, and lasted for four weeks. The verdict was murder in the second degree.

Mr. Ward's summing up was published in full and extracts from it are as follows:

In discussing the defense which urged the folly of the act as a proof of insanity, he said:

"Gentlemen of the jury, when a man departs from the course of virtue and rectitude and honor, when he turns his back upon the laws of God, and of man, when he makes up his mind to become an Ishmealite in the world, when he concludes that his hand shall be against every man and every man's hand shall be against him, when he goes out on the broad ocean—the shoreless ocean,—of crime, he leaves his normal and natural condition, he leaves the safeguards and securities that his religion, his education, the counsels of his mother and the prayers of the good that have surrounded him, and from that hour his course is inconsistent and absurd; and no man ever committed a crime but what that crime was stained with folly and but what every step he took was a devious and uncertain step. Every time he stepped he tried to cover the other step. Every time he moved he stood in the shadow of his crime and there was that everlasting

consciousness in him—that consciousness that God had implanted in him, that he was a criminal, and he went staggering, staggering, staggering on until he reaches his doom.”

Again discussing the railings of the defendant against fate, he says :

Gentlemen of the jury, when a man undertakes a long course of crime and folly and when he has so conducted himself that his very children are taken away from him, that all the world shuts its doors against him, when he becomes an outcast and an outlaw like Cain, wandering upon the face of the earth with the curse upon his brow, when a man reaches that point in his war upon society, when he has infested half the prisons of the State, when he has spent a large portion of his time in jails and in prisons, when his whole life has been a violation of law and decency—I should think that the time might come when he would sit down and that God given quality of remorse would come back whispering to his soul that he was a sinner and that he might realize it at such a time. Is that an evidence of insanity? No, no! That is an evidence of reason; it is an evidence that the man is conscious of his crime and his folly—conscious that the weight of the Almighty hand is upon him—conscious that society has turned its back upon him, that he is an outcast and a felon and that he is wandering abroad about the earth, and the pitiless storm beating down upon his defenseless head, and without friends. Is that an evidence of insanity? It is an evidence that the man at last realizes the result of his stupendous folly and of his life-long crime.”

In speaking of the defense he said :

“Well, I think that every witness they have introduced have proven our case. It is the attribute of truth that it invades all things. It can never be smothered or crushed. It is the natural voice of God and reason. It is the quality that carries society in all its multiplied transactions through its duties. It is the quality that elevates man above the brute and dignifies and ennobles human nature. Truth will always come out and the truth has come out from their witnesses on that stand.”

Later in speaking of the medical testimony where a physician had sworn that a knowledge of right was not instinctive, but the result of education, Mr. Ward said :

“So this learned professor, this speculator, who has come here to swear to an opinion to ask a jury to stand upon, has sworn to us that virtue and rectitude and honor come not from natural impulses, come not

from God, come not from the soul, come not from conscience, come not from that quality within us that lifts us up and makes us immortal beings, come not from our sweet children as they prattle at our feet and climb up upon our knees, with innocent eyes speaking truth and virtue in every word and action; come not in honesty from the young maiden in her beauty, modesty and purity—but all this thing is taught and that our natures are naturally corrupt, sordid and depraved and everything comes from education.”

In quite another vein, and to conclude the question of insanity, he said :

“If you should gather up all the peculiarities of any gentleman on this jury, and if any of you should be unfortunate enough to die to-day and leave a large amount of property and didn't please some of your sisters, your cousins or your aunts, and they should attempt to prove that Mr. Lord or Mr. Whittier or any gentleman on the jury was insane, I shouldn't wonder but that they could prove some very strange things. Sometimes you had sneezed when you ought not to; sometimes, maybe, you had put your vest on upside down; sometimes you had looked cross or unamiable; sometimes exhibited different feelings from others; sometimes when talking to somebody your eye would brighten and somebody thought it was peculiar. I am satisfied that if I should ever happen to accumulate a large amount of property—a thing I never expect to do—and I should die, and somebody should go to ransacking my life and pick out all the queer things I ever did, and get our young friend O'Malley, with his shrewdness and his skillful way of putting things together and let him spread all the ridiculous things I had ever done on paper and shove it up to Dr. Mosher, I tell you that I think that fellow would swear I was crazy, and I don't know but he would be right about it.”

In discussing the deceased's final statement, he said :

“I have, as I understand it, the last statement that Mr. Hadley made on earth. He made it, gentlemen, under very impressive circumstances. The counsel on the other side takes pains to say that this was special pleading on the part of Mr. Hadley to undertake to carry the impression that this man, at this time, was putting up evidence against his client. My learned friend did himself injustice when he made that insinuation. When a man reaches a point where the earth is fading from his vision,—when he 'hears a voice they cannot hear that bids him not to stay, and sees



a hand they cannot see that beckons him away,"—when all the objects of earth and time are vanishing, when he is about to be ushered in his belief, into the presence of his God, when fraud and falsehood and cheating and all the by-plays and trials of this world are as ashes upon the lips, when a man feels that he is to be summoned to God and to judgment, and where all the deeds of the flesh and of the life are to pass before that inscrutable Eye which looks right through the deeds of men and down into the hearts and souls of us all and which will admit of no prevarication, no dissembling, no special pleadings—with the blood oozing from him the precious blood—saying to his son-in-law that he was dying—saying to the officer that he felt that he should not live—there was blood upon his clothes and blood upon the floor—blood everywhere—they take pains to prove that there was blood even upon the very window casings, and he was kept up by stimulants—at such a time I ask you was he clouded in his intellect? Didn't he know what he was saying? He may have forgotten things, but, gentlemen, he didn't lie about what he said he remembered. There comes a time in that supreme moment when there is no hypocrisy, no fraud, no falsehood. There comes a time, I say, in that supreme moment when the light supernatural seems to illuminate the soul, flashing up and bringing back to one's mind the keen remembrance of a lifetime. The mind thinks rapidly, it works quickly, it does its office with great precision, and when William J. Hadley made this statement he made it with the full sense of the awful responsibility that rested upon him."

In this month a very bitter attack was made on Mr. Ward, which, commencing in the New York Sun, went generally through the Democratic and Half Breed press of the State. This was in connection with the case of the People vs. Henry D. Denison, James J. Belden, et al., one of the suits which resulted from Governor Tilden's famous raids on the so called "canal ring," a raid which proved most expensive to the State, and which had no substantial result except to nominate and nearly elect Tilden President of the United States. The defendants were canal contractors, one of them, James J. Belden, of Syracuse, was a strong Half Breed, and later was Mayor of Syracuse, and for several terms represented the Onondaga County district in Congress. Their counsel was Frank Hiscock, later U. S. Senator. The suit was for moneys paid these contractors fraudulently in excess of the amounts due under their con-

tracts. Referees were appointed who heard the evidence and reported that while fraud had not been proved the State was entitled to recover about \$400,000 which had been paid without authority of law. The General Term reversed this decision, holding that as the action was based on fraud, no recovery could be sustained without proof of fraud, and as no fraud had been shown that the judgment should be reversed with a new trial for the plaintiff.

The decision is reported in the 19th volume of *Hun, New York Supreme Court Reports* at page 137. The litigation up to this point had been conducted by Mr. Ward's predecessor, Mr. Schoonmaker, and his assistant, Mr. Paige. As soon as he became Attorney-General, Mr. Ward took an appeal from the decision of the General Term to the Court of Appeals, believing that no new evidence existed, that the case had been fully tried by his predecessor, and that the only chance to sustain the referee's decision was on the questions of law involved which had been decided adversely by the General Term.

It was claimed by hostile newspapers, although upon no reputable legal authority, that in taking the appeal to the Court of Appeals, Mr. Ward practically sacrificed the claims of the State, and that he should have gone back for a new trial. This was answered by a signed statement, published in the *Albany Journal*, in which Mr. Ward pointed out that a new trial would put the State to great expense, and that as no new facts could be adduced the appeal was proper.

The sting was taken out of the attack by the fact that after an investigation of the contract by Governor Tilden himself, the alterations which increased the contract price were allowed and an Act was passed and signed by the Governor in 1875 making a sufficient appropriation therefor.

The objection to Mr. Ward's course went so far that shortly after the newspaper attack Assemblyman Rhodes introduced a resolution in the Assembly directing the Attorney-General to apply to the Court of Appeals for leave to withdraw his appeal. The resolution, however, was never pressed to a vote and died in committee.

The decision of the Court of Appeals handed down a short time later settled the controversy. They held that no fraud had been shown on the trial and that the appropriation for and payment of the contractor's claims were a ratification of the arrangement by the State. This decision is reported in the 80th Volume of New York Court of Appeals Reports at page 656, Judge Folger writing the opinion.

The next issue of the Albany Law Journal, the leading law publication of the State, at that time ably conducted by that delightful scholar and splendid man, Irving Brown, said on page 303 of Volume 21 :

In the case of the People v. Denison; the Court of Appeals have affirmed the order of the General Term which granted a new trial, and in accordance with the law provided for such appeals, and the stipulation entered into, have awarded judgment absolute for defendants. A very long opinion was written by Judge Folger, but his views were not adopted as a whole by a majority of the members of the court. It is understood that five of Judge Folger's associates agreed with him that proof of fraud was essential to warrant a recovery under the complaint; Judge Earl alone dissenting from this view, and holding that the referees might without error have treated the action as one *ex contractu*. Judge Folger held that the State officers had exceeded their powers; that there was no authority to remove slope walls and substitute vertical walls, and that there had been no ratification of such action; in all of which he agreed with the referees. He held further, however, that defendants were entitled to receive whatever the work was worth, and that the People could recover back only what had been paid in excess of its real value, and that therefore the referees erred in giving judgment for the whole amount paid; in which Judges Miller and Earl concurred. Chief Judge Church and Judges Rapallo, Andrews, and Danforth, held that there had been ratification. So it seems that the partisan complaint against the Attorney-General for not taking a new trial, before going to the Court of Appeals, is not justified by the result. Public legal officials usually know better about these matters than political newspapers.

This article was extensively copied throughout the State, and, with others of a similar tenor from the New York Commercial Advertiser, to a large extent counteracted the injury done Mr. Ward by the attack.

This, however, was not the end of the litigation. Act-

ing on the theory that the judgment of the Court of Appeals allowed their unproved counterclaim in the action the defendants entered judgment in Albany against the State in the sum of about \$100,000.

Mr. Ward promptly moved before Judge Theodore R. Westbrook at the May Special Term to vacate this judgment, and in a careful and well considered opinion the Justice vacated the judgment. This decision was affirmed by the General Term and also by the Court of Appeals, which latter decision is reported in the 84th Volume of New York Reports at page 272. The argument for the people was made by Roscoe Conkling, the opening and closing of whose address to the Court is as follows:

#### THE PEOPLE VS. DENNISON.

In opening his argument for the State before the Court of Appeals recently, in the famous Dennison case, Senator Conkling drew this graphic picture of the great cry and little wool under which the Tilden reformers went into power:

This case, may it please your honors, seems to belong to the irony of fate. It is a travesty in politics and in jurisprudence. Its chief public lesson was taught to his disciples by one who lived five centuries before Mary's son walked under the palms of Palestine. China's profound student of men, saw as plainly as you see, the vast difference between a loud outcry—that was his phrase—a loud outcry of promise, and a genuine fulfillment. The instance before us is full of this difference.

Eight years ago, in the press, in the public assembly, at the fireside, at the kneading troughs, a loud outcry went forth, a voice of many tongues sounded an alarm. The State, it was said, was a prey to the robber. It was declared that jobbers had seized upon our vast and costly public works; that lax and venial practices had uncovered the canals to thieves, and that obscene birds had swooped down to the harvest to gorge themselves on every side with plunder and spoilation. There was too much truth in it. The proclaimed need of the hour was not only for new public agents, but for reformers, who should be "ugly honest." That I remember was the phrase. The people listened and believed. The sceptre of power was placed in hands chosen amid loud acclaims, chosen amid loud promises that grievances were to be redressed, that missing millions were to be restored to the pillaged treasury; millions were to be recovered from fraudulent contractors. The new executive establishment was composed of those conspicuously chosen for services in this regard.

The Attorney-General commenced this action. The people were at

once plaintiff and spectator. It was leveled at a transaction chosen for its aggravation as a test and selected case. The mission of this action was not only to assert itself but to break the way for after recoveries. Five hundred and eighty-two thousand dollars were demanded here. It was four hundred and seventeen thousand dollars and interest for five years and eight months. The interest was \$165,000.

The \$582,000 were to be recovered here, and that was to be the fore-runner of recoveries beyond the dreams of avarice.

Well, referees were chosen, ponderous machinery was set in motion, nothing for effect was lacking either in outlay or in expectation. Ninety thousand dollars, I am told, were expended by the State in maintaining this controversy. The referees reported about \$400,000. The Courts lent attentive ear. This, the highest tribunal in the State, was summoned to the task. The people were defeated. Here, as in the Court below, they were turned away empty, beaten. The result was announced as a failure. A failure by the authorities to make good the claim of the State. Failure, that was all, that was enough for the experience and the pocket of the taxpayers. But shortly it turned out that the end had not come, that a failure was but the beginning of the end, and the case now became the pioneer to counter theories more startling and original than unfrightened statesmanship or zeal had ever conceived.

Now, comes to the fore, professional enterprise and dash to display before the astonished gaze of the bar, the latent possibilities and hidden riches of judicial proceedings. Without notice, without motion, without an assessment of damages, without the sanction or knowledge of any Court, in the Clerk's office of the county in which the venue had been laid, quietly and summarily a judgment was entered against the State for ninety odd thousand dollars damages, and for sixty odd hundred dollars costs, making a hundred and one thousand dollars and some odd hundreds that the People of the State were fined for their rashness and fatuity in commencing this ill-starred ignominious litigation.

Now comes the law officer of the State to defend those, who have come with a claim of more than half a million, against a penalty of one hundred thousand dollars for preferring it. This, so far, is the bright beginning and the bitter end of a halcyon and vociferous proceeding.

After arguing the legal points in the case, Senator Conkling closed with the following reference to Attorney-General Ward, who has been assailed for pursuing the only course that any good lawyer would approve.

But he has been made a mark for the arrow of many who have bended their bows at him. Yet so careful did he wish to be, that exercising what I deem very bad judgment, as I must say, in his selection, he wanted to summon to his side some of his professional brethren, who might not only

share with him the small modicum of responsibility that there might be, but whose presence might defend him from the licentious and truthless insinuation that in some way or other, he had been in sympathy with, or in lenity with the interests of somebody concerned in this case. It was rather for this reason, and not in the presumptuous hope of being able materially to assist Your Honors in understanding this case that I came to his side, as I should have liked a professional brother to come to my side had I been gibbeted for nothing at the cross-roads of public condemnation, in order that it might be fulfilled as should be spoken by somebody the prophet, that there is nothing so valuable, nothing so honest, nothing so void of offence in these times that it should not be dragged through the hurricane and the surfeit of mire and detestable accusation.

During this year Mr. Ward rendered opinions as Attorney-General on the State Railroad Laws, the taxation of bank stock and telegraph lines, and brought an action for the State of New York vs. The State of Louisiana on bonds issued by the defendant.

During the winter of 1880-81 he rented a furnished house at the head of Hamilton Street, on Lark Street, where he resided with his family.

The year 1881 was the most distressing and unhappy year of Mr. Ward's life. Attacked by powerful Wall Street combinations, backed by a venal press, cheated out of a deserved re-nomination by his party, his friend Conkling in disgrace and himself engaged in a desperate struggle to preserve his good name, the rough and ready training of his earlier years stood him in good stead.

It is difficult to follow events in their chronological order during this year, but the questions taken up each in their turn will be:

- 1st. The work of the office during the year.
- 2nd. The matters connected with Senators Conkling and Platt's resignation.
- 3rd. The effort for a re-nomination, and
- 4th. The Manhattan Railroad investigation.

In January, 1881, at the request of the land commissioners, Mr. Ward rendered an opinion that private sales of public lands, as theretofore conducted, were illegal, and that all public lands must be sold at public auction. This decision was adopted, and saved the State thousands of dollars



yearly. It, however, broke up a syndicate of land agents, who were thereafter numbered among Mr. Ward's enemies.

Mr. Ward was always fond of walking, and preferred a walk where he could be near the water. The New York Central Bridge across the Hudson river was for him a favorite early morning promenade, as there was a footway beside the tracks.

In 1866 the directors of the bridge company, with the approval of the canal board, had fixed a rate of toll by which each passenger and ton of freight crossing the bridge paid a considerable toll, and each foot passenger three cents. This was a heavy tax on the laborers, hundreds of whom crossed the bridge, three or four times daily, on their way to and from their work in Greenbush, and the toll on freight and passengers amounted yearly to a vast sum of money. On February 18th, Mr. Ward brought this matter to the attention of the Canal Board, and asked for a committee which was appointed to investigate the matter and report.

In July the committee, Mr. Ward being chairman, recommended that the permission of the Board to the Railroad Company be rescinded, and that no toll be levied on passengers and freight, and only two cents on each foot passenger be allowed. This report was adopted and enforced by the board, against the strenuous opposition of the New York Central Railroad, as the bridge profits at that time were estimated at \$600,000 yearly, most of the Bridge Company's stock being owned by officers of the railroad.

As a capitol commissioner Mr. Ward was equally active. The Hallowell Granite Company of Maine, a corporation said to have been backed by James G. Blaine, had the contract for furnishing the granite for the new capitol at ninety-nine cents per cubic foot. Mr. Ward thought this excessive, and called for an investigation. It was found that 350,000 more feet would be needed to complete the building, and new bids being called for the same company offered to furnish the same granite for sixty-eight cents per cubic foot, thus saving the State over \$100,000. This made more enemies.

Telegraph companies had for years largely escaped tax-



ation on the ground that their lines were not real estate. Mr. Ward in a well considered opinion called to the attention of the assessors of Montgomery County the fact that the lines were real estate, and the lines were taxed, and this precedent has since been generally followed throughout the State, and has greatly relieved other property, and is now a part of the statute law of the State. About the same time upon the application of interested parties, Mr. Ward decided that the consolidation of the three telegraph companies then doing business in the State was lawful, and the New York World of February 5th says on this subject:

Evidently Attorney-General Ward is an Attorney-General of the State and not of demagogues or "strikers." This was not the belief, apparently, of the people who yesterday begged him to grant an "application of certain citizens to the Attorney-General to begin an action against the telegraph companies to prevent consolidation." Every lawyer knows how easy it is to begin an action, even when the beginning of it may be regarded as the practical end of it. Every lawyer knows, too, how, readily many Attorneys-General in the past have authorized actions from political or personal complaisance which they must have believed to be untenable. Attorney-General Ward very emphatically says: "An attempt to maintain the action would be discreditable to the law officers of the State and of no avail to the people." New York has known Attorneys-General who would have hastened to bring an action as an appeal from Judge Barrett's chambers order and decision merely for the sake of winning a round or two of applause from the groundlings or from the bulls and bears of Wall Street. Attorney-General Ward has shown that in the discharge of his duty he is governed not only by a decent respect for his oath of office but by his personal convictions as a lawyer.

There was a number of other litigations during these two years, but the important ones, except the Manhattan litigation, have been specified.

On May 14th, 1881, the New York State Senators, Conkling and Platt, startled the country by resigning from the U. S. Senate. Their letter to Governor Cornell explaining their position was as follows:

## THE SENATORIAL DIFFICULTY.

Conkling and Platt—Reasons Impelling Their Resignations.

Washington, D. C., May 14, 1881.

Sir:—Transmitting, as we do, our resignations, respectively, of the great trusts, with which New York has honored us, it is fit that we acquaint you, and through you the Legislature and people of the State, with the reasons which, in our judgment, make such a step respectful and necessary.

Some weeks ago, the President sent to the Senate, in a group, the nominations of several persons for public offices already filled.

One of these offices is the Collectorship of the Port of New York, now held by General Merritt; another is the Consul-Generalship at London, now held by General Badeau; another is Charge de Affairs to Denmark, held by Mr. Cramer; another is the Mission to Switzerland, held by Mr. Fish, a son of the former distinguished Secretary of State. Mr. Fish had in deference to an ancient practice, placed his position at the disposal of the new administration, but, like the other persons named, he was ready to remain at his post if permitted to do so.

All of these officers, save only Mr. Cramer, are citizens of New York.

It was proposed to displace them all, not for any alleged fault, or for any alleged need or advantage of the public service, but in order to give the great office of Collector of the Port of New York to Mr. William H. Robertson as a "reward" for certain acts of his, said to have "aided in making the nomination of General Garfield possible."

The chain of removals thus proposed, was broken by General Badeau's promptly declining to accept the new place to which he was to be sent.

These nominations summoned every member of the Senate to say whether he "advised" such a transaction.

The movement was more than a surprise. We had been told only a few hours before, that no removals in the New York offices were soon to be made or even considered, and had been requested to withhold the papers and suggestion bearing on the subject, which had been sent to us for presentation, should occasion arise, until we had notice from the President of his readiness to receive them.

Learning that the Vice-President was equally misled, we went to Mr. James, the cabinet officer from our State, and learned, that though he had spent some time with the President on the morning of the day the nominations were sent in, no disclosure of an intention to

send them had been made to him, and that he first knew of the matter by hearsay following the event.

After earnest reflection and consultation we believed the proceedings unwise and wrong, whether considered wholly in relation to the preservation and integrity of the public service and the public example to be set, or in relation also to the integrity of the Republican party.

No public utterance of comment or censure was made by either of us, in the Senate or elsewhere; on the contrary, we thought that the President would reconsider action so sudden and hasty, and would at least adopt less hurtful and objectional modes of requitting personal or individual service.

In this hope the following paper was prepared and signed and presented by Mr. James to the President, who was subsequently informed that you had authorized your name to be added also:

"To the President:—

We beg leave to remonstrate against the change in the Collectorship at New York by the removal of Mr. Merritt and the appointment of Mr. Robertson. The proposal was wholly a surprise. We heard of it only when the several nominations involved in the plan were announced in the Senate. We had only two days before this been informed from you that a change in the Customs offices at New York was not contemplated, and quite ignorant of a purpose to take any action now, we had no opportunity, until after the nominations, to make the suggestions we now present.

We do not believe that the interests of the public service will be promoted by removing the present Collector and putting Mr. Robertson in his stead. Our opinion is quite the reverse, and we believe no political advantage can be gained for either the Republican party or its principles. Believing that no individual has claims or obligations which should be liquidated in such a mode, we earnestly and respectfully ask that the nomination of Mr. Robertson be withdrawn.

(Signed) CHESTER A. ARTHUR,  
T. C. PLATT,  
THOMAS L. JAMES,  
ROSCOE CONKLING."

This paper was presented to the President by Mr. James, on Monday, the 28th day of March. Knowing the frequency with which every one of the twenty Presidents of the Republic, and markedly the present incumbent, had withdrawn nominations on less serious representations, we did not apprehend that such a suggestion would be treated as an intrusion, or an invasion of any prerogative of the nominating power.

We were disappointed. Immediately the public press, especially in articles and despatches written by those in close and constant association with the President and with an influential member of his Cabinet, teemed with violent denunciations of the Senators from New York for "opposing the administration" and "dictating" to the President. Persons who visited the Executive Mansion reported the President as resentful, and impatient of hesitation "to advise and consent" to what he proposed. We had made—we have made no assault upon anybody. We have at all times refused to answer questions by representatives of the press, or to make complaint or comment or even denial of the many truthless charges published against us by the officious champions of "the Administration." Indeed, beyond confidential consultation with brother Senators and officials, we have said nothing until now on the subject.

Nor have we or either of us "promoted the deadlock in the Senate" in order to prevent or influence action on any nomination, nor have we ever so stated.

Immediately after the nominations were published, letters and telegrams in great numbers came from every part of the State from its leading citizens, protesting against the proposed changes and condemning them on many grounds. Several thousands of the leading mercantile firms of New York—constituting, we are informed, a majority of every branch of trade—sent us remonstrances.

Sixty of the eighty-one Republican members of the Assembly, by letter or memorial, made objection. Representatives in Congress, State officials, business men, professional men, commercial, industrial and political organizations are among the remonstrants, and they speak from every section of the State.

Besides the nominations already referred to, there were awaiting the action of the Senate several citizens of New York, named for offices connected with the courts, District Attorneys and Marshals. These were re-appointments. Most of them had been originally commissioned by Mr. Hayes. They were certified by the Judges of the courts and many other eminent persons who attested the faithfulness and merit of their service and recommended their continuance. They were not presented by us. We have not attempted to "dictate," nor have we asked the nomination of one person to any office in the State. Indeed, with the sole exception of the written request set forth above, we have never even expressed an opinion to the President in any case, unless questioned in regard to it.

Some days ago the President abruptly withdrew, in one and the same act, the names of General Woodford and Mr. Tenney, and of the two Marshals.

This unprecedented proceeding, whether permissible by law or not, was gravely significant. The President had nominated these officers after they had been weighed in the balance. Their official records were before him and had been fully scrutinized and approved. It must be presumed he thought the nominations fit to be made and that it was his duty to appoint them. There is no allegation that he discovered unfitness in them afterwards. It could hardly be that he had discovered unfitness in all of them alike. What then was the meaning and purpose of this peremptory step? It was immediately stated, as if by authority, and seems to be admitted, that the purpose was to coerce the Senate or Senators to vote as they would not vote, if left free from executive interference.

The design was to control the action of Senators touching matters committed by the Constitution to the Senate, and to the Senate exclusively. It has been suggested in addition, that by recalling these nominations and holding them in his own hands, the President might, in the event of the failure of another nomination, use them to compensate that failure. If it can be supposed that all these public trusts are to be, or would in any event be, made personal perquisites to be handled and disposed of, not only to punish independence of senatorial votes and action, but to liquidate the personal obligations of any individual, however high in station, the conditions are utterly vicious and degrading, and their acceptance would compel the representatives of States to fling down their oath and representative duties at the footstool of the executive power.

Following this sweeping and startling executive act, came ominous avowals that dissent or failure to "advise and consent," would be held an act of offense, exposing all Senators from whatever State, to executive displeasure.

Thus we find ourselves confronted by the question whether we shall surrender the plain right and the sworn duty of Senators, by consenting to what we believe to be vicious and hurtful, or be assigned the position of disloyalty to an administration which we helped to bring in, and the success of which we earnestly wish, for every reason and motive which can enter into the case.

We know no theory avowed by any party which requires such submission as is now exacted. Although party service may be fairly considered in making selections of public officers, it can hardly be maintained the Senate is bound to remove without cause incumbents merely to make places for those whom any individual, even the President or a member of his cabinet, wishes to repay for being recreant to others or serviceable to him.

Only about two years ago the Senate advised that General Merritt be appointed Collector at New York. It is understood that among the Senators who so advised was Mr. Windom, now Secretary of the Treasury and head of the department whose subordinate General Merritt is. Another Senator, known to have given this advice, was Mr. Kirkwood, now Secretary of the Interior. It is said that like the Postmaster-General from our own State, these cabinet officers were not taken into consultation touching the removal of General Merritt; but their sworn and official action as Senators is none the less instructive.

That the late Secretary of the Treasury and the administration, up to its expiration, less than ten weeks ago, approved General Merritt as an officer is well known, and it is nowhere suggested that any citizen had petitioned for his removal, or that official delinquency on his part is the reason for it.

In the place of an experienced officer, in the midst of his term fixed by law, it is proposed suddenly to put a man who has had no training for the position, and who cannot be said to have any special fitness for his official duties.

In the inaugural of President Garfield, delivered on the fourth of March, stand these words:

"The civil service can never be placed on a satisfactory basis until it is regulated by law. For the good of the service itself, for the protection of those who are entrusted with the appointing power against the waste of time and obstruction to the public business caused by the inordinate pressure for place, and for the protection of incumbents against intrigue and wrong, I shall at the proper time, ask Congress to fix the tenure of the minor offices of the several executive departments, and prescribe the grounds upon which removals can be made during the terms for which incumbents have been appointed."

How good the distinction is which would make major offices a prey to "intrigue and wrong" and shield "minor offices" from like havoc, and whether the collectorship of the country should belong to the exposed or to the protected class, need not be decided here.

Assuming General Merritt to be an officer of average fitness and honesty, it might be reasonably argued that all Senators should with alacrity advise his displacement by a man of obvious superiority. Possibly it might be said that all should advise the selection in Gen. Merritt's place of a man who without superior fitness had rendered his country, or even his party, conspicuous and exalted service.

The case in hand does not belong to either of these classes.

The vocation of Mr. Robertson and his Legislative and professional experience and surroundings, do not denote superiority in the



qualities, and the knowledge, business habits and familiarity with the revenue laws and system of the United States which might make him more competent than General Merritt to collect the vast revenues and administer the vast business pertaining to the port of New York. Certainly he cannot in this respect be held an exception to rules of right and consistency on which the Constitution and laws have placed the public service.

We know no personal or political service rendered by Mr. Robertson so transcendent that the Collectorship of New York should be taken in the midst of a term and given to him as recompense.

Mr. Robertson is reported by the New York Tribune to have declared that his nomination was a "reward"—a "reward" for action as a delegate to the National Convention.

If Mr. Robertson in his action was influenced by a sense of duty, if he voted and acted his honest convictions, it is difficult to see what claim he has for any reward, not to speak of such great reward.

The action of which an estimate is thus invited is understood to be thus:

Mr. Robertson and sixty-nine other men accepted from a State convention a certain trust. They sought and accepted the position of agents or delegates to a National Convention. The State convention declared a plainly stated judgment and policy to be observed and supported by those it commissioned. To this declaration all selected as delegates gave implied consent.

But several of them in addition, made most specific personal pledges and engagements to exert themselves in good faith throughout to secure the nomination of General Grant. They made this pledge as the means of obtaining their own appointment as delegates, and they did, as we both personally know, obtain their seats in the National Convention upon the faith of their personal statements of their earnestness and fidelity.

The obligation thus assumed, we understood to involve integrity as much as the obligation of one who receives the proxy of a stockholder in a corporation upon the pledge and promise to vote as his principal would vote.

Whether Mr. Robertson was or was not himself bound not only by honor and implication, but by expressly giving his word, becomes quite immaterial in view of the claim made for him.

It is insisted that he "organized the bolt," or, as it has been sometimes stated, "he was the leader of the bolt." This is to say that he invited, persuaded, induced others whom he knew had given their word, and had obtained their seats by doing so, to violate their word



and betray not only Republicans assembled in State convention, but the Republicans of their districts as well, who had trusted in their honor.

Whoever counsels and procures another to do a dishonest or dishonorable act must share with that other the guilt, and should share also the odium justly attaching to it.

We are therefore wholly unable upon whatever ground we put it, to see justification for ourselves should we become parties to using the public trusts which belong to the people, to requite such services in such modes.

But the appliances employed to effect results, set up new standards of responsibility and invade, as we believe, the truths and principles on which the separate and co-ordinate branches of the government stand.

A Senator has his own responsibility. He is amenable to his State and to the body of which he is a member. He is bound by his oath to "advise and consent" on his conscience and judgment before God.

Whatever or whoever else may constrain him, he is to be exempt from executive menace or disfavor on one hand, and executive inducements on the other.

Long standing on the orders of the House of Commons, has been declaration that a member shall suffer expulsion who even reports the wishes of the executive head of the government to influence the votes of members.

The British Constitution is not more jealous than ours in this regard.

To give advice, and honest independent advice as to an appointment proposed, is as much the right and duty of a Senator as it is the right or duty of the President to propose the name. Be his advice one way or the other, it is no more an act of disrespect or treason to the nominating power, than the verdict of a juror or the decision of a judge.

The idea that the Senate is simply to find out what is wanted and then do it, we cannot believe safe or advisable, and thus far no party has dared or descended to set up such a test of party fidelity or allegiance.

In this instance such prominence has been given to the subject, and such distrust has been expressed of the correctness of our positions, that we think it right and dutiful to submit the matter to the power to which we are bound and ever ready to bow.

The Legislature is in session, it is Republican in majority, and

New York abounds in sons quite as able as we to bear her message and commission in the Senate of the United States.

With a profound sense of the obligation we owe, with devotion to the Republican party and its creed of liberty and right, with reverent attachment to the great State whose interests and honor are dear to us, we hold it respectful and becoming to make room for those who may correct all errors we have made, and interpret aright all duties we have misconceived.

We therefore enclose our resignation, but hold fast the privilege, as citizens and Republicans, to stand for the constitutional rights of all men and all representatives, whether of the States, the nation, or the people.

We have the honor to be, very respectfully, your obedient servants,

ROSCOE CONKLING.  
THOMAS C. PLATT.

To His Excellency, Gov. Cornell.

This step was taken upon the suggestion of Senator Platt, and was not first proposed by Conkling, as generally supposed. Immediately a contest in the New York Legislature began to choose their successors. Men, whose political fortunes had been created by Conkling, deserted him. The whole power of the national administration was devoted to his defeat, and even Cornell, who owed his office absolutely to Conkling and Platt, opposed their return. For several weeks the contest was waged in the New York Legislature, and finally resulted in the election of E. G. Lapham, of Canandaigua, and Warren Miller, of Herkimer.

Conkling withdrew from politics, and Platt took up single handed the fight, which fourteen years later restored the State to the Republican column and ultimately replaced him in the Senate. During this contest over the re-election, Conkling sent Mr. Ward to Cornell. The story is best told in an article in the Lockport Sun, April 29th, 1893, as follows:

Few public men in Western New York possess a wider acquaintance with politics and political history than does Judge Hamilton Ward of Belmont, Allegany County, who is now holding court in this city.

As representative in Congress, Attorney-General and Judge of the Supreme Court he has witnessed as a personal participant some of the most exciting political dramas in our history, and as he is a genial, gentlemanly good fellow off the bench, his acquaintances sometimes impose upon his good nature by engaging him in conversation upon these political episodes for hours at a time.

A little knot of listeners gathered about him at The Grand, a Sun representative among them. Judge Ward was an old-time stalwart and has never ceased to admire Roscoe Conkling, hence it is not singular that he is not an admirer of ex-Gov. Cornell, whose coldness and ingratitude cost Conkling a re-election to the Senate in 1881. Judge Ward was Attorney-General at that exciting period.

#### CORNELL'S COLDNESS.

"I do not admire Gov. Cornell," he said. "I have never spoken to him since 1881. I was requested by Senator Conkling at a critical point in his struggle for re-election to see the Governor and ask him what he proposed to do.

"Tell Cornell," said Conkling, "that if I were in his place, and he in mine, I would help him."

"So I posted off to Albany to see the Governor. I had little faith in the outcome of my mission. The Governor's face was as cold and impassive as ever when I called and broached my message.

"I can't do anything," he said.

"I confess I got angry when I heard this. I didn't care whether I was talking to the Governor of the State or not. I only saw the man that Conkling made coldly declining to help him in his hour of need.

#### REFRESHING HIS MEMORY.

"Governor," I said, "do you remember when you and Jake Paterson came to me in 1879, and asked me to see Conkling on your behalf? You wanted to be Governor, and you wanted the Senator to come to the convention and nominate you. You wanted him to get Gen. Arthur out of the way as a candidate, and you asked me to see him on your behalf. I did it. Conkling came to the convention, advised Arthur to withdraw, and nominated you for Governor and me for Attorney-General. For either of us to refuse to help him now is the blackest ingratitude."

"But he has finished his own career," replied Cornell.

"Governor," I said, "do you remember the word Senator Conkling sent to Gen. Sharpe, and Gen. Arthur, and you, and me, and all his

friends, asking them whether he had better be a candidate for re-election after his resignation? Do you recall the word you sent back? It was this: 'Senator Conkling must be a candidate and must be re-elected by all means!' Now you refuse to help his candidacy when you advised it."

#### NEVER TOO LATE TO HELP A FRIEND.

"It is too late for me to do anything," said the Governor.

"It is never too late to help a friend," I replied. "You should do everything in your power, individually and officially, that you can do legitimately to help Conkling."

"He made an evasive reply, and I left him. We never spoke afterward. Conkling would hardly believe it when I told him Cornell's answer."

The struggle for re-nomination had already begun. The term of the Governor and Lieutenant-Governor was three years; the other State officers were elected for two years. The old fight between the half breeds and stalwarts was on, and as Mr. Ward had been conspicuous for his fidelity to Conkling, he was an especial object of attack.

The New York Truth of August 15th, urged Senator Conkling to take an active part in the convention, especially on account of Mr. Ward, of whom the editor said:

As regards the ticket it must be Stalwart to the backbone. Attorney-General Ward must be renominated, not only because he was Conkling's open and earnest friend throughout the canvass at Albany, but in recognition of his honest course in dealing with derelict corporations.

The Anti-Monopoly Association, then strong throughout the State, were enthusiastic in Mr. Ward's behalf, but their support probably repelled more than it attracted.

His record was circulated in their literature, and such resolutions as the following were passed:

#### ATTORNEY-GENERAL WARD.

Action of the Thirteenth Assembly District Anti-Monopoly Association.

The following resolutions were adopted last night at a meeting of the Thirteenth Assembly District Anti-Monopoly Association:

Whereas, The influence of railroad corporations has in the past been so potent in the Attorney-General's office of this State that laws defining the obligations and duties of said corporations have been practically a dead letter; and

Whereas, The present Attorney-General, Hon. Hamilton Ward, has manifested a desire to enforce the law and protect the public interest;

Resolved, That it is refreshing to see one public officer with courage and fidelity enough to take such a stand and we heartily indorse the following sentiment recently expressed by Mr. Ward: "The power of corporations for mischief and oppression, as well as for good, is very great. It is only by rigidly enforcing the laws in regard to them and not permitting them to usurp any powers not granted, that the people can be protected. The more powerful and aggressive the corporation is the greater need exists on the part of the courts and the Attorney-General for active vigilance."

Resolved, That this sentiment should and will everywhere meet with the earnest approval of all citizens except those who share in the fruits of maladministration of public corporations; that wholesale robbery of the public by means of construction companies and other forms of stock-watering, or by pools and combinations, is just as dishonest as the theft of a loaf of bread, and should be as swiftly and surely punished.

Resolved, That the corruptions of our elections, and legislative bribery, which is the direct result of this state of things, seriously threatens the stability of our free institutions, and these insidious encroachments upon the public rights and the public welfare must be stopped.

Resolved, That we will steadfastly labor alike to compel the observance of the duties and rights of corporations; and to this end we solicit the co-operation of all citizens who approve of these principles.

These were adopted by the 13th Assembly District Anti-Monopoly Association, June 23rd, 1881. The convention was called in New York. Chauncy Depew, president of the New York Central Railroad, was permanent chairman.

E. M. Johnson and J. W. Vrooman were secretaries.

The preliminary test of strength over the election of the temporary chairman resulted in a victory for the Half Breeds, Warner Miller being elected.

When the nominations were made Secretary of State Carr was nominated by acclamation. Comptroller Wadsworth declined a re-nomination and Ira Davenport, of Bath, was named on the first ballot. S. M. Norton, of Allegany County, then nominated Mr. Ward. Leslie W. Russell, of St. Lawrence was also nominated.

When the time to ballot for Attorney-General came, many of the delegates, as is usual, had left their seats and were moving about, or had left the hall, so that the roll call was attended with considerable difficulty. After a whispered consultation with James Husted, who had won imperishable fame by peeking over Senator Platt's transom at the Delevan House during the Senatorial fight, and whose treachery to Conkling and Platt was most flagrant, Mr. Depew announced that Leslie W. Russell, of St. Lawrence, the only other candidate, had received fifteen votes more than Mr. Ward, and was therefore nominated. A tally of the votes was, of course, kept by many persons unofficially, and they generally agreed that the vote was the reverse of that announced, and that Mr. Ward was nominated by fifteen. Outside of New York and Brooklyn, a tally showed Ward 155, Russell 207, and investigation of the New York vote developed that 70 had voted for Mr. Ward and 9 for Mr. Russell, and that Mr. Ward had received at least 20 votes in Kings County, thus nominating him.

Several persons in the audience who kept the tally themselves wrote to Mr. Ward to this effect, and a Supreme Court stenographer, who was reporting the convention for one of the newspapers, and who took each vote as it was announced, affirmed it. Nothing, however, was done in the matter. Mr. Ward took his defeat with the best grace he could muster, and refrained from publicly discussing the subject on account of the effect it might have on the election of the ticket.

In 1898 Mr. Ward's elder son accompanied him to the Fifth Avenue Hotel in New York City, for many years the headquarters of the New York State Republicans. Many bedrooms in the hotel are adorned with pictures, which give

the rooms individuality. The bell-boy took them to one of the bedrooms on the ground floor on the 23rd Street side, and when Mr. Ward looked about an expression of deep pain crossed his face. He called the bell-boy back and directed him to secure another room, then turning to his son he told him that that was the room in which he had waited for the news from the convention, within which he had heard the report of his defeat, and had listened to the story of the fraud, and the indignant and excited protests of his friends, and there finally he had been left alone to think it out, to think of his power in State politics gone, of his honest efforts honestly to administer his office brought to naught; to think of the struggle which was before him to save his good name from the wreck, and from which he emerged in the morning strong in the purpose to put party honor above private grief. Many expressions of regret over Mr. Ward's defeat were heard.

After the convention the following is taken:

From the address of the State Committee of the Anti-Monopoly party of the State of New York issued at Utica Oct. 12th, 1881. In speaking of Mr. Ward, after referring to the fact that he was counted out in the Republican State Convention of 1881, and of his not being re-nominated for Attorney-General, it proceeds to say: "Hamilton Ward, the present Attorney-General, who was a candidate for re-election, was not re-nominated, the reason for this action may be indicated by the following editorial from the New York Truth of October 5th:

"AGAINST HIM."

"The corporations have united in the resolve to destroy Attorney-General Ward in the convention to-day."

"The Albany Bridge Co. is against him because he compelled it to lower the exorbitant tolls exacted from the people."

"The Western Union Telegraph Co. is against him because he forced that powerful corporation to pay taxes on its wires and poles as real estate."

"The railroads are all against him because he decided that it is within the power of the Legislature to regulate the rate of their charges."



"The elevated railroad people are against him because he held that the five-cent fare bill was not in conflict with the constitution."

"The Manhattan Railway Company and the Loan & Improvement Co. are against him because of his known intentions to bring their organizers to the criminal bar and because he has already tied their hands by the order of Justice Westbrook."

"The corporation furnishing stone to the new capitol is against him because he interfered with its unconscionable contract thereby effecting a saving of over \$150,000 a year to the State."

"The Canal Board ring of lawyers is against him because he employed a lawyer to represent the Board at a moderate salary, thus saving over \$30,000 of the people's money."

"The members of the land grabbing ring are against him because he pronounced the policy of selling the State's lands at private sales illegal."

"Will the people of the State—its farmers, merchants, mechanics and working men—permit Attorney-General Ward to be sacrificed because he has been true to them by making war upon their deadliest foes, the great corporations."

"We hope not."

The address then adds: "Unfortunately the people had but little to say in this convention, their representatives were controlled by the representatives of the corporations, whose party fealty is always secondary to that of the organizations which pay their election expenses, and who, in all parties to which they attach themselves, they primarily represent.

These influences defeated him in the Republican Convention, but the people of New York will long remember him as the Attorney-General who exerted the powers of his office in the interest of public economy and justice."

And the Albany Morning Express of December 8th said this of Mr. Ward:

#### THE RECORD OF A FAITHFUL OFFICIAL.

The Republican State Convention held in the city of New York on the 5th day of October last, failed to renominate Attorney-General Hamilton Ward, and thereby, as it seems to us, did injustice to a most competent and faithful public servant, and a devoted and useful mem-

ber of the Republican party. The causes which led to his defeat in the Convention need not be here recapitulated in detail. It is sufficient to say that because he had honorably, and as in duty bound, stood by his friend, Senator Conkling, in the memorable fight of last spring and summer, he was marked by the Senator's opponents for slaughter. Neither his splendid record as a public officer, nor the valuable services he had rendered as a party man, could save him in a Convention largely controlled by those who deserted the party in the national campaign of 1872.

Let it be understood that we intend no reflection upon the action of Judge Russell, who carried off the nomination. It was, of course, his right to be a candidate, and to use all honorable means to achieve success. It was not because the gentlemen who controlled the Convention especially loved Judge Russell, but because they particularly hated Hamilton Ward, that the former was nominated. They dared not try to nominate one of their own kind.

Next to the office of Governor, that of Attorney-General is perhaps the most important in the State government. He is a member and the legal adviser of the Canal Board, of the Board of Land Commissioners, of the Commissioners of the Canal Fund, of the State Board of Charities, and of the New Capital Commission. He is also the attorney for the people in cases before the Board of Audit, and the authorized and recognized legal adviser of all State officers. In important suits in which the people of the State are directly interested, he is the people's representative.

Now that Attorney-General Ward is about to go out of office, we will not be accused of a desire to flatter him when we remark that we believe that no gentleman who has held the position has made a better, cleaner or more satisfactory record. Space will not permit us to recount in detail the many important services he has rendered the people of the State during the two years of his administration of the affairs of the office, but it is sufficient to say that no duty has been shirked or neglected, no proceeding brought or advice given without a careful studying up of the matter, accompanied by such a presentation thereof as has almost invariably carried conviction. In the courts, Attorney-General Ward has been quite uniformly successful. In that respect his record will compare most favorably with that of any of his predecessors.

Mr. Ward has been most ably assisted by his two deputies, Judge Ruggles and Mr. Everett, as, indeed, he has been by all the gentlemen connected with his department. He will resume the practice of his profession with the assurance that he leaves an official record

without stain, and that he will always be held in especially high regard by those with whom he was officially and professionally associated. We shall be greatly mistaken if the people do not, some day, desire to avail themselves of the services of so competent and faithful a public servant.

At the election which followed the Republicans elected their candidates for Secretary of State, Comptroller, Attorney-General and State Engineer and Surveyor. Husted was defeated by Robert A. Maxwell, of Batavia, and peeking over transoms has not since that time been regarded as a safe means of political advancement.

It was in this year that President Garfield was assassinated. Guiteau shot him at the Washington Railroad Station about nine thirty A. M. July 2nd. The night before Conkling, Vice-President Arthur and Mr. Ward had left Albany on the night boat for New York, and arrived in that city after the news of the shooting had been received. Mr. Ward was the first one to receive the information, which, like all tales of calamity, was magnified so that the story told was that Garfield had only a few hours to live. Mr. Ward instantly communicated with Conkling, who said that Arthur must be told at once, and that he would tell him. The Vice-President was still in his state-room, and there they told him of the shooting and imminent death of the President. A great crowd was gathered at the dock and sullenly awaited them. The quarrel between the President and the New York Stalwarts at this time was so bitter that many believed that Guiteau had been influenced by it, and there was an undercurrent of wrath among the people. Those waiting at the boat landing showed some trace of this, and so Mr. Ward hurried ashore and procured a carriage in which Arthur entered without any manifestation from the crowd and was taken to his quarters.

The Manhattan litigation heretofore referred to was an action brought against the Manhattan Railway Company by the people of the State of New York, by Hamilton Ward, Attorney-General, the summons being dated May 18th, 1881. The complaint alleged that the Elevated Railroad Commis-

sioners had in 1875 and 1876 recommended and allowed two routes for elevated railroads in New York City, one of which was developed and used by the Metropolitan Railroad Company, and the other by the New York Elevated Railroad Company. The Commissioners also authorized competing routes, which were to be along the same streets as those occupied by the first named companies, and they proceeded to incorporate the Manhattan Railroad Company to use said routes. In 1879 the Manhattan Railroad Company absorbed the other two companies, never having of itself constructed a mile of railroad or issued any substantial amount of stock.

The situation is best described by a statement found among Mr. Ward's papers, and in his own handwriting:

My attention was first called to the condition of the Manhattan Railway Company, which operated all the elevated railroads of the city of New York, by the letter of Robert M. Galway, the President of the Manhattan, addressed "To the Mayor, Comptroller and Corporation Counsel of the city of New York," dated April 25th, 1881. This letter made an exhibit of the financial condition of the Company and established that the Company from its taking control of the elevated roads had been doing a losing business and was in arrears of unpaid taxes for the years 1879 and 1880 of \$960,000, and prayed to be relieved from those taxes and asked the co-operation of the New York officials in getting an act passed by the Legislature to that end. The letter confessed that unless such relief was granted the Company would be forced into bankruptcy. Indeed, the letter plainly showed that the Company was bankrupt already. Attention was called to this matter in the New York papers, and as this confessedly insolvent corporation had control of such vast interests and property affecting the public, it became the immediate duty of the Attorney-General to give it attention. It was not to be expected that any stockholders of the insolvent corporation would apply to the Attorney-General to take a proceeding that would wipe out the corporation, and thus destroy his stock, nor would that officer have been justified in waiting until he was moved upon in this way, but the matter was thrust upon his attention in so public a manner that he was obliged to take notice of it. I went to New York in the forepart of May, 1881, and stopped at the Windsor Hotel, and immediately communicated with Mr. Whitney, the Corporation Counsel of the City of New York, one of the officers to whom this communication

was addressed. I called his attention to the letter of Mr. Galway, and the condition of the Manhattan, and suggested that I felt it my duty to take some action in the premises, and asked him for such information as he might have on the subject. He said that as the Corporation Counsel, who was chiefly interested in the collection of the city taxes, and as a citizen, he would give me any information he might possess that would aid me in my inquiry. I then asked him to assist as counsel for the people, and assist in preparing such papers and commencing such action as we should conclude was necessary. He said his engagements would not permit that, but he would refer me to Mr. Burton C. Harrison, who was an able and industrious lawyer in New York, and was thoroughly familiar with the organization and history of the rapid transit corporation. Mr. Harrison was sent for and he consented to assist, and on consultation we concluded that an action should be brought in the name of the people to dissolve the Manhattan Corporation in the County of New York. The complaint did not profess to state separate causes of action. A history of the incorporation and its proceedings since, and the present condition was given, coupled with the allegation that it had been insolvent for more than a year. That it had exercised powers not conferred upon it by law; that it had forfeited its powers and franchises by not exercising its corporate powers, and that the leases of the New York and Metropolitan Companies of their two roads to the Manhattan was in pursuance of an unlawful and fraudulent scheme entered into by the lessor and lessee companies, and it was substantially charged that the leases were invalid and by which the lessor companies "should cease to exercise their respective powers, right and franchises, and should respectively suspend their ordinary and lawful business for a period of ninety-nine years, and during the same time should not perform their corporate duties and obligations to the public, but that their said rights and franchises should be exercised by the said Manhattan Company." Copies of the leases were annexed to the complaint, judgment was demanded for a dissolution of the corporation, and the appointment of a receiver, and that also a receiver be appointed during the pendency of the action. The complaint was verified by Mr. Harrison on the 18th day of May, 1881, and upon the summons and complaint and several affidavits, among which was that of Mr. Harrison setting forth certain facts and conclusions upon which the complaint was based, Judge Donohue, of the then New York Supreme Court, on that day made an order, returnable on May 27th, at Chambers, Special Term of the Supreme Court, for the defendant to show cause why a receiver should not be appointed; the papers were served on the defendant at once, and I think on the same

day. The evening of the day on which it became public that the action had been commenced, the reporters of several New York papers called at my hotel to interview me on the subject of the action. The matter was of such public importance that I could not and did not refuse to give them a history of the proceedings so far, and the grounds of action. I, of course, claimed that the case was a good one, and urged all the points that had occurred to me, but I expressly said in the conclusion of my statement to the reporters as follows:

Here follows stars in statement.

It will be seen that the New York and Metropolitan Companies were not made parties to the action. It was a question which gave me some concern whether they ought not to be made parties as the Manhattan had possession of their property, and as the validity of the leases was attacked. It was charged that those leases were the result of an illegal and fraudulent scheme between the three companies. But I did not desire to wipe out those corporations, and thus utterly to destroy the rapid transit system of New York; yet I felt that it was very questionable whether they had a legal existence, and had great doubts whether they had not exceeded their powers by joining in the leases and forfeited their franchises by not discharging their corporate duties for two years. These doubts I think I expressed. At all events I concluded to put the question as to validity of the leases in the case against the Manhattan, and charge unlawful combination and scheme. The lessor company took alarm. They regarded the success of the actions as against the Manhattan upon any other ground than insolvency as a blow at the existence of the other two corporations, should the leases be declared invalid for want of power to execute and receive, then the lessor companies had exceeded their powers in giving them, and then they would also be liable to the charge of having suspended their ordinary powers and duties for more than a year, if the issue of the 13 millions of stock by the Manhattan was declared illegal then the other two companies were equally culpable in receiving each one-half of the stock and putting it on the public. It was thus seen at a glance that if the Manhattan was dissolved for any of the causes which might dissolve the other corporation, it might result in the destruction of the rapid transit system altogether and the loss of the many millions of stock held in all those companies. Consequently every person interested in any of these companies had an interest in opposing the action. The public got excited; the newspapers took up the subject. I was roundly abused by some and applauded by others. On the 27th day of May the motion was postponed until June 3rd to accommodate counsel for the defendant. On June 3rd, when I arrived to



make the motion in the Supreme Court, in New York, before Judge Donohue, I was surprised by the service of a stay of proceedings from Judge Brady. A momentary examination of the order satisfied me that it was void, and I had no doubt but it had been hurriedly granted by the Judge under a misapprehension of the facts. I proposed to go on with the motion, notwithstanding the order. The Court refused to allow me to do this, and I left the Court room. I regarded the whole performance as a trick of counsel, and publicly said, in substance, that if such tricks were put upon me in the New York District I would find a district where they would not be practiced. The motion was thus suspended. The stay was on June 6th, vacated by the Judge who made it, but another question had been presented by the defendant's counsel. On the 24th day of May the defendant's attorneys, Field, Bacon and others, obtained an order from Judge Donohue on the plaintiff to show cause why the complaint should not be made more definite and certain, &c., returnable the 26th, and asked for an order staying plaintiff's proceedings in the meantime. The Court refused the stay, but granted the order to show cause. I understood that upon the argument of this motion it was insisted by defendant's counsel, among other things, that the Court should not appoint a temporary receiver until the questions as to the complaint were settled. That under some of the causes of action set forth the plaintiff was not entitled to a receiver until final judgment, and under the cause of insolvency for more than a year, the Court might appoint such temporary receiver. That there was improper joinder of causes of action, for, among other reasons, some of the causes of action must be tried by the Court, and others by the jury. At all events up to the discontinuance of the action, as hereinafter stated, these grave questions had not been decided by Judge Donohue as far as I could learn. (A page here, No. 5, is missing.) (Page No. 6 continues):

The status of the case on June 2nd was that, first, the motion for a receiver was in a state of suspended animation, and while not dead, could only be brought on by a new notice or order to show cause. In the meantime Judge Donohue had ceased to hold Special Term at Chambers, and Judge Lawrence was on the bench. I must, for my absolute justification, say here that in addition to my embarrassment as to the character of the complaint and the motion pending to correct it, I was also embarrassed by the fact that I understood that Judge Lawrence felt a delicacy to hear a motion that under all the circumstances should have been heard by Judge Donohue, and hesitated to hear the motion. This was the condition of things when in a few days Colonel McCook, of New York, of the firm of Alexander & Green, ap-



plied to the Attorney-General on behalf of certain stockholders of the Manhattan Company, to hear an application to discontinue the action. He says in his communication, in substance, that he understood I contemplated doing so. I heard the application in New York. It was claimed on that application I was notified that certain persons were ready to take hold of the Manhattan and change the directory and make it solvent. I think there was a suggestion to that effect by some of the gentlemen present, but I could not act upon that. The names of the persons who were to make this transformation were not given, so I could judge of their responsibility or the probability of their carrying out what was proposed, how the old directory was to be ousted and the reformers got in their places these gentlemen did not inform me. When this was to be done I was not advised. I regarded the matter as a suggestion merely by way of argument in favor of a discontinuance, but of too uncertain a character to be depended upon. Had the company then become indisputably solvent, and had the taxes been provided for, and the old onerous and oppressive leases been annulled, and the company put on a healthy and paying basis, as later on it was claimed it had been done, then there would have been something tangible to consider, but as it was I could not act upon a bare suggestion. I was then considering the propriety of changing the action from the first to the third district, but had not determined, so I heard the application, and refused it. In my reply to the stockholders, under date of June 17th, "I reiterated the grounds of action set forth in the complaint, and declined to discontinue, but I say at the conclusion, "the action must proceed where it can be most speedily disposed of, and I hope the defendants will aid me in reaching a trial at the earliest moment possible \* \* \* without further dilatory proceedings." On consultation with Mr. Harrison and the First Deputy Attorney-General, Mr. Ruggles, I came to the conclusion that there were so many embarrassments attending the action in the first district that I would commence an action in the third district, and fix the place of trial in Albany County, the county in which the Attorney-General's office was located, and base the action upon the ground of insolvency alone. The statute provides that a corporation may be dissolved when it has been insolvent for more than one year. The affairs of the Manhattan had been growing steadily worse, in addition to not paying their taxes, they had failed to pay the installment due on their leases, due July 1st, and no one could longer dispute the hopeless insolvency of the company. It was perfectly safe to proceed on this ground alone. This course was recommended by several considerations. First, there was no doubt that upon the simple ground of insolvency, unmixed with other ques-

tions, the Court could appoint a receiver at once, pendente-lite. 2nd, if the receiver was appointed simply on this ground, it would not necessarily argue the destruction of the rapid transit system. 3rd, the case would be more removed from the atmosphere and struggles of the stock market and newspaper contest. 4th, the case would not be embarrassed by dilatory motions, orders, &c., such as had been and would be interposed in New York on the original causes of action. 5th, as the taxes were still unpaid and as the debts were accumulating as default in the installments had occurred and a responsible management was needed at once, the only safe course for all concerned was for the Court to take immediate possession of the road and manage it through its officers, to preserve the property and the income that was daily accumulating therefrom. These considerations were controlling. On the evening of July 1st I started from Albany to New York on the Hudson River boat. The boat was belated by a fog, and late in the morning of Saturday, the 2nd of July, we landed in New York, and received the dreadful intelligence of the shooting of the President. The Vice-President was on the boat. I repaired immediately to the office of Mr. Harrison, when I found him prepared to go into the country and unwell. I asked him to assist me in preparing a new complaint and papers for the appointment of a receiver in the second action. He said he could not on account of his health, and for other reasons. I then asked him to make substantially the same affidavit that he had in the first action, which he consented to do. He had on hand one of the old printed affidavits which he verified anew and delivered to me. Judge Westbrook held Special Term at Kingston, in the Third District, being Saturday, his Special Term, according to my best recollection, was the first and most accessible one in the district. I asked Harrison that if I got someone else to draw the complaint and other papers in the new action that he would go the first of next week to Kingston and apply for the order to show cause and attend to the service of the papers. He said he could not be present on the motion. This was Saturday, about noon. I felt obliged to leave that evening for my home in Belmont. I knew the firm of Lawrence & Wohner in the Equitable Building, the same building where I then was. Mr. Wohner had charge, under my predecessor, Mr. Schoonmaker, of an action in the nature of a \_\_\_\_\_ (illegible) which extended into my term, I had seen him in connection with that case, and he had introduced me to his partner, Mr. Lawrence. I knew of Lawrence also as having charge of an action against the Manhattan, and to my best recollection he, before then, had applied to me to commence an action against the directors of the Manhattan, so I regarded him as not in the Manhattan interest. He had also particularly examined the financial

condition of the Manhattan, and as I was anxious to find a person who could, from his knowledge, and would verify a complaint, containing the positive allegation that the defendant was and had been insolvent for a year.

I went with the consent and approval of Mr. Harrison, after obtaining his affidavit, to Lawrence & Wohner's office, and finding Mr. Lawrence stated my predicament and asked him if he had sufficient knowledge of the affairs of the Manhattan Company that he could conscientiously verify a complaint charging that the defendant had been insolvent for more than a year? He said he could. I then told him if he would have a complaint drawn in the action of the People vs. The Manhattan Railroad Company charging insolvency for a year or more, and have the papers prepared to obtain an order to show cause why a receiver should not be appointed in the action, and go to Kingston the first of the next week and get the order I would compensate him therefor. He objected to going to Kingston on account of other engagements, but finally, at my earnest solicitation, consented to go. The summons and complaint and motion papers were prepared in my presence, I assisting Lawrence and Wohner, and using their office force to accomplish it. The papers were prepared and Mr. Lawrence took them; got the order to show cause, sent the papers, and there his entire connection with the case ended. He was employed in the emergency above set forth for the special work he did and no other purpose. I did at that time consult with him about the new action, and I did, afterwards to my best recollection, receive from him a supplementary affidavit in support of the order to show cause, which I had requested him to make, but which was served later on defendant before the motion was made, but I did not know or understand that he was the attorney for W. E. O'Connnor or Jay Gould, or that either of those gentlemen had any interest at that time in the Manhattan or its stock.

Mr. Lawrence afterwards, on the motion of the New York Elevated to get their property, acted as counsel for them, but his services for the people was special and had ended. Mr. Lawrence rendered me a bill for these services of \$2,500.00. I rejected the bill as too large, and recommended the Court to allow only thereon \$500.00, which the Court, Judge Westbrook, did. This \$500 was paid by the receivers out of the Manhattan property, and did not come out of the people. The two chief allegations against me to show collusion with Gould & Company in this elevated railroad business are: 1st. That I improperly discontinued the first suit, and commenced the second action,

&c. 2nd. That in the second action I employed Jay Gould's brokers lawyer.

It has been seen how groundless are these charges. Before preparing the complaint in the second action I served on the defendant's attorney an amended complaint in the first action, which omitted entirely the cause of dissolution for insolvency which was drawn, with others in the original complaint. My idea then being, on hasty consideration, that I could eliminate the insolvency clause from the first complaint, and start a new action on that in the third district, and thence forward go on with two actions, one in the first district for all the causes except insolvency, and the other in the third district for insolvency alone. And I could move in the second action for a receiver without absolutely discontinuing the first. But when in the following week, as I was preparing for the motion, I came to consider the matter more maturely and in consultation with Mr. Ruggles, I came to the conclusion that the continuation of the first suit might seriously embarrass, if not defeat, my motion in the third district, because, first, there was still really a motion pending in the first district for the appointment of a receiver on the old complaint and affidavits. Second. The motion to correct the old complaint was not yet decided, and it was very doubtful whether amending the complaint in this undetermined and peculiar condition of affairs would change the status of the old action, and whether the pendency of the first motion for a receiver under all the circumstances would not be a bar to the second motion, at least form a sufficient reason for its denial. And even should the order be granted over these objections whether it would not form a sufficient reason for appeal, and stay from the order granting it, and thus create the same difficulties and delays encountered in the first action. I came to the conclusion that the only safe course to pursue was to discontinue the first action altogether, get the receiver appointed in the second action, and the property thus protected it could be a matter to be considered thereafter whether by amending the complaint in the second action, after the receiver was appointed, by including the other causes of action, or by bringing a new and separate action, therefore it was best to litigate the question raised by them. One thing is certain, these causes of action, if they were ever valid, are still valid. They are in no manner disposed of by any litigation that has occurred, or by any action of mine. The matter has been recently pressed upon the attention of the present Attorney-General. He was asked to bring an action against the Manhattan for all or some of the reasons stated in my first complaint, except that of insolvency. He declined, and I think wisely, because the whole subject

was left to his discretion. As I before said, had those causes of action been pushed to their logical conclusion, they would have wrecked all the elevated railroad corporations of New York and destroyed the rapid transit system. This would be a great public injury and no Attorney-General could succeed in such a result, or if he did, weather the storm he would thus create. If any inference can be drawn from the opinion by the Attorney-General that the State is estopped by the acts of its officers from now instituting on those grounds an action, I will say that no act of mine can be regarded as such estoppel, for the reason that there was nothing determined in the second action but that the defendants that were insolvent had become solvent on the trial of the case. I objected to any finding of the Court that the leases of May, 1879, were valid, or even that the second leases, those of the fall of 1881, were valid. I expressly said that I was not willing that any other question should be settled in that case than the single one of insolvency. And the Attorney-General, should he choose to-day to bring an action to dissolve the Manhattan Company, for the reason that it had exceeded its corporate powers—had failed to exercise its powers—had unlawfully issued watered stock—had done or left undone any of the things enumerated in the first complaint, which rendered it liable to a forfeiture of its franchises except the single one of insolvency—he could do so and have the question determined without any embarrassment from any official action of mine, so that the rights of the people have in no manner been sacrificed by my omitting in the second action any of the grounds contained in the first. The motion for a receiver in the second action was not opposed; all agreed a receiver must be appointed, and on the 13th of July, 1881, when the order to show cause was returnable, at Kingston, the companies unitedly recommended Judge John F. Dillon, and other gentlemen, among them was Mr. Hopkins. I desired to know whether Mr. Dillon was interested in any of these roads, and whether any reason existed why he should not be appointed. I asked the Judge to take an adjournment to New York to ascertain about the personelle of the receiver, and to accommodate the counsel, he consented, and on the 14th and 15th I was in New York, and because I took time to investigate the New York Times criticized my action and insisted that I should have consented to Judge Dillon's appointment at once. While I had no objections to Dillon, he was not a practical railroad man, and I recommended Mr. Hopkins, the vice-president of the Wabash Railroad, to be associated with him. Mr. Hopkins was a practical railroad man and every way fitted for the place. He was highly recommended.

Neither Jay Gould nor his broker, Mr. Connor, at this time, had any connection with the Manhattan, or owned any of its stock. Any

supposed relations that these receivers had to Gould was therefore no objection. The Times, Herald and New York Evening Post, in strong articles, approved of the appointment of these receivers, and spoke of their high character and qualifications for the place.

In January Mr. Ward had summoned the directors of the Manhattan before him to pass upon the propriety of some act of theirs, and the New York Times had at this time insinuated that the move was made to influence the stock markets. From this time on the Times pursued Mr. Ward with unceasing and malignant vituperation. It will be remembered that this same paper attacked him in connection with the Dennison-Belden case the year before; its owner and director was an Englishman named Jones, who took much interest in Wall Street. The Evening Mail and Star also bitterly attacked Mr. Ward.

They contended that his actions were influenced by improper motives; that he was friendly to the stockbrokers who had sold Manhattan short; that the road was really solvent and that knavery and ignorance combined to direct the application for a receivership.

For days the leading editorials of the New York press were on this subject, and no weapon of satire, ridicule or abuse was left untried. Burton N. Harrison, Samuel Tilden and others were charged with instigating his action, and the loud shrieks of defeated stock jobbers, backed by a venal press filled the air and swept along with them many well meaning persons and honest newspapers, who were confused by the clamor. However, the Herald, the Tribune and the Sun mildly approved of Mr. Ward's course, although they did not discuss the motive that lay behind the attack on him. Not so Mr. Ward's old time friend, the New York Truth; in a bold editorial of June 5 it declared that Cyrus W. Field and others were behind the attack on the Attorney-General, because they feared the result of his investigations.

In addition to the proceedings set out in Mr. Ward's statement, an application was made to Judge Donohue to stay all proceedings in the action, which was denied.

From the order entered upon this motion an appeal was



taken to the General Term, which also refused to grant the stay desired, but intimated that no further action should be taken until a certain motion pending before Judge Donohue to make the complaint more definite and certain could be determined.

On June 14th certain stockholders of the Manhattan Company appeared before the Attorney-General in New York and requested him to discontinue his action, and in answer to this application Mr. Ward prepared a statement showing the absolute insolvency of the company, and its situation in connection with the other elevated railroad companies which was mailed to each stockholder.

This statement contains the following significant paragraph: "The power of corporations for mischief and oppression, as well as for good, is very great. It is only by rigidly enforcing the laws in regard to them, and not permitting them to usurp any power not granted, that the people can be protected. The more powerful and aggressive the corporation the greater need exists on the part of the Courts and the Attorney-General for active vigilance."

This statement was favorably commented upon in some quarters, but the violent attacks of the Times still continued.

Hardly a day went by without several columns of most bitter denunciation from that journal.

Its articles were widely copied and referred to.

Rival speculators took sides in the litigation, and the stock market responded to its phases.

Later in July a second action was commenced, and this time to avoid the embarrassment of a prejudiced judiciary, it was brought in the Third District.

The defendant immediately capitulated, and consented to the appointment of receivers, who were Judge John F. Dillon, an eminent lawyer, and Mr. A. L. Hopkins, a practical railroad official.

In September an application was made by the New York Elevated Railroad Company to Justice T. R. Westbrook, who had appointed the receivers, for an order directing that its property leased by the Manhattan be restored to it. This request was refused by the Justice on the ground



that the petitioner was in part to blame for the defendant's condition.

In the meantime the receivers had conducted the elevated railroad system, and the plan to defraud the creditors of the Manhattan and to obtain relief from taxation having failed by reason of the receivership, there was nothing left for the managers of the road to do but pay its debts, and regain its possession, which they doubtless were desirous of doing at all times, as it was a valuable and paying property. Therefore the three railroad companies on the 22nd of October made an agreement which renewed the old leases, upon the agreement of the Manhattan to discharge all obligations in full.

Thereafter Judge Westbrook wrote Mr. Ward as follows:

Monticello, Oct. 25th, 1881.

My dear Ward:—Your letter to me was forwarded to me here.

The petition and order in the Manhattan case to discharge the receiver was presented to me this A. M.

The three companies petition, and show: 1st. That the creditors are the lessor companies, and New York City for taxes. 2nd. Claims for lessor companies are settled. 3rd. That the taxes are remitted because illegal and that a sum sufficient to pay them in full has been deposited in U. S. Trust Company as security. 4th. That the rental has been reduced to six per cent. to each company, which is equivalent to a reduction of four per cent. on whole capital of lessor companies. 5th. That the Manhattan is now abundantly solvent, which I know from tables of its earnings submitted to me, it must be under reduced rental. 6th. The settlement requires the vacating of receivership.

This result is simply glorious. You have saved the company and will have the thanks of hundreds of poor persons. Back of the corporation, and back of Wall Street Kings and affairs of Manhattan, are innocent stockholders; men, women and children, and they are the persons I care for; we have relaxed the grasp of the rich, who unloaded their stock upon the poor—from the throats of the poor.

I write mainly because I feel so, and I do it unselfishly because I have no axe to grind, except that of justice.

As ever your friend,

T. R. WESTBROOK.

I am sorry you are sick."

Mr. Ward objected to the discharge of the receivers and wired the Justice to this effect, being too ill to appear before him, in person, but Westbrook, acting upon his own responsibility, discharged them. This hasty and irregular action, although performed with the best intention, was the basis of the attempt to impeach him, which will be later discussed.

During the following month the action was tried, and the complaint dismissed, as will appear in Mr. Ward's statement hereinafter set out.

All the desired results had been accomplished. The railroad system had been forced to put aside the scheme of insolvency, pay its taxes and remove itself from arena of stock speculations.

The value of the stock had been restored to the stockholders, and the city of New York had been given a complete and solvent elevated railroad system.

All parties to the action were satisfied and no appeals were taken. However, the controversy did not end here. Mr. Ward had been defeated politically and the New York Times set out to so characterize his conduct of the litigation that his personal reputation would be destroyed. The reason that a great metropolitan journal should set out to do this is not clearly understood, but nevertheless it is not an uncommon occurrence, and the litigation has been thus minutely followed that the facts in light of the Times charges might be fully understood. It is true that Justice Westbrook hurried matters and did not much consult Mr. Ward, and in a letter of November 8th, Mr. Ward complains of this, and says that responsibility must rest with the Judge.

A further statement in connection with this matter found among Mr. Ward's papers, under date of 1882 and in his own handwriting, was prepared for publication in the Times, but was not so used, and was printed in the New York Tribune. After reviewing the earlier proceedings, it continues :

"Time rolled on. I was taken seriously ill from a cold contracted in attending the President's funeral at Cleveland. I went to my room in Albany about the 10th of October, and, with the exception

of riding out on pleasant days occasionally, was kept there for five or six weeks. During the time, and while I was very ill, I was asked to consent to a proceeding, before Judge Westbrook, to discharge the receivers and remit the elevated roads to the control of the Manhattan Company, on the ground that the company had become solvent. I telegraphed Judge Westbrook that I was not well enough to give attention to the matter, but that he must act on the papers before him in the case on his own judgment in the interest of all the people and all concerned. The Judge, on the application of all the elevated railroads, on a petition showing that the Manhattan Company by a most advantageous arrangement with the other companies had obtained the surrender of the old leases and had become solvent, and had provided for the payment of the back taxes, and that the receivers themselves joined in the application and asked to be discharged, restored the roads to the Manhattan Company.

"In November, while I was still ill, the attorneys of all the elevated roads and the Judge came to my room in Albany, and a trial was had of the case. Proofs were given showing that the old leases were abandoned, and that new and more advantageous ones to the defendant had been given; that the defendant had become solvent, and that all the elevated railroad corporations had come to one agreement by which the successful management of the elevated roads of New York was assured. The company having become solvent no cause of action under the new suit remained for the people. The defendant was certain to succeed in the case, and as no reason existed for procrastinating the matter, and as it was proper if it could be consistently done, to end the litigation during my term of office, a judgment was entered.

"There was nothing remarkable in holding a court in my room. Several boards of which I was a member, for my accommodation, had met in my room. Among them the Canal Board, the Commissioners of the Canal Fund and the Capitol Commission. I do not know or care who owned or did not own the stock of the Manhattan.

"Late in the proceedings I saw by the papers that Jay Gould had become interested in the road and had gone into the Manhattan directory. I also saw it stated that he was interested in aiding other railroads. I had no arrangement, express or implied, with him or anyone else about the elevated roads. I was never interested a farthing's worth in this or any other railroad. It did seem to me desirable that the men who had invested their money in the Manhattan stock in good faith should, if possible, be protected. The action was not brought to depress the stock, but as an inevitable result of the company's condition and its failure to pay taxes. I was really glad when the com-

pany became solvent and the stock rose from 20 to 56 cents, as those unfortunate stockholders seemed to be likely to realize something out of their investment. With the gambling whirlpool of Wall Street I had no interest or concern. If any one has lost or made in such ventures I had nothing to do with or interest in it.

"It is said that Mr. Gould has got control of the elevated roads of New York City. It is evident that under a new management the roads may be made to pay; and if Mr. Gould had accomplished this result it has not been done by reason of the people's action against the Manhattan, but in spite of it, because it was the new arrangement which was made by the concurrence of the directories of all the companies by which the Manhattan was made solvent, and which resulted in the defeat of the people's action.

"I wish to say, in conclusion, that I had no interest, except what an Attorney-General should have, in the case, and none of the stock or property involved. I did my official duty in the light that was given me. If I erred it was an error of judgment. I had no understanding, arrangement or interest with any man or set of men in the matter.

"I left the office of Attorney-General as poor as when I entered it, with my law business destroyed by the two years absence, and with nothing to give my wife and children but my professional work and my name for integrity among men which has never been assailed before. I am ready and anxious for any investigation of this matter which can be had, and hope that the whole business can be probed to the bottom."

Mr. Ward had met political reverses; his life had been full of strife and action, but never before had his integrity been attacked; like most sensitive men, he was at first overwhelmed—he tramped the quiet streets of Belmont long into the night; he grew old and weary, but his natural buoyancy of disposition and courage asserted itself; single-handed and poor he took up the fight and the result will be set forth.

All this time the Times had been building up public sentiment. All over the Union the names of Ward and Westbrook were bruited about. A public sentiment was being formed. The press was demonstrating its power. Five columns of the Times of December 30th was devoted to the question.

The old charge made when the litigation was commenced were repeated, although now it was charged that

the Attorney-General was acting in the interest of Gould and Field, and not against them. Day after day the attack continued. Westbrook and Ward were called tools of the "wreckers," and while the Albany Law Journal and other papers valiently upheld them, and pointed out the motives animating the 'Times' attack, nevertheless they gained credence. When the New York Assembly convened in January, 1882, it was a "reform" Assembly, and one of the most reforming of the reformers was Theodore Roosevelt, now Vice-President of the United States. He offered the following resolution to the Assembly, which for the time was tabled:

Whereas, Charges have been made from time to time by the public press against the late Attorney-General Hamilton Ward and T. R. Westbrook, a Justice of the Supreme Court of this State, on account of their official conduct in relation to suits brought against the Manhattan Railway, and

Whereas, These charges have, in the opinion of many persons, never been explained nor fairly refuted, and

Whereas, It is of vital importance that the judiciary of this State should be beyond reproach, therefore,

Resolved, That the Judiciary Committee is hereby empowered and directed to investigate the conduct of the late Attorney-General, Hamilton Ward, and Justice T. R. Westbrook, in relation to the suits against the Manhattan Elevated Railroad, and report at the earliest day practicable to the Legislature. [Tabled.]

This was probably well intentioned; Mr. Roosevelt was a young man and even then felt himself to be an extremely virtuous one.

This marked the high tide of the attack.

The Albany Law Journal had pooh-hooded the resolution, calling attention to the fact that no appeal had been taken by any party from any of the decisions or orders in the action, and that as Judge Grover said the critics had adopted the alternative policy of "swearing at the Court."

And even the Mail and Express, whose attacks were of the most bitter character in the first place, said editorially on January 12:

Now we have known Mr. Ward more or less for years, and as he is rabidly Stalwart and considerably inclined to self-assertion and bumptiousness we are somewhat prejudiced against him, yet we do not believe the charge against him to be true. It is contrary to the known and well established character of the man. He has again and again been called to positions of high public trust, in all of which he has demonstrated incorruptible integrity. It will be remembered that his acts and integrity was just as furiously assailed on the Belden canal suits, yet the Court of Appeals vindicated and sustained him triumphantly. We doubt not his integrity will eventually be as clearly demonstrated in this matter.

And on a later day pointed out that the Times was influenced by defeated stock speculators, who were seeking revenge.

Mr. Ward communicated with many of his former friends and associates in Albany and received a number of replies assuring him of continued confidence in his integrity, with a proffer of services; such letters were written by State Senators John W. Browning, George P. Lord, Amasa J. Parker, Jr., and C. S. McArthur, from Assemblyman D. S. Potter, A. A. VanArsdale, M. C. Murphy and John Livingston; also from Lieutenant-Governor Hoskins, Clerk of the Assembly E. W. Johnson, Congressman Van Aernam, Superintendent of Public Works S. B. Dutcher, Supreme Court Justice Charles Daniels and others. On the 20th the Times fired its big blast, which was a general review of the case from its standpoint.

This called out a rather pathetic letter from Justice Westbrook, which is as follows:

Kingston, N. Y., Jan. 21st, 1882.

My dear Ward:—Those things which we do with the most scrupulous fidelity, are the very ones which often subject us to abuse.

I am entirely conscious of the care which you took in Manhattan to be right, and of the labor which I took upon myself, which was conscientiously performed.

I supposed we had, by suing the company, done something for which we would be applauded, and not blamed. It turns out otherwise, and all we can do is to console ourselves with the thought we have

acted honestly, according to our best judgment, and in the end, the right and truth will prevail.

Faithfully,

T. R. WESTBROOK."

The Times attack continued, and so accustomed were people becoming to hearing the charges re-iterated again and again that they gained credence, until it seemed likely that a legislative investigation would take place. The Legislature, of course, had no power over or authority to investigate an ex-official. That rests with the Grand Jury alone. Mr. Ward, however, waived this immunity in a telegram to the Allegany County Member of Assembly as follows:

"Belmont, March 30th, 1882.

To Hon. Washington Moses,

Assembly, Albany, N. Y.

Thanks for your telegram. If the Assembly is of opinion that it has the power to investigate the acts of all the ex-officials of the State, and thinks it ought to be used by stock jobbers who have been defeated in the courts and before the Attorney-General, to blacken my reputation and subject me to the annoyance and expense of a legislative investigation, I shall submit, not doubting my triumphant vindication; you who have known me so long can judge what course you should take, and you can use this telegram as you think proper in your judgment.

HAMILTON WARD."

On April 12th Roosevelt called up his resolution, and so much sentiment had the Times worked up since January that it passed by a vote of 98-14 in the Assembly, so fearful had the members become of the power of the press. Among those voting against the absurdity were Parker and Van Arsdale.

The New York Sun of April 13th described the performance as follows:

#### A JUDGE UP FOR JUDGMENT.

The Conduct of Judge Westbrook To Be Investigated.

A Great Majority in the Assembly Yesterday for the Resolution—In



the Matter of the Receiverships and the Elevated Railway Suits—  
A Debate in which Nearly All the Speakers were on One  
Side—The Result.

Albany, April 12.—By an almost unanimous vote the Assembly passed to-day Mr. Roosevelt's resolutions directing the Judiciary Committee to inquire into the official conduct of Judge Westbrook and ex-Attorney-General Ward. The scope of the resolution were broadened by an amendment which permits an inquiry into Judge Westbrook's connection with the insurance receiverships, and any other matters that the committee may think it worth while to consider. The votes to-day showed that Judge Westbrook's friends, who have been voting heretofore to shield him from investigation, had become convinced that they were acting unwisely. With two or three exceptions they voted to-day for an investigation. Even the Tammany Assemblymen changed front and, with one exception, voted for the inquiry. With this change of front on the part of the opposition, Mr. Roosevelt had no difficulty in getting his resolution from the table out of the regular order. The vote stood 99 to 14. The fourteen negative votes were cast by Messrs. Ahearn, Alvord, Campbell, Cleary, Cooper, J. J. Costello, Harris, Keyes, Moses, Murphy, Parker, Shanley, Sweet and Van Arsdale.

As soon as the vote was announced Old Salt, who has led the fight against Mr. Roosevelt from the first, got the floor again, and tried to fight off the investigation. He said that he did not know the gentlemen against whom the charges were brought, and had no interest in the matter. He opposed the resolutions on the ground that a step of this kind should not be taken on newspaper statements. Only two papers had been pushing this investigation—the Times and Herald. Who and what are they? The Times, under the control and administration of an unnaturalized foreigner in the pay of the British Government, pretending to be in favor, but really against Americans. That was the beginning and end of the Times. What was the animus of the Herald? It was simply that they think they can get a wipe at John Kelly by this operation. He said the time was coming in the history of the State when the corrupt press would be exposed. He did not believe there was any necessity for this investigation, and he predicted that the gentlemen who had gone after wool would come home shorn.

Mr. Sprague, of New York, a young Republican of independent proclivities, supported Mr. Roosevelt's charges in a carefully prepared speech. He asserted that the charges against Judges Barnard, Cardozo, and McCunn, against whom articles of impeachment had been prepared, were less specific than those made against Messrs. West-

brook and Ward. He had himself examined the records in the County Clerk's office, in Albany, and was satisfied that there had been a base and corrupt conspiracy in the Manhattan matter, and that these men were the easy and facile tools of the men engaged in it. He did not mean to say that Judge Westbrook had profited pecuniarily by his actions in these cases, but he believed him to be amenable to the charge of corrupt influence. He then reviewed the various operations in the Manhattan Elevated cases from the first suits to the discharge of the receivers. If the orders were made in good faith the receivers should have wound up the affairs of the Manhattan Company. Judge Westbrook appointed a cousin a referee to pass upon the accounts of the receivers. There is no evidence that he did the slightest amount of work, yet he received a fee of \$1,000 from the Manhattan Company. The order granted for the winding up of the receiver's affairs is a curiosity in judicial literature. He held that the gravity of the charges demanded that the Legislature should make an investigation for the purity of the ermine of the judiciary and the good of the public. Ulster County was ably represented on this floor, and yet they had not said one word in defence of the accused parties; nor, as might have been expected, did they come here demanding an investigation. He held that the regularity of the proceedings was amply established, that there was sufficient grounds to believe that if Judge Westbrook had not received pecuniary benefits he had been improperly influenced in other ways, and that all the facts and circumstances demanded an investigation.

Mr. Brodsky, the young New York Stalwart, spoke particularly in defence of ex-Attorney-General Ward, who, he said, was his political and personal friend. He had gone, when in New York recently, to see if it was in Jay Gould's office, as had been alleged, that the court was held. He found the facts to be these: That at the request of the lawyers on both sides Judge Westbrook went from Kingston to New York, instead of compelling thirteen or fourteen lawyers to go to Kingston, and had sat in the office of ex-Judge Dillon, one of the receivers. There were so many persons present that the court was adjourned to the directors' room of the Western Union Telegraph Company. All motions were made after due notice to all parties. No one has made complaint against the decisions except a few people who had lost on Manhattan stock. When Attorney-General Ward moved to discontinue the suit a new agreement had made the company solvent and taken the bottom out of his action. He was confined to his room in the Delevan House by sickness, and the Judge held court in his room. He held that the Judge should not have asked for an investigation

against charges like these. The Legislature had no power to reach Mr. Ward now. He was out of office. There was not enough in the charges to warrant an investigation.

Mr. Benedict of Ulster said he was a personal and political friend of Judge Westbrook and a citizen of the same county. He had voted at every stage for the investigation because he believed that Judge Westbrook would be vindicated by an inquiry into the Manhattan suits. The Judge was a very timid man—a moral coward—in such an exigency as this, and he regretted that his conduct, in not coming forward to demand an investigation, had cast a cloud upon him. There might have been gross judicial impropriety in some of his acts, but that was all. If he had been used, it had been as thousands of others had been used—by friends and relatives.

Mr. Hickman of Erie wanted an investigation in the interests of a pure judiciary. If there were cowards and ignoramuses and imbeciles on the Supreme bench, as had been said on the floor here, it was time something was done about it.

Mr. Hunt of Jefferson recited the facts that had been alleged and not denied, and said that such allegations could not be ignored. He wanted a searching investigation.

Mr. Amasa J. Parker, Jr., of Albany, opposed the resolution. As one who had known Judge Westbrook long and intimately, he believed in his innocence. He wanted to know why it was that Mr. Roosevelt had waited until within six or eight weeks of the adjournment of the Legislature before moving in the matter.

Mr. J. W. Higgins of Niagara did not take much stock in the charges. He was not willing to put Judge Westbrook on the gridiron of public condemnation on the case presented against him. He believed that if there was wrongdoing in the Manhattan suits, Hamilton Ward was the sole sinner.

Mr. Roosevelt offered an amendment to the resolutions, extending their scope to all other cases or charges worthy of attention, especially in respect to receiverships.

Major Haggerty said he was profoundly impressed with the idea that Judge Westbrook had reached a bad eminence. If not another man in this Chamber was in favor of the resolution, he should feel bound in honor and in conscience to vote for it, after hearing facts that had come to his knowledge about Judge Westbrook's conduct in other cases.

Gen. Sharpe, who had refused to vote on the motion to take the resolution from the table, explained that he desired to appear neither as prosecutor nor defender of Judge Westbrook. He thought it would

have been better if the charges had been formulated and signed by citizens, as was done in the cases of Judges Barnard, McCunn, and Cardozo. He regarded the investigation as a proper one, and would vote for it, but he wanted it understood that he did not appear as a public accuser. Judge Westbrook was a man whose simple life, frugality, temperance, and industry were commended by all. As to Judge Westbrook's appointment of relatives, he regretted it, but it was no unusual thing, where confidential and close relations were necessary. State officers frequently appointed their sons or other relations as deputies.

Speaker Patterson called Col. Murphy to the chair toward the close of the discussion, and took the floor to oppose an amendment offered by Mr. Higgins of Niagara providing for the appointment of a select committee of five to investigate the charges. He said that, from a personal and intimate acquaintance with Judge Westbrook, he believed he had a wealth of character to carry him through any investigation. He hoped he would not be asked to name a special committee, but that the inquiry would be made by the standing Judiciary Committee.

Mr. Moses of Allegany, the home of Hamilton Ward, read a telegram from the ex-Attorney-General, which was as follows:

If the Assembly is of the opinion that they have the power to investigate the acts of ex-officers of the State, and think it wise to blacken my character and subject me to the expense of a legislative investigation, they will do so, and I shall have to submit, not doubting my triumphant vindication.

It was drawing toward 2 o'clock and Mr. Roosevelt, profiting by his defeat the other day, determined to force a vote. In his closing speech he said, in reply to Mr. Brodsky's assertion that Judge Westbrook did not sit in Gould's private office; that Jay Gould's name was over the door of the room. Mr. Roosevelt said he had the names of two witnesses in his pocket to substantiate his charges.

There was a murmur of dissent on all sides, and a growl from Old Salt when Mr. Roosevelt moved the previous question and cut off debate. Two or three members wanted him to give way, but the young New Yorker was wary. There was only three minutes to adjournment, and unless the roll call was begun Mr. Roosevelt knew that he would lose all the ground he had gained. Old Salt and his followers had to take the gag.

Mr. Higgins's amendment for a special committee was lost.

Mr. Roosevelt's amendment enlarging the scope of the inquiry was carried.

Clerk Johnson then called the names on the main resolution. The youthful Ahearn of New York was the first to respond. He voted "no" in a feeble voice, but when, later on, he saw that he had little company, he jumped on to the other side. Old Salt saw that the tide had turned and asked consent to explain his vote. He said if Mr. Ward's name was eliminated he would vote for the resolution, perhaps, but there was no power to investigate an ex-officer. He therefore voted no. Half a dozen members dodged the vote, and others who had opposed the investigation at every step scrambled over to the majority when the test came. Mr. Brodsky, who dodged the first vote, faced the music at last, and voted no. Col. Parker, who was the only member of the Judiciary Committee to vote, said that his duty as an Assembler was to pass upon this question, and he voted no. Chairman Poucher of the Judiciary Committee gave Col. Parker a quiet thrust by declining to vote on the ground that it would be indelicate if not improper for him to do so. The other members of the committee were excused from voting.

The Judiciary Committee, which will have charge of the investigation, is composed of eleven members: Poucher of Oswego, Chapin of Kings, Morrison of New York, Smith of Broome, Parker of Albany, Searle of Steuben, McClelland of New York, Potter of Saratoga, Chamberlain of St. Lawrence, Livingston of Putnam, and Armstrong of Washington. The first seven are Democrats. Tammy has no representative on the committee.

On the 21st Mr. Ward's counsel, his former First Assistant Attorney-General, William B. Ruggles, of Bath, presented the following statement to the Judiciary Committee above named:

I appear as the representative of ex-Attorney-General Ward on this occasion and am authorized to say for him that while he has received no summons from the committee to appear before them, the committee have courteously informed him of the meeting in answer to a telegram he had sent requesting to know the time and place of the committee's first meeting. He is glad of the opportunity thus afforded to have all the facts showing his connection with the elevated railroad litigation submitted to the committee and the public, and he is ready to enter upon the investigation as soon as he can examine some of the papers and records in the suits, which are not accessible at his home in Belmont. For this purpose he desires a day or two. He is

perfectly aware that neither in the Assembly alone, nor in both houses of the Legislature together, is there any authority or jurisdiction under the constitution of this State to administer any punishment whatever to a private citizen for offenses alleged to have been committed during a past term of office.

This principle has been settled by abundant authority, judicial and legislative. The Assembly of this State has distinctly recognized and acted upon it on several occasions, and notably in the case of the resolution for the impeachment of Philo C. Fuller, Sanford E. Church and others in the year 1853. The principle was also recognized and adopted in the investigation of ex-Speaker Callicott in 1863. The judicial branch of the Government has exclusive jurisdiction to investigate by its own methods and punish such alleged offenses, of which fact those who inspired the resolution under which this committee is proceeding must have been aware, the evident object being for ulterior purposes to destroy his reputation among men. Nevertheless, he does waive, and has from the beginning been determined to waive, the question of jurisdiction, and he invites this committee to fearlessly and thoroughly examine not only his action in the elevated railroad cases but as far as they can all his official acts as Attorney-General of the State of New York, to the end that if he has been guilty of any corruption or criminal misconduct in office he may be held up to the just execration and contempt of the people, and meet the consequences incurred in the judicial tribunals of the country. But if, on the contrary, these things are not found, he has no doubt that this honorable committee will accord to him that justice which he is entitled to.

The committee decided to conduct their investigation in New York City for the convenience of witnesses, and met there on April 28th.

The hearing was held at St. James Hotel. F. L. Stetson and ex-Judge Albertus Perry were the counsel for the Committee. Hamilton Harris represented Judge Westbrook and William B. Ruggles, ex-Deputy Attorney-General, represented Mr. Ward. Mr. Gallaway was the first witness and substantially corroborated the plaintiff's contention that the company was insolvent. The City Editor of the Times was also questioned, but refused to give the authority for the statements which the Times had made attacking Judge Westbrook and the Attorney-General.

The special counsel which Mr. Ward had employed and



the attorney for the receiver were sworn, but nothing was brought out showing any improper act or motive on the part of the Attorney-General or Judge Westbrook, or any connection, direct or implied, between them and any faction on the stock market. Officers of the Railroad Company were also sworn, who explained the financial arrangements which led up to restoring the railroad to a solvent financial condition.

Cyrus W. Field, Russell Sage and others testified that they were opposed to bringing the action, and one criticized Judge Westbrook for his course in this and other matters.

The hearings dragged on rather tediously for several days, but the attacks on Mr. Ward ceased entirely, owing to the utter failure of any inculcating proof, and Justice Westbrook was alone assailed.

Finally on the 21st day of May a witness named Ruphus F. Andrews, to whom had been traced the statements reflecting on Justice Westbrook, broke down on the witness stand and made a full retraction of his charges.

At the conclusion of this day's hearing Mr. Ruggles said that he would like to go on the stand in behalf of his client, inasmuch as he had been Deputy Attorney-General under Mr. Ward, and had had personal knowledge of many of the transactions already referred to in the evidence.

Counsel Perry, for the Committee, then said:

"I desire to state as one of the counsel of this committee, although I haven't the slightest objection to my friend, Mr. Ruggles, taking the stand, I think it is the opinion of the counsel for the committee that nothing has been shown in regard to the conduct of Attorney-General Ward which calls for any testimony whatever in his exculpation. It seems to me that the testimony has failed entirely to show that he has been guilty of any misconduct or indiscretion in the execution of the duties of his office, so far as they have been brought to the knowledge of the committee, and I think my associate concurs with me in this view."

Counsellor Stetson was hardly able to go so far. He would not say there had been no disclosure of anything that might not be considered unusual and improper, but he did



not know of anything tending to show that Mr. Ward's conduct had anything back of it. In his opinion the change by the Attorney-General from the first to the second suit, in the case of the People against the Manhattan Elevated Railroad Company was not such a course as commended itself to his judgment.

Mr. Ruggles then took the stand and testified in substance as follows :

"It was he who suggested to the Attorney-General the propriety of beginning a suit to dissolve the Manhattan Company. On May 18 the Attorney-General told him that he had begun the action, and some days later the witness saw the complaint and afterward spoke to Mr. Ward, saying that he thought two mistakes had been made—one in laying the venue in New York City and the other in the joining of a number of causes of action in a single complaint, some of which seemed incongruous and might complicate the suit. The witness told Mr. Ward that the allegation of insolvency would be a sufficient ground for complaint; also that it was the custom of the office to lay the venue of suits by the people in Albany County, where the record would always be accessible and convenient. Mr. Ward said he laid the suit in New York because all the parties were there, and Mr. Ruggles said he had better bring it to Albany. The witness had advised or concurred in every step in the case, including the discontinuance of the first suit, to which later movement the Attorney-General expressed disinclination."

Mr. Stetson said :

"I wish to say with reference to the testimony of Mr. Ruggles, whose word always commands with me the most explicit assent, that as Mr. Ruggles has stated that the change in the former action was made on his advice and by him, I, of course, can have no ground for criticising the change in that action."

#### A COMPLETE EXONERATION.

One branch of the Westbrook-Ward investigation has already resulted in an acquittal.

The action of the special committee of the Assembly completely exonerates the Hon. Hamilton Ward from all imputations of misconduct growing out of the part he took as Attorney-General in the Manhattan Elevated Railway cases.

There has been absolutely no testimony tending to show either impropriety or even indiscretion in anything he did. So clear was this

that it was freely conceded by one of the counsel for the committee; but in order to satisfy the other, Mr. Ruggles, who was Deputy Attorney-General under Mr. Ward, took the stand, and swore that the changes in the suit by the People against the Manhattan Company for which Mr. Ward has been criticised were made upon his advice or with his concurrence in every instance.

After hearing this statement, both counsel to the committee agreed that no ground remained for any criticism of Mr. Ward's action; and Mr. Ruggles was assured that his client would not be censured in the arguments before the committee, and therefore he was not expected to sum up in Mr. Ward's behalf.

This ends the inquiry so far as Mr. Ward is concerned. Our impression that he would be found blameless has been verified by the result.

Of this vindication the Times took no editorial notice, but there was great rejoicing among Mr. Ward's friends and the press generally throughout the State gave as wide a circulation to the result as they had to the charge.

And a note of real pleasure seems to sound in the editorials in the New York Tribune, Buffalo Express, Rochester Post-Express and other papers throughout Western New York.

Of course Mr. Ward and his friends gave these friendly comments wide circulation, but the damage could never be wholly cured. Roosevelt promised Washington Moses, Allegany's Assemblyman, so Moses wrote Mr. Ward on May 21, that he would take occasion to say publicly that Mr. Ward was completely vindicated, but it took more courage to confess himself in the wrong than it did to charge at El Caney, and the statement was never made.

Many letters of congratulation were received by Mr. Ward, and among them was the following from his old friend, C. G. Fairman:

"Albany, N. Y., May 22, 1882.

My dear Ward:—Though I never for a moment had a doubt of any different result, any more than you yourself could have had, yet I feel that you are entitled to congratulations now from the utter breaking down when only half way over, of this wicked and reckless attempt

to injure you. It is, as I held in the beginning—you could afford to have this charge and examination—though not the charge without the examination,—because the vindication sure to follow would redound to your benefit and advantage. Time was when the charge alone, without adequate proof, could not injure you. There was a time when a man was held to be innocent until he was shown to be guilty; but that time has passed. All that is needed now to ruin a man is to accuse him, unless he is fortunately able to prove a negative. For this we are indebted to the honest and high minded influence of the independent metropolitan press, an influence used with reckless disregard of private rights or public character, from the baleful incumbus of which there is no apparent relief, and which all men who incur its displeasure must therefore expect to encounter. That you have endured and passed the ordeal, and risen superior to it, in such easy and absolute triumph is a fact in which you and your friends may equally rejoice. It is also proof once again, let me add, of the immutable truth of the old law that "Virtue is its own reward."

Truly yours,

CHARLES G. FAIRMAN."

This from an old newspaper man is significant.

Justice Westbrook, however, did not fare so well; a majority of the committee reported against his impeachment, but a minority recommended to the contrary.

This report was received by the Legislature, which had remained in session, about June 15, and it states that "the evidence shows that in the conduct of that litigation Mr. Ward was actuated by the purest motive and that his conduct throughout was that of a faithful, high-minded public officer." This from a committee composed of a majority of Mr. Ward's political antagonists was indeed gratifying.

The Times remarked that "the most corrupt Assembly since the days of Tweed refused to impeach Judge Westbrook by a vote of 77 to 35." Roosevelt still representing the Times sentiment, urged the adoption of the minority report, as did H. L. Sprague of New York, who said during the discussion in the Assembly that "He was glad to say right here that Hamilton Ward had proved himself a man." A few days later the Assembly appropriated \$1,500 to pay

the expenses incurred by Mr. Ward during the investigation, and the incident closed.

There can be no adequate compensation for such an experience. Hurt in reputation, in prospects, in purse and in pride, he could only cherish his barren vindication to his bosom, and take up the fight anew.

An illustration of the "power of the press."

## CHAPTER VIII.

### **Law and Politics. 1882-1890.**

When Mr. Ward returned to his law office in Belmont and took up again the work of his profession, he found local conditions much altered.

Petroleum of high quality had been discovered in five towns in the southwestern part of the county; the little hamlet of Richburg had grown into a village of 6,000 people, with a daily paper; and law business was good.

Walter B. Roberts and others held a patent on the process and material used to "shoot" the oil wells and exacted a heavy royalty; his patents had to some extent been recognized in the Pennsylvania Courts, but the New York producers refused to pay tribute and an action was brought against a considerable number of them in the United States Circuit Court of the Northern District of New York. Mr. Ward was attorney for most of the defendants and counsel for the rest. Injunctions had been secured and Mr. Ward's first step was to get these vacated, and to open the default which some of the defendants had suffered. A letter describing this is as follows:

#### THE TORPEDO CASES .

Belmont, July 19th, 1882.

To the Editor of The Reporter.

Dear Sir:—The Reporter is in error about the result of the motions at Syracuse on the 13th inst., brought by nine oil producers in the Allegany oil field to set aside defaults which had occurred in suits brought by Roberts and others against the producers, charging them with infringing certain patents which the complainants claimed to hold for increasing the production of oil wells. In each of these cases injunctions had been issued, and as counsel for the producers I moved the court to open the defaults and let in the defendants to defend and stop all proceedings against them on the default, and to dissolve the injunction in each case. Messrs. Conkling, Harding and Patterson,

for the complainants, read a large mass of papers and affidavits and strenuously contended against opening the defaults, insisting that the Roberts' patents had been sustained by the courts in Pennsylvania, and if the defendants were let in to defend, it would be useless as they could not succeed. They also read affidavits, which I had no means of contradicting at Syracuse, that one of the defendants had violated the injunction after it was served upon him, and proved by the records that three of the defendants while in Pennsylvania had had judgment entered against them, sustaining Roberts' patents in just such suits as these, and an affidavit showing that one other defendant had formerly settled just such a case with Roberts and paid damages.

The court opened the defaults in all the cases and allowed all the defendants to answer and defend, and stayed all further proceedings on the defaults. In three cases above referred to the court permitted the injunctions to stand to await the result of the suits, saying that the defendants by their acts as above set forth were not in a condition to ask to be relieved from the injunction against violating certain patents that Roberts held, that had been sustained by the Pennsylvania courts, but he vacated all that part of the injunction in those five cases which restrained the defendants from violating a patent obtained by Edward L. Sweet, which has many years to run and which the complainants claimed as assignees.

The court also decided that as to the defendant charged with violating the injunction and the one charged with settling a former case, they were at liberty to make another motion to set aside the injunction, as they might be able to show that they had not committed the acts charged.

In the other four cases full relief was granted, the injunctions totally dissolved and all the injunctions would have been dissolved but for the reasons aforesaid.

The court in no way passed upon the merits of the cases, but granted all the relief under the circumstances that the defendants had a right to ask.

The statements going around in the newspapers that the producers were defeated on these motions is unfounded, but as will be seen from the above, they are substantially successful.

I make this statement that producers may know the facts.

Respectfully yours,

HAMILTON WARD.

This litigation grew very extensive. Courts in Pitts-

burg, Buffalo, and Utica were appealed to, the defendants finally numbered several hundred.

There was no real defense to these actions; the object of the defendants was to secure as much delay as possible, while the new oil territory was being developed.

This purpose was accomplished and practically all of the Allegany wells were shot free of Robert's royalty; finally the actual defendants compromised by paying Roberts \$50.00 each, without costs. This result greatly pleased the oil men.

After a contest in the County Convention of this year Theron Cross was nominated for Sheriff of Allegany County on the Republican ticket, and Ittai J. Elliott on the Democratic ticket. Elliott made a brilliant canvass, and, aided by the Cleveland landslide of that year, received 3,832 votes; Cross 3,847 votes, and there were 19 ballots cast on which Elliott's name was improperly written. The Board of County Canvassers declared Cross elected, but Mr. Ward, in spite of his political affiliations, put the lawyer above the politician, accepted Elliott's retainer, mandamused the board, and Elliott assumed the office, Cross lacking the courage to continue the contest.

In 1883 the Caneadea Bond cases were revived by an action in the United States Courts, and Judge Wallace writing the opinion, held the bonds to be void on the same ground relied upon in the State Courts.

The same decision was rendered as to the towns of Angelica and Birdsall, saving to the people of those towns over \$100,000. In all these actions Mr. Ward represented the defendants.

Law business continued to be good for several years. There would be as high as two hundred cases on the calendar of the Allegany Term of the Supreme Court, and often twenty-five would be ready for trial on the first day, and in almost every important litigation Mr. Ward appeared.

In 1882 Chemung in her turn again received the Congressional nomination, Archie Baxter of Elmira being the candidate, but he was defeated by John Arnot of Elmira.



In this year Mr. Ward attempted to secure anti-Cornell State delegates in Allegany County, but he was routed by Dr. William Smith of Angelica, whom Cornell had appointed health officer of the Port of New York, a position at that time worth \$50,000 a year.

Mr. Ward continued to be active in politics. In the fall of 1883 he became again a candidate for Justice of the Supreme Court, and was presented to the district by his county in the following resolution:

#### SUPREME COURT JUDGE.

The following is the resolution of the Allegany County Republican Convention, held September 11, 1883:

Resolved, That in view of the fact that the County of Allegany is the least accommodated of any of the counties in the Eighth Judicial District by the location of the present Judges of the Supreme Court and the difficulty and delay in reaching the Judges by persons having business with them from said county. And in view also of the large and constantly increasing litigation in this county, growing out of the increased prosperity and population and an immense oil development, this convention is of the opinion that one of the Supreme Court Judges to be elected this fall should be located in Allegany County, and we earnestly call the attention of the other counties of the district to this subject. And as our candidate for that office, we hereby unanimously present the name of Hon. Hamilton Ward, who needs no introduction at our hands to the people of this district, by whom he is known as a man of strict integrity and as possessing the highest qualifications for the place, and as his faithful and able services as District Attorney of our county for six years, as our Representative in Congress for three terms, and as Attorney-General of the State, has abundantly shown, and we hereby instruct the judicial delegates elected by this convention to put forth all honorable effort possible to secure his nomination.

CHARLES H. FISHER,

Chairman Allegany County Republican Committee.

Two new Justices were to be nominated at this time, as provided by the new State Constitution, and the candidates were numerous, the principal ones being Thomas Corlett of Buffalo, Henry L. Childs of Orleans, Allen D. Scott of Cattar-

agus; A. K. Potter of Niagara, and Porter Sheldon of Chautauqua.

Among the delegates were H. J. Weisenhemer, Charles E. Forsyth, George Quinby, James C. Fullerton, E. W. Hatch and C. A. Orr of Erie, H. W. Sanford and H. H. Relya of Allegany, T. E. Ellsworth of Niagara, E. M. Bartlett of Wyoming, L. B. Sessions of Chautauqua, W. C. Watson and George Bowen of Genesee, Alfred Spring and O. S. Vreeland of Cattaraugus, and E. L. Pitts of Orleans. E. W. Hatch was chairman and had great influence in the convention. Thomas Corlett was nominated on the first ballot as one of the Justices, and it took 41 ballots to name the other candidate, Henry L. Childs. On one ballot Mr. Ward received twelve votes, sixteen being needed to nominate; six of the twelve came from Erie. If all the Erie delegates had voted for Mr. Ward, as it was understood they would between Mr. Ward and Mr. Hatch, Mr. Ward would have been nominated. This was a denial of the claims of Allegany and Cattaraugus to a judgeship, and created great indignation in those counties. Their claims had been vainly urged the year before in behalf of B. C. Rude of Wellsville, and the people were ripe for a political revolt.

On October 24th the Democrats nominated Delevan F. Clark of Erie and Charles S. Cary of Olean, and an exceedingly lively campaign was begun in the Counties of Allegany, Cattaraugus and Chautauqua to elect Cary and defeat Corlett. Barely two weeks remained in which to make this fight, but so thoroughly was it done and so strong was Mr. Ward's personal influence in his home county that almost the total vote of Allegany, normally Republican by about three thousand, was cast for Mr. Cary and against Mr. Corlett. Cattaraugus County was also carried by Cary, and he was only defeated in the district, normally 14,000 Republican, by 2,850 votes. Allegany County was carried by Cary, 3,610; Cattaraugus, 1,014, and he ran 462 ahead in Chautauqua. Many of the rock-ribbed Republicans of Allegany could not be induced to vote for a Democrat, so V. A. Wilard of Belmont was nominated on the Prohibition ticket,

and received 1,526 votes, so that Corlett only received 2,298 votes in Allegany County, about one-third of the usual Republican vote.

There was no attempt to defeat Justice Childs, whose plurality was 13,775 over his Democratic adversary, or 10,895 ahead of Corlett. The latter figures show the extent of the bolt which was inaugurated in a two weeks' campaign.

This was the only time in Mr. Ward's political career when he openly bolted the party nomination, but the sense of local wrong was such that it outweighed party consideration, and it is to be noted that every Justice elected since that time outside of the city of Buffalo has been taken from this territory that revolted, so that they now (1900) have five of the ten Justices of the district, and it must have always been a source of great personal satisfaction to Mr. Ward to note how steadfastly Republican Allegany followed him in his bolt. Things like this made him willingly forgo the wider opportunities a residence in a large city would have given him.

James G. Blaine was nominated for President in 1884, and the Republicans of Belmont, in accordance with their usual custom, held a ratification meeting. Mr. Ward's speech was reported in the Elmira Advertiser as follows:

Mr. Blaine was the most conspicuous person whose name was presented to the Chicago convention. He had been long in public life. He took a prominent part in the great struggle that preceded the rebellion and was always on the right side. He was opposed to slavery. He was a member of the three great congresses that followed the war, and took a leading part in the work of reconstruction. The great amendments of the federal constitution, the thirteenth, fourteenth and fifteenth, that crystalized the fruits of the war and made that constitution the purest, strongest and greatest charter of human rights and liberties that the world has ever known, were to some extent his work; for as a member of the congresses that originated these amendments he favored them all and contributed by his learning, experience and ability to pass them through Congress and present them to the States for adoption; and since that time on every occasion when his party or his country called him into service he has promptly and bravely responded to that call.

He was nominated because he was the choice of his party unmistakably expressed. The Republicans had watched him for a quarter of a century and always found him right. Although a well-planned calumny had struck him down at the doors of the Cincinnati convention in 1876; although he was beaten back in 1880 by the man of Appomattox; although he was driven from public life and from the head of the Cabinet upon the death of Garfield, yet the people clung to him and he grew stronger year by year until the voices that came up from the workshop and the farm, and from all the humble places of the people, grew louder until they swelled into one great and irresistible chorus that took the convention by storm and compelled his nomination. Mr. Blaine's immense personal following in this country is not due to accident or caprice. He is a born leader and a representative man. I shall earnestly support this ticket. It is worthy of the support of the people. When the wires flashed the intelligence of the nominations no man inquired, who is Blaine, or who is Logan? They were known of all men, and to the ends of the earth. Let no one be alarmed at the clatter and spasms of the so-called "independents." There are some men too good for anything on this earth, too pure to be satisfied with anybody but themselves. The Republican party has been afflicted with this species of humanity since its foundation. Some were too exalted to support Lincoln; others too high-toned for Grant; and I suppose we shall never make a nomination that will suit them; but we have this consolation—that their votes are few and will count but little when the returns come in. The great patriotic masses of this country will roll up a grand majority for the standard bearer. This party which saved the nation, abolished slavery, furnished the country with the best financial system that the world has ever seen and secured a prosperity for this land unparalleled in the history of nations. The people are no more ready in this year of 1884, than they have been in all the Presidential elections since Lincoln was elected and the Southern Democracy attempted to destroy the Republic, to turn this country, with all its vast interests and possibilities, over to the Democratic party with its State right dogmas and theories of free trade.

It shows that Mr. Ward did not allow his old time animosity against Blaine to influence his political action. In this year there was considerable talk of re-electing him to Congress. Of his personality at this time the Randolph Register of February 7th, 1884, says:

The two most probable candidates from Allegany are Hon. Hamilton Ward of Belmont and Hon. D. P. Richardson of Angelica. The first-named gentleman was some years ago Attorney-General of this State and enjoys the reputation of being one of the best lawyers in this commonwealth. He is fifty-three or four years of age, stands about five feet, eight inches in height, with iron-gray hair and dark moustache, intellectually wrinkled forehead, reaching well back beneath his silk hat, while his square, compact shoulders are always covered with a closely-fitting Prince Albert coat, buttoned the entire length. He has a deep, pleasant voice, and in manner he is second only to the suave and courteous ex-Governor Fenton of Jamestown.

Mr. Ward was not, however, a candidate before the convention. By the new apportionment Allegany had been put in the same Congressional district with Chautauqua and Cattaraugus. Walter Sessions and the sitting member, Dr. Brewer of Westfield, were the candidates, and Mr. Ward supported Dr. Brewer. The county, however, was almost equally divided, the balance of the delegates, under the lead of D. P. Richardson, supporting Sessions, who was nominated.

In 1885 Mr. Ward supported William M. Evarts, who was elected United States Senator, and was himself desirous of an appointment to the United States District Court in Colorado, on account of the health of his younger son, but President Arthur, who had drifted away from his old stalwart associations, did not see fit to appoint him.

In 1886 Mr. Ward was considerably talked of for Congress. He had the support of a majority of the Allegany County delegates, forty-seven out of fifty-four friendly, Rufus Scott of Wellsville being supported by the balance. Mr. Ward threw his support to William G. Laidlaw of Cattaraugus, and nominated him. In this year he supported Frank Hiscock of Syracuse in his candidacy for the United States Senate, and was one of those most instrumental in securing his nomination, thereby defeating Warner Miller, who had defeated Conkling.

Mr. Ward spent some time in Albany during the fight and held several Western New York members in line for

Hiscock, until the Morton forces broke to him and nominated him.

Mr. Ward delivered a decoration day address at Bath, in Steuben County, in this year, which is, in part, as follows :

Mr. Ward began by saying: It would have seemed more appropriate to me if some one who had stood in the fore rank of battle were to deliver the address, but it has always been my duty and pleasure to respond to the call of the soldier, and when the summons came through Col. Rumsey I answered: "Here am I," and here I am. When I stand before the men who saved this country for me and mine—my superiors—I stand bowed and uncovered. To-day the Nation turns to the Nation's dead; all through the loyal States the great surging, nervous tide of humanity turns into holy places and decorates with flowers the grass-bound graves of the heroes of the Republic. Why do we see this multitude assembled here to-day? The farmer has left his fields, the mechanic his bench, the merchant his counter, and the student his books. Womanhood and old age are here, and little children grown suddenly serious endeavoring to comprehend the mystery of death. We are a practical, pioneer people and not a nation of dreamers, we are battling with the problems of the century and making haste to get rich, and yet to-day we turn aside to consider graver questions, for

"Four hundred thousand men,  
The brave, the good, the true,  
In tangled woods and mountain glen,  
On battle plain, in prison pen,  
Lie dead for me and you.

"Four hundred thousand of the brave,  
Have made this ransomed land their grave  
For me and you—  
Good friend for me and you."

\* \* \* \* \*

There is one thing that has pained me the past three or four years, and no loyal heart will accuse me of partisan purpose in speaking of it—it is the talk about the mingling of the Gray with the Blue. I heard a Republican Member of Congress speak of the rebel dead and the Union dead as the Nation's dead. Those who fell fighting to destroy the Nation are not the Nation's dead, and they should not be honored as my brothers and yours who fell fighting in the Nation's defense. You cannot call this sentiment or partisanship. You decorate the soldiers' graves in honor of the cause in which they died—because



you want that cause to be honored in the future—because you want future generations to honor it, and hence it is that you should not seek by any posthumous observances to honor the cause of treason. Do you remember that the first traitor flung away the 30 pieces of silver—the price of his treason—and that the Potter's field in which he was buried, was bought with the money? The Scriptures say that it is called the field of blood to this day. Would any matron here bow at the dust of Helen as at that of Lucretia? Would the Revolutionary fathers honor the grave of Benedict Arnold as they would that of Ethan Allen? I say honor to whom honor is due, and while the Government has hung no traitors, and I am sorry for that, and while the Government has not made treason odious, and I am sorry for that, because of the influence in the future, it does not follow that we should not observe the distinction between the Blue, the heavens' own color, and the Gray has now become a curse in the calendar of colors. All parties were responsible for this amnesty, and it was the greatest mistake a Nation ever made. Greeley, one of the foremost of Republicans, with others of his party, came forward with leading Democrats, and urged it upon the Nation. When I represented you in Congress, and it was all through the amnesty and pardon legislation, I never voted to relieve one mother's son of them from disability. This amnesty was all a mistake—we cannot reverse the lessons of all history.

1887 witnessed one of the hottest political campaigns ever known in Allegany County. Sumner Baldwin, of Wellsville, was a candidate for State Senator, and was supported by Mr. Ward against J. Sloat Fassett, the previous incumbent, who had married a California heiress and had become extremely wealthy. With all the weapons at his command he waged an aggressive fight against Mr. Ward's leadership in Allegany County, and even attempted to carry the town of Amity, where he secured fifty votes in a caucus of over three hundred. Senator Baldwin was, however, unable to adopt the same plan of warfare, and lost the county by a narrow margin.

In the spring of 1888 Mr. Ward took a trip to the Pacific Coast, and was furnished with letters of introduction by Roscoe Conkling and C. P. Huntington, president of the Southern Pacific Railroad. His purpose was to see the country and if the proper opportunity presented itself, to establish himself in the West. He visited Wichita, Kansas,



and was offered the attorneyship of the city and of a Railroad Company if he would remove there, and similar offers were made to him in Seattle and Tacoma, Washington. After sometime spent on the coast he returned to Belmont, where he decided to remain.

Many times during his life Mr. Ward talked of moving to some more extensive field of action, but the faithful friendship of the people of Allegany, the associations of a lifetime spent among her beautiful valleys, were attractions that always conquered.

Moreover, much of his time was spent in the neighboring cities, and when asked by a friend on one occasion why he did not remove to Buffalo, he replied: "All the world is to me a tavern."

At this time Mr. Ward exercised a preponderating influence in the political affairs of the county and controlled the Federal patronage. His political interest, however, continued broader than the confines of the county, and in January, 1889, he wrote the following letter to President Harrison:

"Belmont, Allegany Co., N. Y., Jan'y 7th, 1889.

General Benjamin Harrison,

President-elect.

Dear Sir:—May I presume to address you upon a matter of deep concern to the Republicans of New York, and indeed to those of the whole country?

And first let me introduce myself.

My earliest recollections carries me back to a ride with my Whig father on a log that was put into a log cabin raised at a political meeting in 1840.

Since I have voted I have been a Republican in Western New York, and the Republicans of my district have honored me with a seat in the 39, 40 and 41 Congresses, and in 1879 I was elected Attorney-General of this State.

I have been classed (if in any division) in the party among the supporters of Roscoe Conkling, and was one of his most intimate and devoted friends, and with many others of his friends (some of whom I regret to say did not support Mr. Blaine in 1884) did all the service

possible in the recent campaign. Indeed that class of men finally tipped the beam for Harrison and Morton in this State.

We hope the incoming President will not make the fatal mistake made by Hayes and Garfield by giving New York an inferior position in the Cabinet. That State should have a first class position; that New York should not be ignored in the Cabinet all agree. It is proper then for New Yorkers to make suggestions to you on this delicate subject. I have no doubt but you will receive them kindly even from as humble a source as myself.

Our State should have the Secretary of the Treasury. Her financial standing and superiority and importance in the Union, &c., demand it. He should be a business man of wide and varied experience, a statesman familiar with public affairs; a watchful, patient, capable man, and in addition to this one who knows something about political management, who when anything is to be done will do it so as to help the President and the party in the future as well as to do the best thing for the country; the Honorable Thomas C. Platt fairly answers all these conditions, more so than any other man in the State who would be thought of in connection with this office.

I am not in his confidence, nor do I belong to the inner circle of his political friends. I am one of the last men in the world he would expect would write such a letter. I trust New York to be Republican in the future I want your administration to be a grand success, hence I trouble you with this letter.

HAMILTON WARD."

A copy mailed to Senator Platt, elicited this reply:

"New York, Jan. 9, 1889.

Hon. Hamilton Ward,

Belmont, New York.

My dear General:—I duly received yours of the 7th inst. with the enclosure of the copy of the communication addressed to the President-elect, and I want to assure you that I am greatly pleased with and flattered by it. Nothing that I have had of that sort (and there have been a good many of them) has struck me as being so pithy and adroit. I have read it to two or three confidential friends, and it struck them as it did me, as being a letter that would carry great weight.

Accept my most grateful acknowledgments.

Yours very truly,

T. C. PLATT."

Senator Platt was not, however, appointed, with the result that the party leaders opposed Harrison's renomination for re-election in 1892, and the campaign of that year was so luke-warm and leaderless that the Democrats were overwhelmingly successful. In this year occurred the last of Mr. Ward's causes celebres.

C. S. Whitney, at that time Belmont's wealthiest citizen, a man of strong character and wide business interests, sued his wife, a handsome and intelligent woman, for a divorce. Mr. Whitney had been previously married and had a daughter, then a young lady, by a former wife. A young Belmont lawyer and former law student of Mr. Ward's, named Ira H. Meyers, had ingratiated himself with the whole family, and finally had taken up his residence at the Whitney mansion. Mr. Whitney spent the greater portion of his time away from Belmont and reconciled himself to Meyers' presence by the thought that he was courting his daughter. Warnings fell on unheeding ears until it was forced upon him that Meyers sought his wife instead of his daughter; Meyers was driven from the house and was accompanied by both ladies.

They took up their residence at the village hotel and an action for divorce was immediately brought by Mr. Whitney. Mr. Ward represented the plaintiff and Mr. Lovelidge of Cuba was the principal counsel for the defendant; the case was bitterly contested and resulted in a verdict for the plaintiff. Immediately thereafter Meyers married the daughter, who had \$35,000 in her own right, and with the two women took up his residence in Buffalo.

Parts of Mr. Ward's summing up of this case are as follows:

At the Court House in Angelica, Allegany Co., N. Y., June 21, 1889.

#### ADDRESS TO THE JURY.

By Hon. Hamilton Ward.

If Your Honor please, Gentlemen of the Jury:—This is to me a very painful case. It originated in the village in which I live; it is a controversy among old friends and neighbors; it is a matter which tends to dishonor the society and the people of our town, and it is the

breaking up and destruction of a family. The family is the foundation of all good things in government; it is the parent of morality; it is the protection against vice; it is the sentinel that stands guard over the best interests of society. When anything occurs that breaks up the family it is a matter to be deplored by all good citizens.

If Charles S. Whitney had not been a better man than I am there would have been no trial of this action before you. If I had been in that office of Ira Myers when my own daughter turned against me, under the influences that surrounded her, in the possession of these people, as she was, when she said, "If I ever have a home I hope you will never cross my threshold," and Mr. Whitney bowed and said he would not trouble her, there would have been no bowing on my part, one man and one woman would have been sent to their last account at the end of a revolver, and that girl would have been taken from that place if necessary by the hair of her head. \* \* \* \* Why, if you could know this man you would know that he had been a friend of everybody. From the time he started a penniless boy until this hour he had stood so high, he has been so generous and manly that whoever came to him received his help, and all the troubles he has ever had in his life came from helping somebody, and now he has come into a court of justice, he comes here, gentlemen, he don't take the law in his hands as I should have done and as you would have done, he comes here and says "I have never done a wrong act in my life, I will leave this question to a jury of my countrymen, to twelve men honest and true, I will ask them to settle this question! And here he is, gentlemen. And he comes here with twenty-nine witnesses, and not one of them is related to him, not one of them has had any business with him, not one of them has in any manner been impeached except the foolish attempt to attack Mrs. Graden. They are in no way related to him by blood or marriage except Mr. Williams, the brother, and young Williams, the nephew of his own wife. Not blood relatives of his. He comes here I say with these witnesses, honorable people—he is not permitted to speak in his own behalf. The law forbids him. He did not even introduce his son, or give any evidence by his own son. The son was put upon the stand, but I found there were other witnesses that knew the same thing, and I preferred, gentlemen of the jury, that you should take this case from the lips of witnesses that had no connection with the plaintiff. I preferred that in a case of this importance you should see these witnesses and know that they were not a set of liars and vagabonds as the counsel has insinuated here. The plaintiff comes into court, and who does he meet here as witnesses against him? He meets the woman that he elevated from poverty and sorrow, and made

a lady, and put her in a palace and furnished her with all the choice things of life, and gave her money and jewelry, and left her at home to preserve his family honor. Who else confronts him? That woman's boy that he has taken and reared and educated and done everything for him as he would his own son. Who else confronts him? The man Myers that he believed in, that he had faith in, that he gave his law business to, paid him hundreds of dollars a year, and he invited him to come to his house. And now, gentlemen, who else confronts him here? His own child, his only daughter, who has had every advantage, who has been educated, who confesses herself until very lately she never knew anything from her father but kindness and affection, that child is here and tells her story against him. And these witnesses, are they disinterested? Gentlemen of the jury, you know the evidence on the other side is confined to four witnesses with the single exception of Mrs. Tracy, and her evidence went farther to assist the plaintiff than the defendant. Aside from Mrs. Tracy all the witnesses they have produced here are who? Myers, who has got to swear himself out of this or go to pieces; the woman who has got to swear herself out of this or be divorced and dishonored; the woman's boy who has got to help his mother swear out of this or he loses his support and has to go to work like other boys and earn his own living, and then that poor child. I will speak of her by and by.

I must complain of my friend on the other side for the manner of his speech to this jury. I do not recognize the right of any lawyer because he stands before a jury and cannot be said to be hindered, and abuse honest people as this attorney abused certain witnesses for the plaintiff. He began at Ellen Lynch and Bridget Toomey because they were servant girls, and said Mr. Whitney belittled and dishonored himself by having anything to do with servant girls. Why, upon what meat has this young lawyer fed that he thinks a servant girl is so contemptible? Gentlemen of the jury, what evidence is there against these servant girls? He knew that if either of them was believed, if one-tenth of what either of them swore to is believed, you upon your oaths as honest men had got to say that Charles S. Whitney was entitled to a divorce from the woman that had dishonored his bed and his home. And so the attorney must tear down these women, and he commences by denouncing Ellen Lynch because she has black eyes. She is not a blonde as my friend, the attorney, is; he has got blue eyes. Gentlemen of the jury, how contemptuously he told how Ellen Lynch's eyes flashed. And then he attacks Mrs. Gordon because she is a working woman, and because on one occasion she did a little washing for Mr. Whitney. And then comes at Bridget Toomey with toma-

hawks. He did not say anything about her eyes as I believe she has eyes just the color of the counsel's. What was Ellen Lynch's offense gentlemen of the jury? While I am on the subject of speaking of the character of witnesses I wish to say a word in behalf of these poor girls. They do not go around with diamonds on their fingers; they do not expect a grandfather to die and leave them forty or fifty thousand dollars; they do not go to New York with somebody else's husband; they do not go to Buffalo with some other man against the wishes of the father and the husband, what do they do? They wash, they sew, they knit, they earn their own living, their hands are hard and their hearts are honest. And I tell you, gentlemen of the jury, but for the virtue and integrity of the laboring classes this country would go to pieces and its whole moral structure vanish in corruption and fraud. What right has counsel to stand up here and insinuate that Ellen Lynch is a bad woman because she works for a living and finally tells the truth when she is put upon the stand and compelled to testify? He complains, gentlemen of the jury, that she did not tell this before. You have read, have you not, of the smothered volcanoes of the Isles of the Asiatic Seas? There will be a mountain that appears to be harmless, but underneath the ground there are smouldering fires, and they are growing and growing, and growing until explosion comes, and then the mountain is all aflame. In that Belmont village there was a family of high repute; there was a lady that carried her head high; there was a husband that would have resented with his life most any insinuation against his wife, because he believed her to be pure, and would allow no man to come to him and put him on his guard. But there was a smouldering volcano there. McNett saw things, Ellen saw things, Bridget saw things, Adams saw things, VanCleaf saw things, and all the other witnesses, but they kept them to themselves. Had they said one word they would perhaps have been prosecuted. They said nothing. They did not want to tell anything to break up a family, or to bring about trouble that possibly there was no foundation for. But mind you, gentlemen of the jury, they saw things that attracted their attention, they saw unnatural and unusual things and they remember them. Now, when you see what is occurring and people are acting in a natural way, you do not remember it, you do not think about it. A man is going along plowing on his farm, or to work in his shop, or any other occupation, in a natural way, if society is moving in its natural and proper way, you think nothing of it, but when you find society acting a little corrupt, acting a little suspicious, it attracts your attention and you remember it. You remember the peculiar things that you see in other people. They may point to crime, they may be care-



lessness or indiscretion, but it attracts your attention, you keep your own counsel, the volcano is still smouldering in your breast, finally the collapse comes and the flames burst out and everything is exposed, then people tell the secrets they have had hidden in their hearts. And that was the precise condition of things in this case. After the attempt of this man to keep his household together had failed and he had at last learned the truth he drove Myers out of his house, charging him with being an adulterer, and his wife and daughter followed him, then it was, gentlemen, that outside people spoke. Then it was that Mr. Whitney was able to put his hand upon the damaging proofs which we have presented to you upon this trial. \* \* \* \* I am not here to abuse women. You will stop right here and ask why in God's name this woman, with all these surroundings, with this wealth, with this good husband, with this situation in society, why she should have fallen? The greatest of English poets has answered that question. "So virtue, as it never can be moved, though lewdness court it in the shape of Heaven, so lust though to a radiant Angel linked will state itself in a celestial bed and feed on garbage." It makes no difference, gentlemen, how high or how low the woman is, if the devil is in her the devil will come out. \* \* \*

We now reach the time when Miss Florence comes back from school, and do you say now, can anybody say that this adulterous relation had not been established then? Certainly it had. Then why drag this poor girl in as a cover for their subsequent iniquities? I will tell you why. Everybody in Belmont understood this thing but Charles S. Whitney. They understood it by the ways that communities understand truths, by the ways that facts are circulated through communities, by those mysterious agencies that go from mind to mind and from ear to ear carrying the truth. But he was misled, he believed in his wife, believed in his daughter, believed in Myers, would not hear a word against them. But the community had passed its judgment, and if they continued those relations any more they had got to have a cover. And who in God's name do they select? They select the innocent daughter of this plaintiff. Not content with robbing him of his wife, not content with dishonoring his home, this man Myers lays siege for this child. She swears she admired him very much, she swears he early began paying attentions to her, and he began paying attentions to her at the time when any man ought to have been shot to engage in that sort of business. But who knew that, gentlemen of the jury? Mrs. Charles S. Whitney. In whose keeping had that girl been placed by this devoted father? When he had buried her dead mother and



had this infant child to care for he got another wife, and she soon died with consumption. And then he married the sister of that wife, the present wife, and then he turned over this girl to her to care for and to guide her steps aright, bring her up to womanhood and said, "I will leave her in your care and you must protect her." Ah, how has she protected her? Oh, that the spirit of the dead mother could have hovered over that child and saved her. When I asked the girl about her mother she hardly knew who I meant. "What mother did you say?" You remember the evidence was that Miss Florence's mother died when she was an infant. In Coleridge's beautiful poem of "Christabel," a country baron owning large estates had a daughter just verging upon womanhood that had been reared in his baronial mansion by the father from infancy, her mother having died when she was very young. One bright moonlight night the daughter wandered out into a park adjoining the mansion, and when she had reached a great oak tree she heard on the other side of this tree moaning and sounds of distress. On looking she discovered a beautiful woman who appealed to her for charity and protection. The girl took this woman to her father's mansion and into her own chamber and kindly cared for her and soothed her distresses. The woman thus found was a fiend in human shape. She took the girl in her arms in her bed chamber, and then the spirit of her dead mother came to rescue her child from the fiend's embrace, and the fiend exclaimed to the shadow:

"Off wandering mother, peek and pine,  
 I have power to bid thee flee.  
 Off woman, off, this hour is mine  
 Though thou her guardian angel be.  
 Off woman, off, 'tis given to me."

When Mr. Whitney in trusting confidence placed his infant daughter in the charge of this woman, the defendant, did he not give her to the fiend? Her conduct with this child justifies the charge.

She introduces this man Myers. Instead of protecting this child she places her in his company, and they control her, set her up against her father and drag her from him. When her friends write her this woman tells her not to answer it, she obeys. Her cousins upon her mother's side, all her blood relatives try to reach her, but they might as well try to reach a woman in the grave. The fiend is ever present. She is in the fiend's embrace. Her father comes with a force to take her, she will not go. The woman is there; there she is. Her father says to the daughter, "I will send you to Europe, I will do anything for

you, anywhere you can go with suitable companions," (Mr. Whitney's mouth is sealed, it would have been much stronger could he have spoken and told us his story), "anything to save you, and I will prove to you that this man Myers and this woman have committed adultery." Now, this girl is nineteen years of age, the counsel says she is shrewd. But she is so much in the power of these people that she is turned away from all her father's petitions, she is turned away from this road to salvation, and there is not power enough among all her friends, among all the good people, the good women and cousins and relatives that are sending up daily and nightly prayers to save this child, there is no power anywhere to rescue her from the embrace of this woman. And then the father believes that when this thing is presented to a jury, and he subpoenas his child into court to hear it, that at last the ears of this girl will be opened and she will be saved. And in spite of all she did say to us, "I don't believe that my mother is guilty, and if I should believe it," the inference was that she at last might be rescued. Gentlemen of the jury, it is for you to say how it is.

If you believe that this adultery has been committed, for God's sake say so. Say so in justice to this plaintiff, say so as the last earthly attempt to save this child.

\* \* \* \* \*

Great God, gentlemen, can any case be stronger? Are you to allow any foolish sympathy in this case to control you? You are fathers, you are husbands, you have daughters and wives, do you want the sanctuary of your homes broken up? Do you want to encourage by your verdict things like this? Gentlemen of the jury, remember there is another man in this case—Myers. Will you vindicate him? Will you not do justice to this woman? Put forth your hands, gentlemen of the jury, in God's name, and pluck this girl like a brand from the burning and give Mr. Whitney that justice which by the laws of God and Man he is entitled to."

The jury were out but a short time and returned with the verdict previously mentioned.

The term of Supreme Court Justice, George Barker of Fredonia, expired on the 1st day of January, 1890, and there were the usual number of candidates to succeed him. He, himself, was also a candidate, and was generally supported in Erie County. Other candidates were: John S. Lambert, County Judge of Chautauqua County; A. K. Potter of

Niagara County, Alfred Spring and Judge Scott of Cattaraugus, and Mr. Ward of Allegany, who was elected chairman of the convention.

Judge Lambert carried Chautauqua County against Judge Barker, and at the convention which assembled in Buffalo on the 4th of October, the first ballot showed 13 votes for Barker, five for Lambert, six for Scott and six for Potter, Barker receiving nine votes from Erie, two from Orleans and two from Genesee.

Henry W. Brendel of Erie voted for Lambert, Wyoming and Niagara for Potter and Allegany and Cattaraugus for Scott. The Allegany County delegates in this convention were Mr. Ward and S. M. Norton; from Cattaraugus came O. S. Vreeland, W. S. Thresher, William G. Laidlaw and Frederick W. Kruse. Among the Erie delegates were Henry Weisenheimer, J. O. Putnam, Charles L. Feldman, Seward A. Simons, Joseph E. Ewell and Myron Clark.

Chautauqua sent Henry Case and Warren B. Hooker, and from Niagara came E. N. Ashley, T. E. Ellsworth and Eugene Cary.

Thirty ballots were cast on the first day.

On the second day Potter gained strength from Barker, when twenty-five more ballots were cast.

The convention was then adjourned to October 10th.

On that day Mr. Ward received six votes, being the Allegany and Cattaraugus County votes, which had all the time been in his interest. Nearly one hundred ballots were cast on this day without any definite result, and Mr. Ward felt that he could not be nominated.

The Erie County delegates determined to stand by Barker, and on the 11th Mr. Ward's strength was thrown to Lambert. All of the other delegates fell in line and he was unanimously nominated. His canvass had been the most active and intelligent, and his subsequent career has amply justified the choice of the convention.

After this time his relations with Mr. Ward became

very close and his assistance was of great importance when Mr. Ward finally secured the nomination in 1891.

The sixth provision or Judiciary article of the New York State Constitution had been found inadequate to meet the vast and growing litigation of the Empire State, and the Court of Appeals especially, was clogged with business, therefore the State Legislature in 1890 passed Chapter 189 of the Laws of that year, providing that the Governor (David B. Hill) should designate thirty-eight delegates to a Constitutional Convention to meet at Albany in June, to be selected so that neither party should have a majority, and to be divided among the Judicial Districts. In accordance with this law the Governor, on May 8th, named the following delegates:

Hon. George F. Danforth, Chairman, Rochester.

For the First Judicial District.

Joseph H. Choate, 52 Wall Street, New York City.

James C. Carter, 54 Wall Street, New York City.

Daniel G. Rollins, 32 Nassau Street, New York City.

Elliott F. Shepard, 23 Park Row, New York City.

William B. Hornblower, 280 Broadway, New York City.

W. Bourke Cockran, 120 Broadway, New York City.

Franklin Bartlett, 82 Times Building, New York City.

Frederick R. Coudert, 68 William Street, New York City.

For the Second Judicial District.

George G. Reynolds, 16 Court Street, Brooklyn.

Odle Close, Croton Falls.

Lewis E. Carr, Port Jervis.

Thomas E. Pearsall, 183 Montague Street, Brooklyn.

Calvin Frost, Peekskill.

Homer A. Nelson, Poughkeepsie.

For the Third Judicial District.

Francis H. Woods, Albany.

Timothy F. Bush, Monticello.

Martin I. Townsend, Troy.

J. Newton Fiero, Kingston.

## From the Fourth Judicial District.

S. Alonzo Kellogg, Plattsburgh.  
 Artemas B. Waldo, Port Henry.  
 Leslie W. Russell, Canton.  
 James W. Whitman, Sandy Hill.

## For the Fifth Judicial District.

Charles D. Adams, Utica.  
 Daniel G. Griffin, Watertown.  
 Louis Marshall, Syracuse.  
 Maurice L. Wright, Mexico.

## For the Sixth Judicial District.

Francis R. Gilbert, Stamford.  
 Albert C. Tennant, Cooperstown.  
 Douglass Boardman, Ithaca.  
 Gabriel L. Smith, Elmira.

## For the Seventh Judicial District.

George F. Danforth, Rochester.  
 James C. Smith, Canandaigua.  
 Thomas Raines, Rochester.  
 Michael A. Leary, Penn Yan.

## For the Eighth Judicial District.

Hamilton Ward, Belmont.  
 George Barker, Fredonia.  
 Wilson S. Bissell, Buffalo.  
 William C. Greene, Lockport.

These men were the leaders of the New York State bar and their appointment marked the broad statesmanship of the Governor.

The convention met on June 4th and the first day's proceedings are reported by the Elmira Advertiser of the next day as follows:

Albany, June 4.—The constitutional commission convened at 10:30 o'clock this morning. Clerk Bunn read the journal of yesterday, which was approved. Mr. Bartlett introduced a resolution asking for the reconsideration of the vote on the question fixing the next meeting of the commission for August 5th.

The committee of nine, consisting of Messrs. Fiero, Hornblower, Rollins, Frost, Waldo, Adams, Gabriel L. Smith, Raines and Ward, to report to the commission the best method of proceeding to revise the judiciary article, then submitted their report. It recommended the

creation of five committees, to be appointed by the president, as follows: A committee on Court of Appeals and court for trial of impeachment for the removal of judges, to consist of nine members, the president of the commission to be one of its members; a committee on the Supreme Court including the subject of referees and receivers, to consist of nine members; a committee on Superior City Courts, New York County Surrogate's Courts and local inferior courts of the city of New York, to consist of seven members; a committee on County and Surrogates' Courts, Courts of Justices of the Peace and inferior local courts, to consist of seven members; and the fifth committee to consider the subject of all other courts and all other subjects embraced in the sixth article, to consist of seven members. The committee recommends that there be appointed on the reassembling of the commission a committee of revision, to consist of five members. The number selected for the first two committees was fixed for the purpose of enabling each judicial district to be represented upon such committee. The committee also recommended that members of the commission be requested to communicate their views by resolution or otherwise to the several committees upon any subject connected with the revision of the various sections in charge of such committees, and recommend for passage of the following:

Resolved, That the various committees be requested to complete their report and have them printed and distributed to the members of the commission on or before July 25.

Mr. Fiero asked for the adoption of the report. He said but one committee should be named.

Mr. Choate thought that there should not be two committees on Supreme Court and Superior Court in New York City. The two questions were so closely knitted together that he could not see how the two committees could report separately.

Mr. Carter thought there was no need of a committee on revision until the work of the commission was founded. The president also, by that time, would know more of the members as to their standing and views on the work done.

Mr. Fiero said that if New York City were given a representation that it needed on these two subjects mentioned by Mr. Choate, it would be so large as to make the two committees unwieldy.

Mr. Hornblower was of the opinion that the Supreme Court in New York City should be not a local but a State body. He therefore favored concentration and exchange of ideas between all the committees on the various courts. Still the consideration of a reorganization

of the courts in New York City and Brooklyn was undoubtedly a matter that should be largely entrusted to New York and Brooklyn members.

Mr. Russell offered a resolution transferring the consideration of the Supreme Court in New York City from the second committee to the third committee as named, the third committee having the consideration of local courts in New York City.

Mr. Bartlett said it was not tenable to say that the Superior Court of New York City was local, from the fact of its general term having two justices appointed from other counties. He claimed that the first department (New York) was a part of the State supreme jurisdiction, and he did not want it designated as a local court.

Mr. Russell's motion was lost by a *vive voce* vote and the report of the committee was adopted.

A vote was then taken on Mr. Hornblower's motion to reconsider the vote on the question fixing the next meeting of the commission for August 5th. The motion was opposed by several members and defeated—ayes 14, noes 18.

Mr. Whitman offered a resolution requesting the Court of Appeals to transmit to the commission the number of appeals brought into that court in 1889; the number of cases argued during that year; the number of cases decided during that year; the number of days the court was in session hearing arguments during that time; the number of such cases which were criminal actions and the number of such cases in which the complaint set forth a cause of action to recover damages for an injury to person and property by reason of negligence.

The resolution was referred to the committee on Court of Appeals. The commission then took a recess for thirty minutes.

#### MEN ON THE COMMITTEES.

When the commission reconvened after the recess President Danforth announced the committees as follows:

Court of Appeals—Messrs. Frost, Carter, Coudert, Russell, Marshall, Bissell, Townsend, Boardman.

Supreme Court—Messrs. Choate, Cockran, Close, Bush, Waldo, Griffin, Gilbert, J. C. Smith, Ward.

Superior City Courts—Messrs. Rollins, Hornblower, Shepard, Bartlett, Greene, Reynolds, Pearsall.

County and Surrogates Courts—Messrs. Nelson, Kellogg, Wright, Gabriel L. Smith, Raines, Barker, and Woods.

Miscellaneous Questions—Messrs. Fiero, Carr, Whitman, Adams, Tennant, Leary, Ward.



President Danforth will serve only on the first committee. Mr. Wright offered a resolution, which was referred, providing for an amendment to the effect that ten votes of a local jury and five of a petit jury should constitute a verdict. On Mr. Cockran's motion the commission then adjourned until 11 A. M. August 5th.

Just before adjournment Mr. Ward offered a resolution, which was referred to the committee on Court of Appeals, which provides for an amendment of the constitution making the Court of Appeals consist of a Chief Justice and thirteen Associate Justices, seven to be elected and seven to be appointed by the Governor and confirmed by the Senate. Of the seven to be appointed not more than three shall be taken from the same political party. In the full court nine members shall constitute a quorum and eight affirmative votes are made necessary for a decision. The Court may divide itself into two divisions, seven judges in each. In either of the divided courts, six members shall constitute a quorum and five affirmative votes are made necessary to a decision. But if there are two dissenting votes then the matter is to be referred to the full court.

The committee met after adjournment and fixed the time for their first meeting. The committee on Supreme Court will meet in Joseph H. Choate's office, New York City, June 10th. The committee on County and Surrogate's Courts meets in the town hall at Saratoga June 27th. The committee on General Subjects will meet at the Worden Hotel, Saratoga, June 30th. The committee on Superior City Courts will meet at Judge Rollin's office in New York City June 11th. The committee on Court of Appeals will meet at the Windsor Hotel in Saratoga July 8th.

It will be noted that not only was Mr. Ward on the committee on organization, but that he was the only member of the convention placed on two committees.

The Commission re-assembled on the 5th of August and received the reports of the committees, which were discussed at some length. The stenographic report of the proceedings of the Commission has never been printed and is on file in the office of the Secretary of State at Albany, N. Y., but from the printed journal of the Commission it appears that Mr. Ward was in favor of submitting to the people the question whether the Judges of the Court of Appeals should be appointed by the Governor or elected by the

people. This was defeated. He also disapproved the system of Judicial pensions then in force but abolished by the Constitution of 1894. This was remarkable as at this time he was a candidate for Justice of the Supreme Court. He also approved a constitutional provision which prohibited the acceptance of passes by Judicial officers or members of their family.

He was strongly opposed to limiting the right of appeal to the Court of Appeals and urged as a solution of the congested condition of that Court an increase in its membership, and not a temporary second division to be designated from time to time by the Governor, as was by some proposed.

After twelve days hard work in reviewing and discussing the reports of the various committees it was decided that a committee on revision should be selected, and James C. Carter of New York, the acknowledged leader of the New York Bar; George F. Danforth of Rochester, ex-Chief Judge of the Court of Appeals; James C. Smith of Canandaigua, ex-Supreme Court Justice; S. Alonzo Kellogg of Plattsburg, later a Justice of the Supreme Court; Homer A. Nelson of Poughkeepsie, and William B. Hornblower of New York were accordingly named.

The Commission then adjourned to December 2nd.

On that date they re-assembled at the rooms of the Bar Association in New York City, and were in session for four days considering and discussing the report of the committee on revision. Mr. Ward was present on the first day, but did not attend any further sessions of the Commission, as he had become convinced that the majority of the Commission had determined upon a report with which he did not agree and which he did not believe would be adopted either by the Legislature or the people. On December 5th the Commission adjourned to January 23rd, 1891, at Albany, on which date, 23 members being present, the report of the committee on revision was formally approved and made the report of the Commission. The Commission then adjourned sine die.

The proposed amendment to the Judiciary Article of the Constitution as adopted limited the right of appeal to the Court of Appeals in certain kinds of actions where the decision of the General Term was unanimous, and made the General Term the Court of last resort on the appeal from certain orders which had theretofore been appealable to the Court of Appeals.

Four General Terms of the Supreme Court were to be established and certain city Courts in New York and Brooklyn were to be abolished. It was made a violation of law for judicial officers to accept passes and the jurisdiction of County Courts was to be somewhat enlarged.

These proposed amendments were rejected by the Legislature, but the discussion thereby provoked bore fruit in the Constitutional Convention of 1894; and the present Constitution in force January 1st, 1895, reflects the labors of the Commission.

In 1890 the Congressional District in which Mr. Ward resided was made up of the Counties of Allegany, Cattaraugus and Chautauqua, and a successor was to be selected to William G. Laidlaw, whose previous nominations Mr. Ward had been instrumental in securing. Laidlaw was not willing to return the favor, and as a result Mr. Ward combined with the Chautauqua County forces, and finally nominated Warren B. Hooker of Fredonia.

Hooker at that time was but little known outside of his own county, but he was a man of great industry and excellent judgment, and acquired great power in Congress, where he remained four terms and until he was appointed a Justice of the Supreme Court in 1898.

Mr. Ward's campaign in Allegany County to secure delegates in his interest was most thorough; he knew personally almost every voter; he knew their weaknesses and their strength; he was familiar with their business affairs, and their personal relations, and his support came from personal acquaintance and personal effort rather than from successful political manipulations or the power of patronage.

The nominal candidates were D. P. Richardson of Angelica and Oscar Fuller of Wellsville.

A newspaper article prepared by Mr. Ward describes the contest:

#### EXIT LAIDLAW.

This interesting and peculiar statesman vanished at the recent Olean Congressional Convention.

Four years ago he was nominated by the Allegany County delegates, wheeling into line after they had supported Mr. Hamilton Ward for Congress by many votes, and after it was apparent that a nomination could not be effected unless Allegany went with Cattaraugus or Chautauqua. Allegany preferred to go with Cattaraugus, and it did so after profuse promises on the part of Laidlaw and his friends that he would reform his personal habits and would make a faithful member of Congress.

When the nomination was made the Cattaraugus delegates and representative men were equally profuse in assuring Allegany delegates that they would return the favor thus received at the first opportunity, and conspicuous among those thus assuring was the Hon. William G. Laidlaw himself.

Two years ago Cattaraugus again presented Mr. Laidlaw for Congress and Chautauqua had elected her delegates for the Hon. Walter L. Sessions. Allegany was called upon a second time to nominate Mr. Laidlaw, and she did so and received the same assurances from Laidlaw and his friends as had been received two years before.

One year ago Allegany County was extremely anxious of securing a Judge of the Supreme Court, and presented the name of Mr. Hamilton Ward to the Judicial Convention at Buffalo for that high office, confidently expecting the help of Cattaraugus County, or at least that of Mr. Laidlaw, to secure his nomination. There was no man in the world to whom Laidlaw and Cattaraugus was more indebted than to Mr. Ward. It was his friends at each of the two Congressional Conventions where Laidlaw was nominated that had given him the votes necessary to his nomination. Laidlaw was himself a delegate to the Judicial Convention and Allegany was surprised to find two candidates for the Judgeship presented by Cattaraugus, both particular friends of Laidlaw, one of them Judge Scott, who was his law partner and had been for many years his special and particular friend.

The Judicial Convention had several sessions and it was a great while before a nomination could be effected. Laidlaw professed in turn to be for Scott, Spring, the other Cattaraugus candidate, and for

Ward, but in reality he was for none of them, but used every means to induce the other Cattaraugus judicial delegates to go with him and nominate Judge Barker. They all had the manhood to refuse to do his bidding, for which he was very angry. Failing to get votes enough to nominate Judge Barker, he contented himself when he was able to be in the convention and vote there, by voting for one of the Cattaraugus candidates or for Mr. Ward.

At the recent Congressional Convention, though Allegany voted solidly for Mr. Fuller 12 times, not a Laidlaw delegate was given to Allegany, Laidlaw still holding his contingent for himself.

The majority of the Allegany delegates then presented the Hon. D. P. Richardson, who received a number of votes, sufficient that if Cattaraugus voted for him, he would have been nominated, and yet not a Cattaraugus vote was given him, Laidlaw still holding his own vote.

We thought as this statesman passed off the stage forever we would give this little history, not that we suppose it will have any effect upon Laidlaw, who seems conscious neither of gratitude or political honor, but that it may be an admonition to some of our aspiring politicians who want to fill the high places in the land that they cannot do so by tricks, political frauds and broken promises, but that in the end honorable and manly conduct is the only certain course to win permanent political success.

Mr. Hooker was nominated by the Allegany County votes and Chautauqua County was under another obligation to Mr. Ward.

Many of the men who battled for political supremacy in Allegany County in these days following the Civil War are forgotten; of course, the lives of Martin Grover, Marshall Champlain, Dr. William Smith, David P. Richardson, A. J. Wellman and Sumner Baldwin are part of the history of the county, but each township had and still has keen, active, intelligent men who took part in every struggle, partly from sheer love of the thing, partly for the party emoluments and partly from a sense of duty, the crowning glory of good citizenship. Such men were Mr. Ward's supporters and associates through the long years of his political career, and in endeavoring to preserve his memory their names are entitled to a like consideration. There was Anson Congdon, Marcus Congdon, Thomas Love and Irving

Bellamy of Clarksville; Hunt Morgan, Rufus Caldwell and William J. Glenn of Cuba; A. J. Wellman, Asher W. Miner, William King, Herman Rice, S. M. Norton and William Dayton of Friendship; Christopher Jennings, Father Barlow, Bowman Renwick and James Davis of Belfast; William E. Hammond and Charles Burr of Canaëda; John Hammond, John Minard, Joseph Paul, William Brooks, Charles Van Dresser, H. H. Relya and Charles Ricker of Hume; John Sawyer, T. J. Findley and David Hancock of Centerville; Charles Woodruff and Henry Holden of Rushford; Nathaniel Bell, Addison Thompson and Clarence Ricker of New Hudson; William Van Ostrand of Granger; Archie Gillis of Birdsall; William Windsor, William H. Garwood and Dr. Bacon of Burns; Henry Burt of Allen, Charles Flenigan, Wilkes Angel, Joseph Gillis and Joseph Rutherford of Angelica; Dr. Sabins, Owen Baker and William Miller of West Almond; A. Crandall, William and Silas Burdick and Calvin Reynolds of Alfred; Charles Hull, Charles McIntosh and D. A. Stebbins of Almond; Dr. Harmon, George Green, Blin Clark and W. W. Crandall of Andover; William Cobb, Sidney Crandall and Deacon Chase of Independence; Daniel Witter and Lewis Ackerman of Willing; Martin Strickland and Riley Allen of Alma; William Duke, R. T. Howard, Myron Davis, Ebenezer Norton, John Hyde and J. E. Middaugh of Scio; William F. Jones, Sumner Baldwin, Isaac Fassett, William McEwan and George Blackman of Wellsville; Boardman Cottrell and Hiram Dimmick of Wirt; Le Grand Andrus and Charles H. Brown of Boliver, and Isaac Prosser, William Boller, Horace Prindle and William Cranston of Genesee.

Politics in the rural districts have always occupied a higher level than in the cities, and in Allegany County the best citizens have in the past not been ashamed to give their best energies to public affairs, so that the party leaders were those who stood highest in the community, and county and State politics furnished a field for those energies which were too broad and strong for the peaceful current of village and farm life.



Mr. Ward's time was always occupied. He was not fond of loafing; occasionally he took a short vacation, going generally to the seashore, where he could hear the sound of the waves; water always fascinated him and he was wont to walk for hours upon the bridge at Belmont across the Genesee River, where he could hear the ripples. He made it a rule to walk five miles a day, and that was his favorite method of exercise, except in the springtime, when he enjoyed working in the garden. Love of natural scenery always possessed him, and almost every day he would climb the hill west of the village, and from its slopes gaze over the beautiful valley and opposing mountains, rapt with the hues of autumn, glowing green with the spring, or dazzling with the snows of winter, as the seasons came and went, and whether alone or in company with one of his sons, whom he frequently took with him on these walks, he was wont to give expression to his pleasurable emotions in reciting some of the many poems of his favorite poets, of which his mind held an abundant store.

He was a good swimmer, but took no interest in other sports; he never hunted or fished, and seldom attended trials of strength or skill. The only game he enjoyed was euchre, which he frequently played before retiring.

He read much poetry and Byron, Scott, Burns and Whittier were his favorites; he was fond of reading aloud, and had a well modulated and expressive voice. Greek mythology delighted him, and he read and re-read the poems of Homer. He was especially familiar with the stories of Scott, Thackeray, Dickens and Irving, and his general reading covered fairly well the field of English literature.

Scientific subjects had no charm for him, and he devoted no time to Theology or Metaphysics. His sense of humor was always keen, and his jokes and anecdotes made him famous. He always showed great courtesy to women, and delighted to help a young man. His manner was original and buoyant, and his conversation was always entertaining. Deep chested and of considerable bodily strength, his erect carriage gave a much greater impression of his



height than it really was (five feet seven inches). His weight in later life ranged about 170 and up to the time of his death his sturdy, youthful bearing was the subject of common comment.

He never seemed tired and was seldom ill, and during his whole life he welcomed each new task, opportunity or duty, and with unfaltering courage and constant industry. Against much adversity and in spite of many defeats, lived a long life honorably and well.

Of the business, Mr. Elba Reynolds, who entered Mr. Ward's office as a student in 1874, and who remained with him until he went on the bench, and who then succeeded him in his practice, says:

"Mr. Ward always had the best practice in the village and in later years in the county. He was an indefatigable worker and it was no uncommon thing for him to remain in his office working over his cases until three and four o'clock in the morning; he never was unprepared and every fact and witness was carefully discussed and investigated. He generally know more about his adversary's case than he did himself, and to his quality of industry and thoroughness his success at the bar was largely due.

His professional income was his sole support, and when I first went into his office ranged between \$2,000.00 and \$3,000.00 per year; this gradually increased until during the oil excitement it ran to \$8,000.00 for a couple of years; during the later eighties it ranged about \$5,000.00 per year.

Mr. Ward was liberal with his money and never laid up any substantial sum until after he had been Attorney-General, from which time he tried to save something each year. His business was principally litigated business, and he was on one side or the other of most all the hard fought cases in the county for thirty years. He had few mortgage foreclosures and little Surrogate's practice, most of that going to other attorneys who were not called "high priced," but whenever complicated issues were to be determined Mr. Ward was generally retained.

His register showed about forty new cases yearly, and

most of those were hard fought ones. While he was always active in politics his best energies were given to his profession, and his great strength was before a jury.

His principal rival was Horace Bemis, of Hornellsville, who opposed him in the Hendryx and Macken cases and other important litigations.

Most of the work in the office was done by students, and it was esteemed a privilege to be allowed to enter his office as a student. Among the students were E. W. Chamberlain, Ben Marriott, Robert Marriott, Rufus Scott, W. C. Bingham, S. M. Norton, Oscar Fuller, Henry Gardner, Elba Reynolds, A. L. Elliott, Ira H. Meyers, Eldyn Reynolds, Warren Gorton, Henry G. Middaugh and Hamilton Ward, Jr.

Mr. Ward's handwriting was typical of his profession, and much of the students' time was taken up (in the days before typewriters) in an effort to decipher it.

On one occasion a young man named Scott entered the office as a student, and his first work was to copy a complaint which Mr. Ward had just written; all the afternoon he puzzled over it and the next day he fretted and strove, and on the third morning was missing, never to resume the study of law nor to complete the copy of the curiously written paper.

Mr. Ward's political interest was always keen, not only in local matters, but in the broad affairs of the nation, in which he had played so important a part in Congress.

After his return from Congress he exercised a preponderating influence in the county politics until he became Attorney-General. After that, for a few years, his friends were in the minority, but in 1885 he regained control and retained it until he went on the bench.

Of the period before 1870 I have no personal knowledge, but local history says that Mr. Ward was the dominant political factor in the county from the date of his election as District Attorney in 1857, and it is a notable fact that in all his political contests he never lost his town (Amity).

His political success depended entirely on his personal

influence; he could strengthen a faltering friend or convince a stubborn antagonist better than any man I have ever known, and a conference always made friends for him.

He was a great believer in night visits to his political friends and every road in Allegany County has known his hurrying wheels on a midnight visit to a local leader.

He was keen in his sympathies and naturally took the side of the humble and afflicted, and those who knew him longest liked him best."

Mr. W. Ellery Davis, now of Starke, Florida, who formerly resided in Belmont, and was Mr. Ward's stenographer and confidential man in the Attorney-General's office, in a letter of February 25, 1901, in speaking of Mr. Ward, says:

"He was a man that was liked by every man, woman and child that chanced to form his acquaintance, except when an enemy was made, as the result of some legal or political battle; for he was never in too great a hurry to fail to recognize all, whether they be rich or poor—old or young.

Old Bridget Egan would get a hearty hand-shake from your father when she met him on the street, and would be so delighted that she would never get tired of talking about it. This was no put on—it was his nature to be courteous and gentlemanly to all. Some men shake hands before election times, out of policy, but not so with your father.

He would never turn down an old friend for a new one, and could always be relied upon by his friends—and right here I might say that his enemies could rely upon him as well; they knew him, too, and dreaded him. He never would never give up—legally—until the last dog was hung—and has many times furnished the necessary funds for appeals where poor clients were unable to do so—and continue the fight rather than give up. From a political standpoint I don't believe he ever gave up. \* \* \* \* \*

It was told to me by good authority that in the case of Porter K. Holden of Belmont, who had been a faithful Ward politician, and was working at the machine shop, in the

wood-working department, or some factory there—at a time when your father was in Congress—that he had Mr. Holden appointed postal clerk and never said one word to him about it until he had his appointment in his coat pocket. When he received the appointment, he sent a messenger to the shops asking Mr. Holden to step over to his office a few moments if he could leave his position. Mr. Holden appeared on the scene in old clothes, covered with sawdust from head to foot, wondering what in the world he could be wanted for at a lawyer's office—and was asked how he would like to run on the Erie Road as Postal Clerk. He replied that he would be very glad indeed for the position if he could get it, and asked if your father thought there would be any chance for him to get the place. Your father told him he thought it quite certain that he could get the place, and then handed him the appointment, and told him he must report at Elmira (I think it was) the following Monday.

At another time, when we were in Albany, a large red-headed Irishman came to the office and asked to be appointed as one of the Orderlies on the Capitol. His clothes were rather old and seedy—his hair and full chin whiskers exceedingly long and unkempt—his finger nails very long, and in fact his general appearance was that of a genuine hobo. The day before Senator Harris of Albany had arranged with your father to put one of his men in the position asked for and told what time he would have him call. The time agreed precisely with the arrangement made by Senator Harris, and after asking the party a few questions, told him he could have the place and to report to him the next day at 10 A. M. With eyes that shone like two diamonds the office-seeker departed happier than any U. S. Senator-elect ever was. Within one hour from his departure came Senator Harris' man. Your father was in a boat, so to speak; he had promised the same office to two different parties. Well, he informed the last man that he could have the place, and told him to report the next day, as he told the first. Now I am into it, says he, but I'll not disappoint either—I will put Senator Harris' man just where I promised the Senator I would and will make a place for the red-headed Irish-

man from Troy. He sent me to Supt. Eaton, of the New Capitol, and after some little talk, a place was provided. Exactly at the appointed time the Irishman appeared, but changed as if by magic—quite well dressed—hair nicely trimmed—whiskers neatly clipped and looking exceedingly well. He held his position for a long time and gave good satisfaction.

A Justice of the Supreme Court was to be selected in 1891 to succeed the famous Charles Daniels, and Mr. Ward's whole energy was directed toward securing the coveted nomination. Daniels was not a candidate as he was 66 years of age, and the usual struggle began for the place with practically the same candidates as in 1889 in Niagara and Cattaraugus, with Chautauqua supporting Mr. Ward, and Erie disposed to favor Manley C. Green.

In April, 1891, Thomas Corlett suddenly died, and after a decent delay, David B. Hill, the Democratic Governor of the State, named Hamilton Ward to succeed him. This appointment, which was made on the 28th day of April, caused much surprise, and aspiring Democrats in Buffalo and elsewhere waxed wroth because one of their own party had not been selected.

It was generally conceded that the appointment belonged to the 34th Congressional District, and practically all the Democrats of that district asked for Mr. Ward's appointment. Clarence A. Farnham of Wellsville was generally regarded as the Democrat likely to succeed, but he generously declined to enter the contest and urged Mr. Ward's appointment on the Governor. Great assistance in securing the Democratic support was also rendered by Edgar W. Chamberlain and Elba Reynolds of Belmont.

The Democrats took this position because Mr. Ward's appointment meant his probable nomination and election, while the appointment of a Democrat would be but a temporary benefit to that section, his successor being certain to be a Republican, with a likelihood of his residing outside of the district.

Another reason that contributed to this result was the firm personal friendship which existed between Mr. Ward

and the Governor, who was a resident of Chemung County, and who in former days had received some small favors at Mr. Ward's hands.

William F. Sheehan, of Erie, Lieutenant-Governor, and Democratic leader of Western New York, was also friendly to Mr. Ward, and Charles Cary and Judge Henderson, Democratic leaders at the bar and in politics in Cattaraugus, supported him.

Comments on his nomination by the press were universally friendly. The world admires a fighter, and this Mr. Ward had emphatically been, and when this appointment came it indicated that the long fight was over and that his declining years would be passed in pleasant and congenial work on the bench for which his varied experience and mature years qualified him.

Press comments are as follows.

Buffalo Evening News:

#### GEN. WARD NOMINATED.

Word comes from Albany that Governor Hill has nominated General Hamilton Ward to fill the vacancy on the Supreme Court bench caused by the death of Justice Corlett, but the continuance of the Senate deadlock has prevented any action being yet taken on the name. Friends of a number of prominent Buffalo attorneys have been hopeful of lightning striking in this neighborhood, but territorial considerations have governed and the Executive has seen fit to give recognition to the lower part of the district.

There will naturally be some disappointment felt here over the result, but it will be generally conceded that the selection is a worthy and creditable one. For many years General Ward has held place in the front rank of Western New York attorneys, combining with high legal attainments a long and varied experience at the bar. He was admitted upwards of 40 years ago, was elected District Attorney of Allegany County in 1856 and again elected in 1862. Subsequently he served in the Thirty-ninth, Fortieth and Forty-first Congress, and in 1879 was elected Attorney-General of the State. Of late years his name has frequently been mentioned in connection with judiciary nominations and he was put forward as the candidate of Allegany County at the convention which named Justice Lambert.

While he has always been a staunch Republican, it is understood that General Ward's nomination was earnestly urged by Democrats



and Republicans alike in Cattaraugus and Allegany counties, where he is regarded as the leader of the bar.

The leading Democratic paper, the Buffalo Courier, said:

WHY GOVERNOR HILL CHOSE A REPUBLICAN TO SUCCEED  
CORLETT.

The announcement that Governor Hill had appointed the Hon. Hamilton Ward of Belmont, Allegany County, to succeed the late Justice Corlett on the bench of the Supreme Court has created quite a stir among politicians and lawyers in Buffalo. Expressions of opinion by some of the lawyers were rather guarded, and several asked to be excused.

It seems clear that the new Justice by appointment is personally popular, and that there was a strong desire among the people of Cattaraugus and Allegany counties for the selection of a Justice from that part of the district. Judge Henderson and the Hon. Charles Cary are mentioned as two of the leading lawyers from that region who favored the appointment of Mr. Ward. Their argument is that in view of the fact that Allegany and Cattaraugus counties have not had a Justice of the Supreme Court for 30 years, and that someone residing on the line of the Erie Railroad, which passes through these counties, was much needed, and the further fact of the persistent neglect of the Republican Judicial Convention to nominate a Justice from that part of the district, the people of these counties had become aroused, and properly demanded of the Governor the appointment of one of their neighbors. They presented the name of Hamilton Ward, and their claims seem to have been recognized.

It is said there was no Democratic candidate for the office from these counties. The reason given is that if a Democrat should be appointed he could hold the office but a short time, some Republican being sure of an election next fall.

Justice Ward was in the city yesterday and registered at room No. 68 in the Hotel Iroquois.

He was busy receiving the congratulations of friends, but freely talked about the circumstances which led to his selection by the Governor.

"How is it," he was asked, "that you, a Republican, have been appointed by a Democratic Governor for the office of Supreme Court Justice?"

The Hon. Hamilton Ward laughed quietly as he answered: "I suppose it is due to the fact that the members of the bar in Allegany



County, and a number of leading Democrats of Cattaraugus County, asked the appointment from Governor Hill on the ground of my location, and that there was no Democrat who sought the appointment from either of these counties, so far as I know. The appointment was made without reference to political considerations, but to secure a Supreme Court Justice in a portion of this judicial district where he was most needed."

Mr. Ward said further that the need of a Justice from that part of the district was emphasized by the increasing volume of litigation there, connected with the oil business.

A number of prominent lawyers of both parties were visited yesterday, and the same question put to each: "What do you think of the Governor's appointment of a successor to Justice Corlett?"

From those who were willing to talk, the following answers were received:

Franklin D. Locke—"I think the appointment is very fitting, indeed. Locally, I think the southern tier of counties in the district is entitled to be represented on the bench, and it has not been since Martin Grover's time. Personally, Hamilton Ward is an exceedingly able, capable lawyer, and has, in my judgment, all the qualifications requisite to make an excellent judge."

The Hon. Daniel N. Lockwood: "I have known Gen. Ward for 20 years. He is a good lawyer, and a straightforward, upright man, and will make a most excellent judge."

Harlow C. Curtiss: "Inasmuch as the district is Republican by a normal majority of 12,000, I regard it as very fair in Governor Hill to appoint a Republican, and certainly, as Buffalo has three judges of the six in the district, it is fitting that one should be taken from the eastern end. As Allegany County is very difficult of access, and has not had a resident Supreme Court Justice since Martin Grover's time, more than 30 years ago, I think she was entitled to the judgeship, and as Hamilton Ward is the leading lawyer of the county, I regard his appointment as admirable in every respect, and most fitting."

Frank M. Loomis: "I don't know Mr. Ward personally, and have no fault to find with the location of the appointment. I can see no reason, however, why a Democrat should not have received the appointment. I should like to have seen Mr. Gorham chosen."

William F. Mackey: "I think a Democrat should have been appointed."

Herbert P. Bissell: "I am very much disappointed that a Buffalo Democrat was not selected."

"Wilson S. Bissell: "I had fully expected the appointment of an Erie County Democrat, either Mr. Gorham or Judge Peck. Therefore I am surprised to hear of the appointment of an Allegany County Republican."

Adelbert Moot: "Hamilton Ward has been considered one of the ablest lawyers in that region for at least 20 years. These counties are certainly entitled to a Justice of the Supreme Court, and to relief from the vexation and expense to which suitors are now subjected in sending lawyers to Buffalo every time they want to get an order from a Justice of the Supreme Court or make a motion before him. I know that locality well, and I think the people there all have confidence in Ward's integrity and ability as a lawyer, whatever they may think about him politically."

Joseph L. Fairchild: "Governor Hill couldn't have made an appointment that would have suited me so well."

The Buffalo Times (Democratic) said editorially:

#### APPOINTMENT OF GEN. WARD.

In appointing Gen. Hamilton Ward of Allegany County to be Judge of the Supreme Court, filling the vacancy caused by the death of Judge Corlett, Governor Hill shows his appreciation of the qualities needed for this high position. His action also will meet the approval of the bar, of which Gen. Ward is a conspicuous member in this district. Gen. Ward is a prominent Republican, having been District Attorney of Allegany County and elected Attorney-General in 1879. As partisanship does not or should not enter into consideration for qualifications of our judiciary, Gov. Hill promptly selects a judge irrespective of those considerations and there can be no doubt the Senate will as promptly confirm the appointment and give to the Cattaraugus section its rightful representation on the bench.

The Buffalo Commercial said editorially:

#### TO SUCCEED JUDGE CORLETT.

Governor Hill has appointed a Republican to fill the office of Supreme Court Judge made vacant by the death of Judge Corlett, and has appointed Hon. Hamilton Ward of Allegany County. We commend his independence of party spirit. He was influenced to this act we understand by the urgent request of the leading Democratic lawyers of Allegany and Cattaraugus counties as well as by Republicans in those counties, who insisted upon a Judge in that section of the district and who presented Mr. Ward as having the required ability and

the right location for the office. Neither of these counties has had a Supreme Court Judge for the last twenty years and great dissatisfaction has existed in that part of the district on that account; so much so that when Judge Corlett was elected it was by a greatly reduced majority; those two counties, though strongly Republican, gave Mr. Carey, the Democratic candidate, nine thousand majority. There was no objection to Judge Corlett; but the protest was against locating another Judge in Buffalo when it had already three.

Governor Hill has acted wisely in appointing a Republican to the vacant judgeship, for the Republicans have a very large majority in this judicial district; and in selecting General Ward Governor Hill has certainly honored a man who has been earnest, steadfast and self-sacrificing in devotion to the cause of the Republican party in State and Nation. The appointment is certainly in every way commendable—it puts a well-qualified man upon the bench, it gracefully recognizes the predominance of the Republican allegiance in the district. It is an appointment that will be endorsed without regard to party throughout Western New York with unqualified praise.

The Farmers' Alliance organ, representing an element then of some strength in the district, said:

WELL MERITED HONORS FOR THE ALLEGANY COUNTY  
JURIST.

Below we give a brief sketch of the life of ex-Attorney-General Hamilton Ward, the able and efficient jurist whom Governor Hill recently appointed to fill a vacancy on the Supreme Bench of this State. Mr. Ward's career while serving as Attorney-General was especially marked by work in behalf of the great masses of the common people of the State as against the pecuniary interests of certain great corporations, ring pullers and monopolists who, as usual, brought their influence and money to bear politically (in his own party) to defeat him for a renomination. He had offended the powers that be and it finally remained for a Democratic Governor to appoint him to his present position which he so well merited at the hands of his own party.

Friendly notices of similar tenor appeared in all parts of the State. There was some trouble in the State Senate over the confirmation of the Governor's appointment, and the Senate, which was Republican, finally adjourned without taking action. The appointment was renewed as a recess appointment, and Mr. Ward took his oath of office on May 1st.

Mr. Ward and his friends were much disappointed over the action of the Senate, and Senator Jacobs, who had been responsible for the obstruction, wrote Mr. Ward the following letter, which was given to the press and offset the effect of the Senate's action:

"Hon. Hamilton Ward.

My dear Sir:—You may have been surprised at my apparent opposition to the confirmation of your nomination for Judge of the Supreme Court, on the last day—I might say the last minute of the session.

There was no real opposition to your confirmation, but the failure of a committee to report a candidate for another office favorably, led to a controversy which lasted until the hour of final adjournment, and we were compelled by the inexorable law of time, to separate without action on your nomination.

My personal relations with you, my gratification at your selection, my knowledge of your high qualifications for the office, all prove that in my action on that occasion, my last thought was to do you any injustice.

Let me say that I have found, after personal inquiry, that had there been time to take a vote, every Senator, without regard to party, would have voted for your confirmation. Senator Hawkins, I am sure, was governed by the same motives which controlled my action. I congratulate you upon your subsequent appointment by Governor Hill, and expect that his action, now, will be endorsed by the people next fall.

This letter may be used by you in any way you deem proper.

Yours truly,

JOHN JACOBS."

The New York Sun of May 1st reported the proceedings in the Senate as follows:

The Governor's appointments accumulated on the desk were tackled at the last minute. George L. Ingraham was confirmed for the Supreme Court bench, in place of Brady, deceased, as were the re-appointed trustees for the Willard Asylum, the Washington Headquarters, and the Western House of Refuge for Women.

Then Senator Jacobs inspired Senator Hawkins to object to the

confirmation of Hamilton Ward for the Corlett Supreme Court vacancy. The name of a constituent of Senator Hawkins, Henry A. Reeves, was among those sent in for reappointment as Lunacy Commissioner, and as the Republicans had made up their minds not to vote for his confirmation, Senator Jacobs was showing the Long Island sailor Senator how to get even. He took the floor and battled against Fassett, who was furious, and Erwin, who was howling mad, in support of Senator Hawkins' right to object to the confirmation. Fassett said that the attitude of a bandit did not become the Senator from the Second, and Erwin roared: "It's two for one, it's two for one," meaning that in the confirmation of Ward the Republicans would get only one, while the Democrats were looking for the confirmation of a Health Officer as well as that of Judge Ingraham.

Senator Jacobs retorted that he would play bandit or anything else to help the old man out, which was an affectionate reference to Senator Hawkins. He added: "It lacks only six minutes to 12 and I will hold the floor." He did so, and the Senate session died as it did last year without any committees of notification to the Assembly or to the Governor, without any complimentary resolutions or official farewell speeches.

Mr. Ward immediately returned to Belmont and received the congratulations of his friends and neighbors. The Belmont Dispatch refers to it as follows (May 5th):

#### JUDGE WARD SERENADED.

His Allegany County Friends Surprise Him.

Hon. Hamilton Ward returned home Saturday morning from Albany, where he had been to take the constitutional oath of office before the Secretary of State, as Justice of the Supreme Court.

He was met at the depot by a large number of friends, who warmly congratulated him and gave him a most friendly greeting. On his way from the depot to his office he was cordially grasped by the hand and welcomed by all who met him.

In the evening the Judge happened into The Belmont, and while he was there Belmont's citizens, headed by the band, called on him en masse. All were invited into the lobby, where scores of friends from neighboring towns had assembled, to congratulate Belmont's popular and noted citizen, His Honor, Judge Ward.

Elba Reynolds, in behalf of the citizens of Belmont, warmly congratulated the honorable gentleman upon his appointment, paying him many handsome and well deserved compliments.

In behalf of the citizens of the county remarks were made by District Attorney Brown, Gen. Rufus Scott, ex-District Attorney O .A. Fuller, Capt. George H. Blackman and Frank B. Church, Esq. Judge Ward made a feeling reply to all, the band discoursed several selections, and it was a grand congratulatory meeting.

Clark Bros. did their share towards making the evening's program a success, by placing two arc lamps in front of Judge Ward's residence, making a beautiful electric illumination.

All the gentlemen that spoke said that Mr. Ward's appointment was just, and merely gave to him and to Allegany County their just deserts.

Judge Ward's friends are legion!

## CHAPTER IX.

### On the Bench.

As a Justice of the Supreme Court, Mr. Ward's nomination at the convention which was to be held in the fall, depended to some extent on his judicial record up to that time, as well as upon his well known and established position at the bar, and also upon his success in securing delegates and forming political combinations, and he bent himself to every duty with his accustomed zeal.

His first Court opened in Mayville, Chautauqua County, in May, where he gave satisfaction to the critical Chautauqua County bar.

The following anecdote was told of him at a trial at this session, which is typical. One of the counsel was eulogizing a Union soldier, and opposing counsel objected to the statement as irrelevant. Judge Ward said: "A Union soldier is entitled to honorable mention at all times and in all places." Upon this Horace Greeley, one of the jurors and a nephew of the great Greeley, whispered to a neighboring juror "That Judge is a loyal man, if he is a Democrat." The Court lasted two weeks. The Mayville Sentinel said of it:

Judge Hamilton Ward, recently appointed in the place of Judge Corlett, deceased, closed the May Circuit here last Saturday afternoon, after a session of two weeks, during which much business was transacted. The way in which he addressed the juries and passed upon the questions that came up before him, showed him to be a man of ability and experience; while his pleasant manners, both upon and off the bench, won him many friends.

From Mayville Judge Ward went to Little Valley and held the May term of the Cattaraugus Court. This Court lasted for two weeks, and the Olean Times of May 26th spoke of it as follows:

Judge Ward appears to be taking naturally to the exactions of his new position. He is ready and affable, and his decisions are given promptly and with an air of confidence which betokens commendable





*Hamilton Ward*

1895



familiarity with the law and with the rules of evidence. At the Chautauqua Circuit, which he closed last week, he won unstinted praise from both the press and the bar, and it is fair to predict for him increasing popularity.

Then came two weeks of Erie County Special Term work and then the Genesee Circuit. Mr. Ward had some friends in Genesee County. R. T. Howard, an ex-Alleganian, lived there, and George Bowen and William C. Watson, leaders of the bar, were friendly, however, as Genesee had a candidate of her own, County Judge North, it was hardly expected that her delegates would favor Mr. Ward, nevertheless in the two weeks' term held in Batavia, Mr. Ward substantially captured the county. Judge North himself became one of Mr. Ward's supporters. Speaking of this Court the Batavia News of June 27th said:

Judge Ward, in the two weeks he has been holding court in Batavia, has made many friends, not only acquiring new ones among members of the bar, but in other circles. Off the bench he is a jolly man, good-natured and with a fund of humor, while in the court room he is dignified and attentive to business, though never lacking in courtesy. His disposition to clean up the calendar as far as possible, never minding personal discomfort, has created a good impression, and "the lawyers and laymen," to quote one of the latter, "are agreed that Governor Hill's choice was a wise one."

"Soon after I moved into Allegany County," remarked the Hon. Hamilton Ward, Justice of the Supreme Court by favor of Governor Hill and who expects to be elected next fall, "I was elected one of the delegates to the Judicial Convention which was held in Buffalo. My associate was 'Bill,' a happy-go-lucky fellow, who reached Buffalo before I did. But as he had the credentials I was anxious to find him, so proceeded at once to look him up, discovering him finally in one of the hotels. And he was a sight! Not over-particular anyway in the matter of dress, he that day seemed more than usually careless and, to cap it all, he wore on his face a patch that covered a boil, and it didn't cover the boil alone but the whole cheek. And it was the color of the middle of the street. Before convention time I urged him to get a clean patch and he agreed to, but all he did was to slap a piece of clean cloth, with frayed edges, over the old patch. You can imagine how he looked!

"In the convention the Secretary asked me which district of Allegany we represented. I replied that I had lived there but a short time and didn't know the number, but that it was the South district. 'Well,' said the Secretary, calling on 'Bill,' 'perhaps the gentleman behind that patch can tell?' But 'Bill' couldn't, and the expression on his face as he said so, with the whole convention staring at him was not happy."

Part of July and August were spent by Mr. Ward at the Erie Special Term. At this time law business in Buffalo was tremendous and one day's Special Term work in August is referred to in a Buffalo paper as follows (Courier, Aug. 7, 1891):

There were few busier men in the city yesterday than Justice Hamilton Ward of the Supreme Court. When he opened up for business yesterday morning nearly 100 lawyers greeted him. They all had some business which required his sanction, and he found it necessary to take them in the big room of the court. The rush was the outcome of holding court on Mondays only during August.

"Buffalo has enough law business for a city of half a million people," said the Justice. "I handed down 13 decisions to-day, and listened to 85 motions. Our law business is growing with remarkable rapidity."

Full of years and experience Judge Ward did not have to entreat the public's patience at the commencement of his career or secure his judicial education at the expense of the State; he was ready for work and he enjoyed it. The political situation had been changing in Erie County. E. W. Hatch, who was a candidate, withdrew and the contest was between Manly C. Green and Tracy C. Becker. In Chautauqua County Mr. Ward's friends, led by Warren B. Hooker, were active and in August elected instructed Ward delegates from both Assembly Districts.

In Allegany County all factions were united and on motion of W. J. Glen, Chas. H. Brown and D. P. Richardson were elected delegates and instructed for Mr. Ward. Cattaraugus, never generous to him, elected delegates for Alfred Spring. An effort was made to instruct all of the 30th

Congressional District delegates for Potter, but Genesee defeated this plan and elected William C. Watson and F. W. Heddon, delegates favorable to Mr. Ward. Green carried four out of five Erie County districts, and had eight votes, Tracy Becker having the other two.

The convention met on Friday, September 19th, and Norris Morey of Erie was named as Chairman.

The following delegates were in attendance in addition to those already named:

Niagara County, 1st District, T. E. Ellsworth, E. M. Ashley; 2nd District, Eugene Carey, J. S. Rowe.

Orleans County, E. L. Pitts, Edwin L. Wage.

Wyoming County, E. M. Bartlett, H. Olin.

Cattaraugus, 1st District, F. W. Higgins, C. D. Van Aernam; 2nd District, O. S. Vreeland, James Johnson.

Chautauqua, 1st, District, Jerome B. Fisher, L. H. Sterns; 2nd District, A. B. Ottoway, H. A. Case.

Erie, 1st District, John J. Hynes, Freelon Chaffee; 2nd District, John R. Hazel, Charles Weber; 3rd District, Norris Morey, Emory P. Close; 4th District, W. N. Cummings, Warren Hunt; 5th District, E. K. Emery, E. M. Pierce.

The Buffalo Express of the next day contains the following account of the proceedings:

The Republican Judicial Convention for the Eighth District did its work with neatness and dispatch. Notwithstanding that there were two judgeships to be awarded, there was no deadlock and scarcely a struggle. The prizes fell to Manly C. Green of Buffalo and Hamilton Ward of Belmont, Allegany County.

Mr. Green's friends claim that he has the making of a great judge in him. It rests with himself to develop the possibility. It is his sacred duty to do so. A good judge is a public blessing. An indifferent or an indolent judge is a public calamity. Mr. Green probably will be a good judge. He is well read in the law. He has an even, equable temper. His natural sense of justice will be fortified by experience gained in the many important cases in which he has been referee. Moreover, Mr. Green is popular with the bar and with his party.

Mr. Ward already has proved himself a good judge. During the brief time he has been on the Supreme Bench none has named him

but to praise. He evidently possesses the judicial temperament, while for many years he has been one of the foremost lawyers of the State.

Both Messrs. Green and Ward will receive the full party vote.

The nomination of the Hon. Hamilton Ward and Mr. Manly C. Green to the Supreme Court bench in the Eighth Judicial District was predicted in yesterday's Express. The result of the Republican Judiciary Convention held yesterday in the rear parlors of The Iroquois was not therefore in the nature of a surprise. There were originally six candidates for the two offices, but the withdrawal of the name of Judge Daniels finally reduced the list to Manly C. Green, Tracy C. Becker, County Judge Alfred Spring of Cattaraugus, Judge Potter of Niagara County, and Judge Hamilton Ward of Allegany; and it was early evident that Messrs. Green and Ward had a strong lead.

All the delegates were present, 30 in number. Mr. Daniel J. Kenefick, chairman of the district committee, called the convention to order and stated the objects.

Mr. Jerome B. Fisher of Chautauqua moved that Mr. Norris Morey act as chairman, which was carried. Mr. Morey, in assuming the chair, returned his sincere thanks for the honor, and reminded those present that, in a government of law, the right exercise of the judicial power and the selection of fit and competent men as judges were matters of grave importance.

Messrs. John R. Hazel of Erie and C. D. Van Aernam of Cattaraugus were chosen secretaries on the motion of Mr. Emory P. Close. Some talk ensued about the swearing in of officers under the election laws. Secretary Hazel drew up the necessary affidavits, and very little time was lost in removing all possibility of question on this score.

Mr. Frank W. Higgins of Cattaraugus moved the nomination of Mr. Manly C. Green for one of the Judges of the Supreme Court.

Before this was made unanimous, as was suggested, the Hon. E. L. Pitts asked and obtained leave to make an address. He said:

"Mr. Chairman:—Before that motion is put, I desire to state that I came to this convention with the firm intention of placing in nomination Hon. Charles Daniels for that high position that he has adorned, and so highly adorned, for these 20 years. I was fully aware that longer service upon the bench was of no importance to him, could add nothing to his high reputation and character as a jurist; that, sir, is secure and safe for all time; for his learning, his integrity, his great ability as a judge, is written in the records of the decisions of this our great Commonwealth. He has a State and National reputation as a jurist. I could not but feel, however, that while it might not be im-

portant to him, it was of great advantage to the people of the State of New York and to this Judicial District, that we should avail ourselves of his great experience, his reputation, his ability, his courage, his devotion to the discharge of the duties of the office of Judge of the Supreme Court, and that this convention would make no mistake if they summoned him again to act as judge of that court for the few years which remain to him before the Constitutional limitation shall take him from the bench. He certainly, and I believe that every lawyer in this district, every gentleman here, will agree with me, by his industry and by his great learning and by his profound knowledge of the law, by his impartiality, has given a character to the bench of the Eighth Judicial District, equal to that of any of the distinguished gentlemen who have been associated with him in the discharge of the duties of that position.

I have in my possession a letter from Judge Daniels in which he begs me to withdraw his name from the attention of this convention. I do this reluctantly and with deep regret, and I know that the public will share these feelings with me, in the withdrawal of the man who will be remembered through all time as an able, an incorruptible, an honest, and a just judge. [Applause.]

Mr. Green's nomination was then made unanimously in accordance with the motion of Mr. Higgins.

On motion of Mr. J. B. Fisher the convention decided to take a formal viva voce ballot for the nomination of a successor to the late Judge Corlett. A motion by Mr. E. M. Ashley to take a recess until two o'clock was lost by 18 to 12.

When the ballot was taken, each delegate rising and naming his choice, Allegany, Chautauqua, Genesec and Erie (all but the Second District), pronounced for the Hon. Hamilton Ward, Cattaraugus favored the Hon. Alfred Spring, and the Second District of Erie went for Mr. Tracy C. Becker.

The Hon. E. C. Ellsworth at this stage, in behalf of Niagara County, asked to be excused from voting, and recognizing the virtual choice of the convention, moved to make the nomination of Mr. Ward unanimous. This was seconded by Mr. Higgins of Cattaraugus and carried.

Messrs. Bartlett, Ellsworth and Higgins were appointed a committee to notify Messrs. Green and Ward of their nomination.

#### THE NOMINATIONS ACCEPTED.

The Hon. Hamilton Ward was received with applause on entering. He said:



Mr. President and Gentlemen of the Convention:—I have just been apprised through your committee of my nomination by your body as representing the Republicans of the Eighth Judicial District for the high office of Justice of the Supreme Court. I need not say to you that I feel it a high honor to be nominated for this office by so distinguished a body of gentlemen as composes this convention, and one that I duly appreciate and for which I beg you to accept my grateful thanks.

I regard this office as among the most important of any under our system of government. It requires the highest order of talent, the clearest and brightest perception, a profound knowledge of the law, and that judicial poise of mind which is so essential for the proper administration of justice. I am reminded that in our judicial history a long line of distinguished jurists have occupied the bench of the Supreme Court in this Judicial District. Among them we readily recall the names of Sill, Mullett, and Marvin, Barker, Grover, Talcott, and Daniels, names that are illustrious in our judicial history, men whose great works in the administration of justice on the bench have illuminated the law and shed luster on themselves. A judge, in my opinion, should temper justice with mercy, and judicial decorum and dignity with kindness and courtesy. [Great applause.] He should do the work assigned him in attending the courts, and should stay until the work of the court is completed.

I regard this nomination as the crowning glory of a life, which has been somewhat connected with public affairs and had long experience at the bar. I cannot measure the gratitude I feel to the friends whose faces shine upon me at this moment and to whose efforts I am indebted for this nomination. It is with special pleasure that I note the fact that I am nominated by a convention that has associated with me upon the ticket so competent and so manly a man as Manly C. Green. [More applause.] I hope there may be reserved to you, gentlemen, a large measure of the prosperity and pleasures of this life, and that your lines may be cast in pleasant places. If your choice is ratified by the people, I shall endeavor in some measure to meet your expectations, and if labor and care, and a special devotion to the duties of this high office can enable me to accomplish that result, I assure you, gentlemen, they shall be at your service. [Applause.]

A loud "Amen" provoked a humorous sally on the part of the Judge relative to the religious proclivities of the profession.

Mr. Manly C. Green, who was received with applause, said:

Mr. President and Gentlemen:—I have just been apprised by your committee of my nomination, and the very flattering manner in which you have tendered it. I assure you, gentlemen, that I have dis-

culty at this time in expressing to you my heartfelt gratitude and thankfulness for the very distinguished honor you have conferred upon me. During my canvass throughout the County of Erie I have made many warm friendships, and have met with expressions of good will which shall ever remain among the pleasant memories of my life. In addition to this I have been deeply gratified to learn that I have many warm friends outside of my own county, and for their hearty support in making my nomination unanimous I desire to express my sincere thanks.

This, gentlemen, has come to me as a joyful surprise. I appreciate the great responsibilities of the office for which you have placed me in nomination. I know that the fierce light of public criticism will be turned on the man who aspires to fill the important place which was so ably filled by that distinguished jurist, Judge Daniels. I assure you that if elected it will be my constant aim to emulate the industry and virtues of those eminent jurists who have preceded me, and those who are at present on the bench of the Supreme Court. If your action of to-day shall be ratified by the people in November, I pledge myself to the courteous and courageous discharge of the duties incumbent upon me.

Relying upon the guidance and assistance of the Supreme Judge of us all, I trust to be able not only to merit the approval of the gentlemen who have this day honored me, but so to discharge the responsible duties that the people of the Eighth Judicial District will never have cause to regret the choice you have this day made. [Applause.]

Three hearty cheers were offered for the candidates. Chairman Morey then announced the appointment of the following Judiciary Committee:

Allegany—F. A. Robbins.

Cattaraugus—J. G. Johnson.

Chautauqua—L. F. Stearns.

Erie—D. J. Kenefick.

Genesee—Walter H. Smith.

Niagara—E. M. Ashley.

Orleans—I. M. Thompson.

Wyoming—E. M. Bartlett.

The convention then adjourned .

These nominations met with the party approval and the Democratic press in Allegany and Cattaraugus practically supported Mr. Ward.

The Democrats nominated Myron H. Peck of Buffalo and W. Caryl Ely of Niagara Falls. No real contest, however, was made.

At the election in November, Mr. Ward ran ahead of his ticket in almost every election district in the district, and especially so in his home county. This was most gratifying because the recent adoption of the secret ballot law made it very difficult for the voters to favor any particular candidate. He ran about 1,500 ahead of his ticket in the district, of which Allegany contributed about 1,100. There were only 28 votes cast against him in the town of Amity, out of a total poll of 600.

Concerning the result of the election, the Wellsville Democrat says:

#### JUDGE HAMILTON WARD.

The compliment paid the Hon. Hamilton Ward by the people of Allegany County, regardless of party affiliation, at Tuesday's election was a deserved one.

Mr. Ward has been on the bench but a few months. In that brief time he has made a Judicial record that loses none of its brilliancy by comparison with eminent jurists of the past or present. The hearty and we may say unanimous endorsement of Mr. Ward by the people of Allegany, is no less a compliment to him than to the sagacity and judgment of Governor Hill in appointing Mr. Ward to the vacancy caused by the death of Judge Corlett. The Democrat heartily congratulates the newly elected Judge Ward, the people of Allegany, and the Judicial district. They will have no occasion to regret the selection of a Supreme Justice in the person of Hamilton Ward.

Mr. Ward always had a high idea of the judicial office, and while among the most approachable of men, he zealously guarded the dignity of his position. He was among the first of the Justices to bar unadmitted persons from motion making, and always appointed referees on his own motion, much to the wrath of the bar.

In the month of October an altercation between two attorneys occurred in the Special Term room, in which Mr. Ward was hearing motions, which illustrated this quality.

The Hon. Frank Brundage and John L. Romer, both of Buffalo, had engaged at the time of the adjournment of Court in a mental and physical squabble, which was not then observed by Mr. Ward. The next morning he summoned the offending attorneys before him, and told them that he felt compelled to take notice of their extraordinary conduct in the presence of the Court. That it had come to his attention that a blow had been struck, and he asked Judge Brundage if such was the case. Judge Brundage, after stating the substance of the altercation, stated that he had slapped Mr. Romer across the face, and apologized to the Court for the indignity inflicted upon it. Mr. Romer stated that Mr. Brundage had brushed his face with his hat, and denied that he had called Judge Brundage a scoundrel, as Judge Brundage had declared. Judge Ward then censured both lawyers, saying that while such practices might be tolerated "in rude communities on the outskirts of civilization," that it was not to be permitted in his Court, and he held the question of fine for further consideration; no fine was, however, imposed.

In the artificial atmosphere of our cities it is the practice for a man who becomes a Justice of the Supreme Court to immediately change not only his customary habits of apparel, but also his manners and method of address, and to some extent seek new associates. Mr. Ward, however, was always the same; no person was too poor for his notice, no friend humble enough to be forgotten. Never fond of society, he did not accept the many invitations pressed upon him while in Rochester and Buffalo. He continued his old habit of early rising and early retiring.

Immediately after his election most of the railroads sent him annual passes, which he returned, and his correspondence with Chauncy Depew in 1894 is typical of the letters on this subject.

It is as follows:

New York Central & Hudson River R. R. Co.  
President's Office.

Grand Central Depot,

New York, Jan. 8th, 1894.

Please accept the enclosed annual pass over this Company's Road, with the compliments of

Yours truly,

CHAUNCEY M. DEPEW,  
President.

Belmont, N. Y., January 12th, 1894.

My dear Sir:—I have received your favor of the 8th inst. enclosing an annual pass for myself on the N. Y. C. & H. R. Railroad.

It is herewith returned to you as I cannot accept it. In so doing I do not wish to criticize in any manner your action, on the contrary, permit me to thank you for the courtesy extended.

I do not think that Judges of Courts should accept passes for the transportation of themselves or families, or of their property, from corporations or individuals. Not that I suppose that it influences the Judges improperly in favor of the corporation in many instances, but it might constitute an embarrassment in actions and proceedings that come before the Court and Judges in which these corporations were involved. I can well see how a conscientious and upright Judge, having a railroad case before him with that railroad pass in his pocket, the parties to the litigation cognizant of the fact, that it might seriously embarrass the Judge and unconsciously influence him to apply a stricter rule to the corporation and against it than he otherwise would. In fact he might, as is commonly observed, "stand up so straight that he would lean over backwards."

Again, the public are justly sensitive about the conduct of their Judges; anything that impairs its confidence in the Courts will in the end work mischief to all concerned. The feeling is growing among the people that corporations are having an undue weight everywhere, in legislation and with the courts; and it is a matter of common remark among the people when some poor fellow gets beaten by a railroad corporation in the courts, especially if the plaintiff is non-suited in a negligence action against the corporation, "Oh, that Judge had a pass in his pocket!" Now I do not wish to criticize Judges who have passes, for it is a custom of long standing, but I think in the future it is a custom that would be better honored in the breach than in the observance.

I am sure it would be better for the corporation themselves if they were absolutely prohibited by constitutional or legislative man-

date from giving passes to any official, judicial or otherwise, and I think the time has come when that should be done, and I hope you will unite with all others who choose to take an interest in the matter in pressing upon the constitutional convention the duty of providing an amendment to the constitution which will accomplish that purpose. This, I believe, has been done in several of the States.

This matter, my dear sir, is addressed to you personally and is not intended for parade or publication.

I hope you find yourself well and happy this new year, and with kind regards, I am,

Yours sincerely,

HAMILTON WARD.

P. S.—I would be glad to know whether this letter is received.

Jan. 15, 1894.

Hon. Hamilton Ward.

Dear Sir:—I am in receipt of yours of January 12th, and have read the same with interest. I appreciate your sentiments, if I do not agree with them.

Yours very truly,

CHAUNCEY M. DEPEW.

Mr. Ward enjoyed his work. A long country practice had made him familiar with most of the questions presented, and his intense humanity found ample scope at a busy circuit where a hundred new faces and odd incidents appeared daily.

He was now removed from any serious apprehension concerning his financial future, and he regularly laid aside a portion of his salary.

In March, 1892, Mr. Ward presided at the Erie County Oyer and Terminer at the trial of Ellen Hughes, a half crazed unfortunate, who had thrown her illegitimate babe in the canal, and who was charged with its murder. She was defended by William H. Hotchkiss, then commencing his career; the defense was insanity, and of it, in his charge, Justice Ward said: "You have seen people who are trembling along the border line between sanity and insanity; you have marked these unquiet spirits that live along that line; among them may be classed statesmen, poets, dreamers, romancers, short haired women and long haired men—all

sort of queer people. They live along the border line, the hysterical folks, the drunkards—people who live on anodynes and stimulants.”

In July, 1892, while holding the Erie County Special Term, the National Savings Bank of Buffalo closed its doors, owing to the defalcation of its cashier, who stole about \$250,000.00. The deposits amounted to about \$1,300,000.00, and an application was immediately made to Mr. Ward for the appointment of a receiver. For this fat job there was a bitter struggle. State authorities demanded it, local politicians asked for it. The association of depositors urged their claims. Newspapers abused Mr. Ward for his supposed intention to appoint one man or the other. Finally, after mature consideration, Mr. Ward decided that the bank could be re-organized; that the depositors could be paid 78 per cent. of their money. All the wasteful expense of a receivership was saved, and the re-organized bank is now firm in the confidence of the people.

The Presidential campaign in this year was an interesting one, and Mr. Ward chafed at his enforced absence from the stump. Benjamin Harrison, who had made an excellent President, was a candidate for renomination, and opposed to him hostile party leaders had revived the “Plumed Knight.” Harrison, however, was nominated, and Mr. Ward was deeply anxious to see him reconciled to Platt and Quay, and to see them enter vigorously into the campaign.

In June in a letter to Elijah Halford, Private Secretary to the President, he renewed his suggestion of four years previous, that Platt be made Secretary of the Treasury, and later when the breach between Platt and the President seemed to widen, he went to see Platt in New York, and then called upon the President at Loon Lake, in the Adirondacks, in an effort to bring them together, and later had some correspondence with him and with Mr. Platt on the subject.

Other earnest Republicans were endeavoring to promote this same result, and finally a superficial understanding was reached which was humorously referred to by Mr. Platt



in a letter to Judge Ward of September 5th, in which he says: "After a full and free talk with the President, he concluded that the administration had better 'support the ticket,' and they propose to, he is 'placated' the wheels will now go round."

This nominal adjustment of the difficulties between the President and the party leaders came too late to produce the desired results, and the Democratic party swept the country in 1892.

After election in 1892 Mr. Ward attempted to secure for his elder son, who had been admitted to the bar in October, 1892, the place of managing clerk in the Erie County District Attorney's office, and finally, with the assistance of William F. Sheehan and George T. Quinby, had a new clerkship created in said office, known as the Collateral Inheritance Clerk, to which position his son was appointed by George T. Quinby, the District Attorney; the salary was \$1,200.00 per year.

At this period the Eighth Judicial District had six judges and two of them were assigned to General Terms and the Circuit work fell on Childs, Lambert, Green and Ward. Each county had from two to five terms of the Supreme Court with a jury, and from two to four terms without a jury. There was more business than there is at the present time (1901) and the judges were kept moving. Three of them were kept in Erie County most of the time, and the other counties consumed about one-fourth of their time. This kept Mr. Ward away from his home a good deal, but he did as much of his work as he could in Belmont, and having given up his law office, and turned over his business to the firm of Reynolds & Brown, he removed part of his library to his house, where he was assisted in a clerical capacity by Mr. Eldyn Reynolds.

In the fall of 1892 his younger son, John C. Ward, entered Harvard College and Mr. and Mrs. Ward were left alone.

In the years 1892-2-3 and 4 Mr. Ward wrote a considerable number of opinions, some of which got into the books.

In 1892 he passed upon the Erie County pre-election trouble; in 1893 he wrote an opinion which has since guided local real estate men that an "option" on land without a consideration is of no force, and in 1894, in the case of *White vs. Loudon*, where a real estate promoter, by false and extravagant statements, had procured a number of Pennsylvanians to purchase at an exorbitant figure, a large tract of land near Buffalo, Mr. Ward rebuked the practice in the following language:

"The plaintiff's counsel says that no doubt Mr. Johnson puffed up the lands, or engaged in some puffing, to these defendants. Under the circumstances of this case Johnson should have indulged in no puffing. If a man has a horse before him or a farm in sight, which he is trying to sell and the purchaser being present, and having an opportunity to judge of the exact value of any exaggerated statement he may make, he may be pardoned perhaps in the course of trade and in the anxiety to make a good bargain for doing a little 'puffing;' but when he goes to a distant State and seeks persons who are entirely unacquainted with the property he seeks to sell, and who have to rely, and do rely upon his word, he should indulge in no 'puffing,' no exaggeration, but simply tell the unvarnished truth in all particulars. Frauds of this character are entirely too common, they seem to increase with the growth of great cities and in the hot strife of booming localities, and they deserve condemnation whenever a clear case is established."

This opinion was adopted by the General Term and is reported in the 90th Volume of *Hun*, Supreme Court Reports, at page 218.

In the case of *Simmons vs. Burrell*, reported in the 8th Volume of *Miscellaneous Reports*, at page 388, Mr. Ward in his opinion furnished a valuable review of the little understood law of adoption, and gives a construction favorable to the right of the adopted child to inherit as a natural child. This opinion has since been cited with much approval, although limited by the Court of Appeals in *Matter of Thorne*, 155 N. Y., 140.

1894 was Mr. Ward's last year at the Circuit, and a number of his judicial utterances are worthy of notice. A part of his charge to the Erie County grand jury in February, 1894, is as follows:

"The grand jury has always been favored in our jurisprudence. It was organized six hundred years ago among our English ancestors in order that accusations for offenses might be made by more than one person. Criminals were frequently so powerful and influential that it was hazardous for a single individual to make a charge against them of crime. So respectable men to the number of twenty-four or less were summoned from the vicinity, from the section of country where court was held, selected for their intelligence, their capacity and their ability to deal with difficult matters, and they were put into secret session and council to take proof and determine as to the guilt or innocence of the person accused, and to make their accusation as the accusation of the whole body; and to protect each individual member from the consequences; their deliberations were required to be secret. So you, gentlemen, as the representatives of this system go into your jury-box, and you deliberate in secret, you take proof by the appointed methods when an accusation is made against the party; you hear testimony upon oath, and if you become satisfied that the accusation is well founded,<sup>1</sup> and upon all the proof submitted to you there ought to be a conviction of the defendant, then you make the accusation and present it to the Court. That is called the indictment.

This accusation, gentlemen, is a serious matter to the party accused. It goes upon the records of the Court, and stands against him and his children as long as those records remain. So it is important that you should be careful and not make this accusation except for the greatest reasons and upon proof. On the other hand, we have to admit the lamentable fact that crime is rampant everywhere, and that it assails men of high and low degree alike, almost, and when you are satisfied that a crime has been committed you should

fearlessly make your accusation, no matter against whom or what may be the consequences to the party accused."

The most important cases submitted to the jury were violations of the election law, and Mr. Ward later presided at the trial of one of the indictments. Public clamor ran high and it was practically impossible to convict the offenders, who were Democrats. They expected leniency from Mr. Ward because of his friendly relations with Hill and Sheehan. The following extracts from his charge will show how they were disappointed:

The law commits to you the important duty of disposing of the questions of fact upon the trial of a man charged with a crime. No more important duty devolves upon any body of men than that. It is the facts in dispute that always bring on the litigations, the controversies, and the public, and the citizen, and among private citizens, and every one instead of fighting out their controversies as they did in olden times by brute conflicts, they come to the peaceful arbitrament of the Court and Jury. They leave the law to the Court. The Court directs you as to what the law of the case is, but in the realm of fact you are absolute. It is therefore very important when you come to dispose of a question of fact that you should have it clearly in your mind to dispose of it intelligently. Dispose of it without any reference to consequences. If the facts point to a man as guilty, no matter who that man is, whether it be President or street walker, the law takes hold of him and punishes him. If the jury are not satisfied from all the evidence beyond a reasonable doubt of the defendant's guilt, then the charity of the law pleads for the defendant and works out his acquittal. But this doubt must be a reason for it. In looking all through the evidence, putting it all together, bringing to bear your common sense, your best intelligence, if you are not satisfied in your minds that the man is guilty or there is such doubt of his guilt that you do not feel that you are fully convinced from the evidence, why then there is to be no conviction. But, gentlemen, you try the case upon the evidence. You do not try it by outside clamor. You do not

try it by newspapers. You do not try it by public sentiment. You do not try it by your prejudices, political, social or otherwise. You try it on your oaths upon the evidence, and when you are convinced one way or the other you will act upon that evidence and upon that evidence alone. \* \* \*

You cannot juggle with these election laws. They are made for the safety of the community, of the nation. They are made to protect your vote and mine, and that of every citizen. They are made to secure an honest vote, an honest count, and an honest return. Everything that belongs to free government hangs upon the integrity of your election officers and an inspector of election is of more consequence in our theory of government than any other officer in it, because it is upon his certificate that men are elected or not elected; put into office or taken out of office. It is upon his certificate that legislators, Judges and Presidents are made. He is the primary officer that does the great work of preserving and carrying out the spirit of our institutions. The law will permit no trifling with these returns. \* \* \* \*

The Judge who will permit political considerations to sway him in the disposition of such a case is unfit for the office he holds, and should be hurled from his office. The juror who permits himself to be controlled either for or against a defendant by political considerations is unfit to sit in the jury box, and he reflects shame and dishonor upon the whole jury system. \* \* \* \* \* There was a time in the old Republics, two thousand years ago, when it was the highest boast of a Roman to say that he was a Roman Citizen; and now, in these modern times when our country has grown to be the greatest and strongest government on earth, and our people the happiest and freest, it is our proudest boast that we are American citizens. The man who comes here born on a foreign soil and takes upon himself the commission of a naturalized citizen, he is equally proud of his citizenship. All this, gentlemen, the future of our country, our citizenship, our position among the nations, the preservation of our liberties depends upon the preservation of the elective system in its purity and in its integrity. When

it has reached the time that the public have no more confidence in election returns, believe they are carried by fraud, believe they do not express the honest verdict of the voter, then they are ready for anarchy and bloodshed and a change of government."

In a railroad case in 1894, Mr. Ward charged as follows:

"Railroads are indispensable in this country; they develop a country; we all use them, and while I have no doubt railroad corporations, like other corporations, become aggressive, sometimes oppressive, as that is the tendency of the accumulation of wealth and power in the hands of anybody; but they are indispensable,—they have their rights and must be protected. The man who travels along the highway on foot without a dollar in his pocket, with the breath in his body, with the brains in his head, with the days' work in his hands, has his rights and they must be protected. Now when the two come to the precise spot where the railroad company and the individual have the right of passage, the courts and jurors have been long occupied with the question as to their exact rights and duties at that particular point. The railroad car, as I said, is propelled by steam and cannot be stopped in a moment; the tremendous force which is put in motion to carry the long trains through the country at such great speed is regarded by the law as justifying the railroads in the occupation of their roads, and that when the person comes along the highway he must look and wait and watch for a moment to see whether the train is passing; if the train is passing he must stop because he can stop; he can stop his wagon, he can stop himself on short notice, but the rushing train cannot stop on short notice, and therefore the train has the precedence for the time being. That is common sense and that is but justice. Now, however, when the railroad comes along with its tremendous forces and with its instruments not only of passage but of peril, it should be prudent and careful, in some manner notifying the public that it is coming along; and while the man should be watchful who goes to the crossing and not rush into a needless peril, the company should be



watchful and careful, by all proper means, that the public have notice that they are coming along with their engines and their cars."

In an action for damages from a brush fire he said: "Now Courts and juries are frequently perplexed by this question of damage from fires. In England, whence we take our laws, the strict rule was held that every man must keep his fire upon his own premises at his peril. If it got abroad on an errand of mischief he must pay the bill. That theory or that view of the law was never taken by our Courts, because this is a new country. We have got to clear up our forests, and clear up our land and burn our forests, and therefore we have to use fire; more than that, fire is an element of such common use and such absolute necessity that the rule established in this country is that a man is not bound absolutely to keep his fire upon his premises, but he must not be careless either in setting it or in letting it run. That is the rule. This fire, you know, according to the old adage, is a good servant but a hard master. In the early history of the race we have a story in mythology that there was no fire upon the earth, that mankind shivered and froze and walked about without any fire, and that fire was kept in heaven absolutely because the gods knew how dangerous it was to let mankind have it. But the sufferings of the human family were such that one of the inferior deities stole it from heaven and gave it to the world, and for that he was chained upon a rock and eagles fed upon his vitals, but mankind has had the fire ever since and ever since the dawn of jurisprudence Courts and juries have been struggling with the same old problem that perplexed the gods in heaven."

Later in the year 1894 Mr. Ward was designated by John Minard, President of the Allegany Historical Society, chairman of a committee consisting of E. D. Loveridge, Clarence A. Farnham, D. P. Richardson, S. M. Norton and himself, to fix the time and place for holding a commemorative ceremony of the 100th anniversary of the settlement of Allegany County. This committee assembled at Mr. Ward's



call and the village of Wellsville was fixed as the place and the 19th of June, 1895, designated as the date for the centennial celebration, which was successfully held at the time and place appointed.

As a trial judge Mr. Ward felt the burden of the upper Courts; the law never seemed fixed, and he frequently became angry at some ruling of an upper Court.

As a lawyer he had complained of this and written in the front of one of his volumes of *Hun*, printed in the 80ths, is the following:

“Affirmed 108.

Reversed 65.

Modified 11.

Appeal dismissed 2.

A terrible record of judicial uncertainty. What shall we say to our clients who want to know the law?”

He wrote a number of opinions in 1891, 2, 3 and 4, many of which are reported in the first volumes of the *Miscellaneous Reports*, and he was wont to keep close track of these decisions as they took their perilous journey through the upper Courts.

He kept a list of them, and in the case of *Reed vs. Murrill*, where a certain transfer to himself by a representative had been held void, which holding had been reversed by the Court of Appeals, Mr. Ward added: “W. J. makes mem. as follows. This is not the first time that the Court has sacrificed the substance of justice and assisted in the consummation of a fraud under the forms of law.”

And again in the ejection case of *Garr vs. Ulen-schneider*, Mr. Ward adds to his list: “Think some General Term has had the cheek to differ from me in this matter.”

Justice Childs and Lambert were Mr. Ward's associates as Trial Justices, and they were thrown much together in Buffalo. All country bred, of varied experience, and with keen appreciation of humor, many of the jokes perpetrated by these gentlemen on each other are still told.

On one occasion while lunching together Childs and Ward unconsciously exchanged hats and discovered their

mutual error later in the day. When the re-exchange was effected Judge Ward remarked that ever since he had wore that (Childs) hat his ideas had broadened, his vision became more clear, that legal questions which had confused him righted themselves and that he felt a wiser and a better man. "You go to the devil," said Childs. "When I had your hat on I wanted to wink at every woman I met."

One day a bushy headed stenographer was mildly chaffing Mr. Ward upon his bald head. "Young man," said Mr. Ward, "my head has had something to do besides grow hair."

Once on hearing the Clerk call the list of the grand jury, which contained a number of Polish names, which the Clerk could not pronounce, Mr. Ward suggested, in a whisper, that he sneeze twice and break a chair, and that every Pole in the room would answer.

On one occasion Justice Childs, who was afflicted with a number of dormant Court officers, rebuked a noisy man in the audience by saying "Keep quiet, you will wake up every officer in the Court room."

One evening Judge Ward went to the theater, of which he was very fond, with his older son, a friend of theirs came in, accompanied by a handsome female, to whom the son called the Judge's attention. "My boy," remarked the Judge, "when you are as old as I am you will learn that there is only one thing more plentiful on earth than pretty women, and that is promising young men." "Stick to the common people, my boy." He used to say: "They are your only real friends."

It was with a feeling of uncertainty that he consented to take Justice Haight's place on the General Term in 1895, Haight having been elected to the Court of Appeals. His appointment was made by Levi P. Morton, and was dated January 16th.

Mr. Ward had proved himself well adapted to the work of a trial Justice, and considerable regret was expressed by various members of the bar over the change. He had been the friend of the poor man and the encourager of the young

man, and while at times of a slightly impatient manner, he never wilfully hurt the feelings of a suitor. Some of his measures had been radical, as on one occasion he had adjourned the great winter term of the Erie Court sine die because no cases were ready on the first or second day, but he was always willing to work, and never subject to "influences."

A letter of regret at his leaving the circuit which is typical of many is as follows:

"Medina, N. Y., January 23rd, 1895.

Hon. Hamilton Ward.

My dear Judge:—Allow me to congratulate you upon your appointment to the General Term, although it may, in some respects, be a gain to you, yet I feel that it is a loss to the members of the bar, you being taken away from the Circuit. I have always liked to try cases before you, and have always so expressed myself. I have always believed and felt, when before you, that you were, so to speak, enrapport with the bar. You never put on any airs, nor made any pretensions that you amounted to any more when you were Judge, than when you were a lawyer. I never have felt under constrain before you. I know you possess a great deal more of what we call good horse sense than the most of our Judges, and I believe you to be a much better lawyer than some of them—to say the least.

I hope that you will be well pleased with your new position and that you will enjoy good health, and I have no doubt but that you will be a credit to yourself and to this Judicial District. "And may you live long and prosper."

Very truly yours,

S. E. FILKINS."

Mr. Ward's associates on the General Term were Charles C. Dwight, of Auburn, P. J.; Loren L. Lewis, of Buffalo, and George B. Bradley, of Corning. Several General Terms were held throughout the year, as the Justices might indicate, and calendars of the cases moved for argument were prepared by the County Clerk of the county in which the General Term sat.

In 1895 an act was passed providing that the General Term of the Fifth Department should sit in Rochester exclusively, and this made that city Mr. Ward's official residence. He lived at the Powers Hotel and pursued his regu-

lar habits of work and exercise. The sittings of the Court occupied about one-third of his time, the remainder being spent in Belmont preparing decisions. He found the work more congenial than he had expected, and enjoyed his association with the other members of the Court.

Justice Ward's decisions begin in the 85th volume of Hun, Supreme Court Reports.

In his first term in 1895 he wrote an interesting opinion on the duties of attorneys toward their clients to be found in the case of *Burby vs. Common Council*, 85 Hun, 601, and in *Baldwin vs. Golde*, on the effect of a lunatic's deed, 88 Hun, 115. And in *matter of Callister*, 88 Hun, 87, on the effect on a continuing contract, of a marriage between the parties.

In the case of the *People ex rel. Hoffman vs. Rupp*, 90 Hun, 153, in a dissenting opinion, Mr. Ward strongly upheld the right of the old soldier to preference in public positions. And in *Crowell vs. Thomas*, 90 Hun, 193, he laid down strongly the master's duty to furnish his servant a safe place to work and refused to allow him to escape that duty by delegating it, as the tendency of the Courts now seems to be.

In 1895, and he did not sit at the January Term, Mr. Ward passed on about three hundred cases and motions, and wrote fifty-one opinions, four of which are dissenting opinions. Most of these are published in the 88th and 90th Volumes of Hun's Supreme Court Reports.

In August, 1895, Mr. Ward was elected a delegate to the Judicial Convention from Allegany County, as there were three Justices of the Supreme Court to be selected, and immediately upon this selection, the newspapers of the city of Buffalo, being instigated thereto by certain persons who feared Mr. Ward's presence in the convention, commenced a bitter attack upon him for allowing himself to be selected as a delegate.

The only newspaper that did not attack Mr. Ward was the *Buffalo News*, which took no editorial part in the controversy, but which published interviews with W. J. Glenn, the party leader of Allegany County, and ex-Justice of the

Supreme Court Charles Daniels, strongly in defense of Mr. Ward's right to go as a delegate. Mr. Ward had no particular interest in the convention, and was not elected in the interest of any candidate, and when the clamor on the subject arose he decided that the game was not worth the candle, and wrote the following letter, which was published:

"I was elected a delegate from Allegany County to the Judicial Convention, which I esteem a very great compliment. There seems to be some objection to my serving as such a delegate, being a Justice of the Supreme Court. No one is more sensitive than I am to the respect that is due to the Court and its members, and to the sentiment which precludes them to a large degree from political action.

I have no interest in the Judicial Convention further than that good men should be selected as Justices of the Supreme Court. I have observed the interview with ex-Judge Daniels and Mr. Glenn, who have kindly sustained the view of the Allegany Convention in selecting me as a delegate, and also the criticisms of certain newspapers upon the subject. Perhaps in deference to such criticism and to the sensibility of well-meaning people on the subject I had better not go into the convention, but that is the conclusion I have reached, as it is important under all circumstances to preserve the confidence in the Judiciary of the State."

This closed the incident, except that further editorial comment was had in the Buffalo press, the Buffalo News being as follows:

#### JUDGE WARD WAIVES HIS RIGHT.

Judge Hamilton Ward of the Supreme Court has decided to waive his right as a citizen to represent Allegany County in the Judicial Convention, because of the clamor raised against him in some of the papers of his own party, and all the Democratic press. In so doing the Judge makes a concession which he need not have made and which involves no principle. He had a right to represent Allegany County in the convention. Allegany County had a right to choose him as a delegate. He was neither better nor worse as a delegate for being a judge. But certain candidates feared he would not support them—hence the howl that has gone up, and the Judge preferring that even unjust criticism should not be leveled against an occupant of the bench in a city where he holds his court declined to serve as a delegate.

The political puritans who are always inveighing against our nominating conventions and wanting better and more representative men to take part in them may now explain how it is that as soon as a Judge of the Supreme Court becomes a delegate he is denounced as lowering the dignity of the court. It would be interesting to know if they really want more representative delegates or more pliable ones.

Later Mr. Ward designated George A. Green of Belmont as his substitute in the convention.

When the new Appellate Division came to be organized Governor Morton sent for Justice Ward and conferred with him concerning the make up of the Court for the Fourth Department, and therefore when the Governor announced the Court without Mr. Ward it created much surprise, and, as by this time Mr. Ward had begun to take pride in his work on the Appellate Court, he was deeply chagrined at having it cut off. Much indignation was expressed by Mr. Ward's judicial colleagues in the Eighth Judicial District. Justice Lambert and others brought pressure to bear on Justice Green, who had been designated as one of the Appellate Judges, to resign. This Justice Green refused to do, and in a few weeks matters adjusted themselves by a change in the Appellate Courts, which made a vacancy in the Fourth Department, and to which Mr. Ward was first temporarily and then permanently appointed. This delay in appointing him put him last in the Court, which was composed of George A. Hardin of Little Falls, David L. Follett of Norwich, William H. Adams of Canandaigua, and Manly C. Green of Buffalo.

Before Governor Morton made the appointment of Mr. Ward he was waited on by a huge delegation composed of the leaders of the bar in the Eighth Judicial District, with almost all the Senators and Assemblymen, besides many of the Rochester bar, who urged Mr. Ward's appointment to the Appellate Division. This unsolicited mark of friendship and esteem was more gratifying to Mr. Ward than the Governor's appointment, which was made January 20, 1896.

Mr. Ward still continued to reside at the Powers Hotel while in Rochester and to do his work at home. The Legis-



lature gave him a clerk and Mr. Elydn Reynolds was appointed to the position.

His younger son graduated from Harvard College in June, 1896. In September he entered the General Theological Seminary of the Episcopal Church, in New York City, where he commenced to prepare himself for the Episcopal Ministry. His oldest son had become one of the Assistant District Attorneys of Erie County in 1895, and besides had opened a law office in 1894, and was doing a small business.

Mr. Ward's health was excellent and it was commonly remarked that he grew younger every year.

Some of the cases heard by Mr. Ward and in which he wrote opinions are as follows:

Mahar vs. The New York Central Railroad Company, 5 Appellate Division Reports, page 22, contains an elaborate case review of the law of negligence, and contributory negligence as applied to passengers attempting to alight from railroad cars.

Bagley and Sewell Company vs. Ehrlicher, 8 Appellate Division, page 581, lays down the rule that a multiplicity of creditors' suits against the stockholders of an insolvent corporation can be restrained and an accounting directed to establish the claims of all the creditors and the liability of all the stockholders.

In Heffern vs. Hunt, 8 Appellate Division, page 585, (Follett, J., dissenting), he held that in an action in tort the plaintiff cannot bring in a new party defendant, and that Sections 452 and 723 of the Code of Civil Procedure did not apply to such actions.

In Hanrahan vs. Cochran, 12 Appellate Division, page 91, where two gentlemen were racing horses and one of them collided with a third, he held that both racers were equally responsible for the accident.

In Hoefler vs. Hoefler, 12 Appellate Division, page 87, there is an interesting opinion on the right of one who has been damaged to bring action, although no precedents exist.

In 1896 the Court passed on some five hundred cases and motions, and Mr. Ward wrote forty-one opinions. These opinions are to be found in the first twelve volumes of



the Appellate Division Reports of the New York Supreme Court.

Mr. Ward's work seemed to give general satisfaction.

Justice Childs in a letter to him August 22nd, 1896, speaks of his work as follows:

I may say in conclusion that you have more than justified my expectations in your present position, and you know they were high. I am proud of you. I like the man who in addition to brains has the stand up. I have no use for an empty bag. I wish you a continuance of your success. I should not be thus frank in speaking in your praise did I not believe that our relations would absolve me from any suspicion of a desire to flatter. A man may be frank with his friends, and ought to be, although it requires him to speak in his praise.

I am, sincerely yours,

HENRY A. CHILDS.

Hon. Hamilton Ward."

This year was the year of the Free Silver crusade and Mr. Ward's friend, David B. Hill, was defeated for the Presidential nomination in the Chicago Convention, and almost driven out of his party. Mr. Ward wrote him on the party situation and received from him the following characteristic letter:

"Albany, N. Y., Sept. 12th, 1896.

( Personal )

My dear Judge:—Your recent letters were duly received. I read each of them with much interest. The situation for a Democrat who desires at all times to be loyal to his party is very difficult. I am giving the matter very careful consideration and moving slowly. I was a Democrat before the Chicago Convention, and I am a Democrat still—very still. I am always glad to hear from you.

With kindest regards to Mrs. Ward and yourself, I remain.

Very truly yours,

DAVID B. HILL.

Hon. Hamilton Ward,

Belmont, N. Y."

The town of Almond celebrated its 100th anniversary in September of this year, and Mr. Ward was invited to de-

liver the address. His remarks on that occasion were principally local in their application and showed a considerable knowledge of the early settlers.

His opening remarks were as follows:

"In the journey of life we look ahead. We seldom look behind because the past is dead, the present is fleeting and what we expect to accomplish in this world is garnered in the storehouse of the future. The young with bright hopes and great anticipations look to the future and long to explore its mysteries. The old, saddened by experiences, and with but little hope, still look to the future though it be but to gaze upon the setting sun.

But there are times when we look back with profound interest, gratitude and affection; when a recurring year or century brings the anniversary of some great event of historic, moral or intellectual character, some turning point of time that made the world better and happier; some upward step in the mark of progress or reform; some corner turned where mankind took a wiser and a better course; some dividing of the ways when the human race threw off some superstition, some false doctrine, and took the right path to a higher plane. \* \* \*

We have met to celebrate the anniversary of the settlement of the town of Almond, in the County of Allegany, and we look back over the changes and vicissitudes that have attended the people of this town for a century, and now, to-day,

"Lift we the twilight curtain of the past  
 And turning from familiar sight and sound,  
 Sadly and with reverence let us cast  
 A glance upon tradition's shadowy ground;  
 And that which history gives not to the eye  
 The faded colors of time's tapestry  
 Let fancy, with her dream-dipped brush, supply."

For the moment let this moving scene; these stalwart men and lovely women and happy children and all the structures that are about us in this village; the houses and the thrifty farms and cultivated grounds of your beautiful township disappear, and let us in imagination stand in the presence of the primeval forest as it stood one hundred years ago, and as it had stood from the creation of the world.

A sound strikes the ear; a sound that shall echo forevermore; it is the sound of the axe, of the first settler in what is now the town of Almond, cutting his way from this valley through the forests up to

Karr Valley to make the first settlement in the town. He was a strong man in the prime of life, with a stern face and a heart full of courage; the bear stood up and looked at him and wondered who the intruder was; the wolf and the panther snarled and growled, but awed by his presence retired deeper into the forest, but the birds in the overhanging trees who had not learned to fear the face of man, gave him sweet welcome with their songs; the sun shone down through the forest and upon the stream at his feet that seemed to give him a merry welcome as it passed."

Some of the opinions written by him in 1897 are as follows:

In Laible vs. N. Y. Central & Hudson River Railroad Company, reported in the 13th Volume of the Appellate Division Reports, page 574, a negligence case, he reviews with great care the doctrine of *proximate cause*.

On the same subject is Purcell vs. Lauer, where the proximate cause of death is considered, and the common law rule that the death must occur within a year and a day to support an action, held not to be the law, 14 Appellate Division, page 33.

In Hungerford vs. Hungerford, 16 Appellate Division, page 612, he held that an agreement of separation entered into between husband and wife during coverture if not absolutely void is voidable as against public policy, and in the case of the People vs. Dorthy, 20 Appellate Division, page 308, he held that the disbarment proceeding and the action of his church against the defendant were not competent subjects of defendant's cross-examination.

One of the most important and interesting opinions ever written by Justice Ward was in the case of Fox vs. The Buffalo Park, reported in Vol. 21 of the Appellate Division Reports at page 321, and affirmed without opinion in the Court of Appeals. A crowded grand stand had partially given away, and a number of people had been injured, and after an interesting review of the English and American authorities, Justice Ward held: That the owners of such structures impliedly warrant their safety and that they cannot excuse themselves because of employing a competent architect.

In the case of the City of Utica vs. The Utica Telephone Company, reported in Volume 24, Appellate Division Reports, page 361, Judge Ward held that a telephone company could not erect its poles in a city street without the consent of the city.

Perhaps the most interesting opinion ever written by Justice Ward was in the case of Strobel vs. The Kerr Salt Company, reported in Volume 24 of the Appellate Division Reports, at page 627. This was an action brought by the old time mill owners along Oatka Creek, which flows through Wyoming and Genesee counties, in the State of New York, against the great salt industries which, after the discovery of salt in 1880, had established themselves on the head waters of this creek, used a certain amount of the water for mining the salt, and impregnated the stream to a considerable extent with the salt and other minerals.

The defendant, while denying that it affected the waters of the stream, alleged that it represented a great industry, and that the water was necessary to it, and that considerable latitude should be given it in the use of the water. The referee had dismissed the plaintiff's complaint, and the Appellate Division sustained him. Justice Ward, however, wrote a dissenting opinion in which he made an extensive and careful review of the law governing water courses, and the rights of those over whose lands the water courses exist, and in answer to the defendant's argument that it was a great industry, and that the march of progress required liberal views, said:

"The learned Trial Court could hardly have considered the full effect of the conclusion it reached. As applied to the case at bar it means simply this. That upon the discovery of this salt deposit, 2,000 feet beneath this stream, the defendant, well knowing the existence of the plaintiff's mills and their long use and appropriation of the waters of the stream in their business, and being bound to know the law governing the rights of parties in that regard, devotes the stream to a use hitherto unknown, and which could not have been anticipated by any of the prior occupants of the stream, and in carrying on a large and profitable business, converts

a fresh water stream into a salt water stream to the manifest injury of the mill proprietors below, without compensation to them or condemnation of their rights, which amounts to a certain extent to the confiscation of their property. Carrying this principle further, license would be given to any other combination of capital to crush out the little holders and individuals under the specious pretext of the public good. Examples of the pernicious effects of such a doctrine might be multiplied indefinitely. They will readily occur to a reflecting mind. We cannot disguise the fact that while the growth of corporations and vast combinations of capital in this country have useful, nay, indispensable, features, yet their tendency is to crush out the individual and advance their own interests. At least this idea has taken hold of a great number of our people, especially the laboring classes, and the mutterings of discontent, if not of revolution, are heard in every direction. The people in this emergency turn naturally to the courts as just and conservative bodies, to protect alike the individual and the combination, and the courts must perform that duty. The loose doctrine as to the invasion of private rights which seems to be inculcated by the cases we have last considered does not correctly state the law of this State. In this State beyond the range of the maxim "*de minimis non curat lex*" (the law regards not mere trifles) wherever the citizen suffers substantial damage, from the act of another, the law affords redress. If the damages are capable of being ascertained in an action at law redress must be had in an action. If, from the nature of the act committed, or threatened, justice cannot be done or the damages accurately ascertained, irreparable mischief be threatened, or a multiplicity of suits might result, equity may be invoked, and the restraining power of the Court called into exercise. The strict rule of the common law as to water courses has not been modified, but it has been amplified and extended to reach as far as justice and equity would permit the changed and ever changing conditions that the growth of a great country manifest, and the exhaustive opinion of Grover, J., in *Clinton vs. Myers* (46 N. Y., 511) re-

views this subject, pointing out the new cases to which this law has been applied, and other cases have arisen where the Courts have done the same thing, but in no case has the right of the individual, however humble his station or inconsequential his business, been sacrificed to meet the emergencies or wants of combinations of capital."

This case was appealed to the Court of Appeals and Mr. Ward's view was upheld by a unanimous Court, Judge Vann, writing the opinion reported in 164 New York Reports, at page 303, and a new trial was directed.

Early in 1897 Thomas C. Platt was returned to the United States Senate. His vindication had come after sixteen weary years, and frail in body, but ever firm in mind, he was the undisputed leader of his party in the Empire State. As one of the old "Stalwarts," Judge Ward was of course delighted at this result, and in answer to his letter of congratulation received the following from the Senator:

"49 Broadway, New York, Jan'y 25, 1897.

Hon. Hamilton Ward,

Belmont, N. Y.

My dear Judge:—I have had letters and letters, from friends all over the State, congratulatory and commendatory, but yours touches me more deeply than most of them, or any of them. You were one of the "Old Guard" during the times that tried men's souls—one of the patriots who never faltered or doubted. You have been one of the friends who has not deserted me in the hours of storm and distress. I know that you sincerely rejoice when I rejoice and exult over my exaltation. The numbers are not many of the tried and true who still remain with us. The old friends are the ones worth having, and I appreciate more than I can tell you your kind expressions of congratulation.

The doctors tell me I must seek rest in a more congenial climate if I expect to serve out any part of my term as United States Senator. I shall go away, to be gone for four weeks, so that I shall not have the pleasure of seeing you until I get back, but when I do return I will welcome you with open arms at any time that suits your convenience.

Yours faithfully,

T. C. PLATT.

Please convey to Mrs. Ward the assurances of appreciation of Mrs. Platt and myself of all her kind expressions of friendship."



The most important case passed upon by the Appellate Division in 1898 was the case of *Wadsworth vs. Murray*, 29 Appellate Division, page 191. This was an action for the construction of a will made in 1844, and involved the vast landed interests of the Wadsworth family in Western New York. A young Englishman, a grandson of the testator, claimed an interest under the will on the termination of a life estate in another grandchild, the will providing that the remainder should go to the heirs of the testator. After discussing the difference between vested and contingent remainders, Justice Ward held that the English grandson was barred because he was an alien. There was also a number of other questions involved in the case.

This decision was affirmed by the Court of Appeals in Volume 161 of the New York Reports, at page 274.

In the case of the *People ex rel. White vs. The Aldermen*, 31 Appellate Division, page 438, there is an interesting opinion construing the blanket ballot election law, and deciding what marks avoid, and what marks do not avoid, a ballot.

In *Reynolds vs. The Board of Education*, 33 Appellate Division Reports, page 88, where a truant officer in endeavoring to arrest a boy, chased him in front of a train which killed him, Justice Ward held that the doctrine of *respondeat superior* did not apply, and that the municipal authorities were not liable.

The opinion to which Mr. Ward devoted the most time and labor was written in the case of *Allen vs. Stevens*, reported in 33 of the Appellate Division Reports at page 485. This was an action to construe the will of a rich man who had left the bulk of his large property to three trustees named in the will to create and conduct a home for the aged. It was urged that the bequest was void as in the *Tilden* case for uncertainty, there being no institution in being to take charge of the bequest, also that it was against the statute forbidding estates in perpetuity, and also that it was a disposition of over one-half of decedent's estate to a charity. An act had been passed in 1893 to correct the lamentable state of



the law, as shown in the Tilden case, and Justice Ward explained the intention of this act. In his opinion he reviewed at length the history of charitable bequests and furnished most interesting information on the subject. He also discussed the right of the Attorney-General to appear in the action, and gave a historical review of the duties of that officer. He decided that the provisions of the will were valid, and should be carried out. He was alone in this opinion, however, and his associates reversed the judgment of the Special Term.

An appeal was thereafter taken to the Court of Appeals and Justice Ward's opinion was sustained in its entirety. The case is reported on appeal in Volume 161 of the New York Reports, at page 122, and Justice Ward's opinion will compare most favorably with the prevailing opinion in the upper Court written by Chief Judge Parker.

Some time after Mr. Ward's death several of his opinions, written during the month of December, 1898, were adopted by the Court, and this was true of the last opinion written by him, which was prepared on the last day of his life.

It was a negligence case of *Twist vs. The City of Rochester*, reported in 37 Appellate Division, page 307.

The death of Justice Green, which had occurred in October, 1898, was partially from overwork. He was found dead in his chair with his newspaper in his hand, and this sad event greatly increased the duties of the other Judges, as Justice Green's cases were distributed among them; and it is a singular circumstance that Justice Follett, a third member of the Court, dropped dead in his garden in the following July. The work of the Court had run up to seven or eight hundred cases yearly; each Justice wrote from fifty to seventy-five opinions; in one-third of the cases so written there was a dissent, Justice Ward dissented much more than any other member of the Court, and probably more than any other Justice in the State. However, as has been seen in the important cases of *Strobel vs. The Kerr Salt Works Company* and *Allen vs. Stevens*, his dissents were sustained by the Court of Appeals.

His health had never been better than during the year 1898. Robust, yet not portly, his eyes were clear, his step was quick, his voice was hearty. He took pride in his work and had begun to acquire a competency for his old age. He assisted his wife in her charitable and social enterprises and his older son in his work in Buffalo. Occasionally he drove about the county to visit with some old political associate and he seemed happy and contented.

In July, 1898, his older son abandoned his position as Assistant District Attorney and was commissioned a Captain in the 202nd N. Y. V. I., recruited for the war with Spain. This displeased the Judge at first, but after visiting his son in camp he grew more reconciled to the situation. As soon as the peace protocol was signed he endeavored to have the regiment mustered out, but owing to the opposition of interested parties in the War Department, he was unable to accomplish it.

The Hon. Rowland B. Mahany, a member of Congress residing in Buffalo, was considerably annoyed by counter applications from members of the regiment desiring to be retained, and mustered out, and finally published a statement which appeared in the Buffalo Evening News of September 15th, in which he said that the position of the men of the 202nd Regiment was in no wise similar to that of the 65th Regiment, which had been ordered out at the first call, been sent to Camp Alger, and from there returned to Buffalo in the month of October. He further stated that the men of the 202nd Regiment enlisted for garrison duty after peace negotiations had begun, and that they must expect to perform that garrison duty.

This touched Mr. Ward to the quick, and he accordingly prepared the following letter:

Belmont, N. Y., Sept. 16, 1898.

To the Editor of the Buffalo Evening News.

My dear Sir:—I see by the issue of your paper of Sept. 15, 1898, that the Hon. Rowland B. Mahany, a member of Congress from Buffalo, has submitted to an interview regarding the 202nd Regiment of New York Volunteers that were recruited in Buffalo and in other parts

of Western New York. The statement in the interview bears quotation marks and I assume was the deliberate statement of the honorable gentleman.

I have read that statement with surprise. The insinuation of this interview, if not its direct charge, is that the 202nd Regiment enlisted at the close of the war and when peace was apparent, for garrison duty, not expecting service in the field, and they, consequently, should be held in the service to perform their contract with the Government; that their position is very different from that of the 65th Regiment, which volunteered from motives of patriotism and to fight.

The men of the 202nd are in service a long distance from their homes and their patriotism is belittled if not assailed by a distinguished member of Congress, and while reluctant to appear in a newspaper controversy, I shall venture to remonstrate against the injustice of this charge in the absence of any better defender for the regiment.

Quite a number of the men who enlisted in this regiment I have the honor to know, as they are from my county. I am also acquainted with the regimental officers of the regiment and with a number of its company officers. I was present when the regiment left Buffalo; have a son in that regiment and have visited Camp Black, and I think I understand the motives of the officers and men of that regiment in entering the service.

The member of Congress in his irritation at some ill-judged and perhaps unjust newspaper communications in regard to his action in retaining this regiment in the service has done great injustice to its members.

The war was not over when the 202nd marched away; peace was not assured; there was no official announcement from the President or the War Department, as far as I have observed, that peace negotiations were in progress. It was reported on apparently good authority that there were two hundred thousand Spanish soldiers in Cuba unconquered. Spain was insisting that Spanish honor could not submit to the surrender of Cuba. The diseases of a tropical climate were beginning their deadly work upon our army in Cuba. No one could foresee the number of men that would be necessary to carry the nation through the war then in existence. The Government had called for seventy-five thousand more men, and that call was not filled and the 202nd enlisted under that call. It was true that the Spanish fleet in the West Indian waters had been annihilated, but there still existed a formidable fleet at the command of Spain. Differences had arisen between the insurgents in Cuba and our commanders and apprehensions existed

that we might have to fight these insurgents as well as the Spanish soldiers.

While Dewey's great victory had occurred in the Philippines, we held them by but a slender thread. The position of the insurgents there was aggressive and doubtful. We could place but little dependence upon them, and the German warships were prowling about the island and covertly assisting the Spanish troops there in a way to make war with Germany possible if not probable, and our Government was hurrying more men and vessels on to the Philippines to meet emergencies. It cannot, therefore, be said that this regiment was not enlisted for the war. Some of them left valuable positions in civil life; others left important business matters requiring their attention. Most of them left comfortable homes, many of them having families depending upon them. All at pecuniary sacrifices and discomforts, and it is absurd to say that these sacrifices were made for the purpose of entering a soldier's life in time of peace and be subjected to all the dangers, discomforts and weariness of camp and army life.

I am sure that the brave and generous members of the 65th Regiment, who have earned all of the honors that they are receiving, will not approve of being, themselves, exalted by the disparagement of the other Buffalo regiment. The dangers of army life even without fighting has been well illustrated in the experience of the 65th. Our hearts have been saddened by its long and terrible death roll from disease contracted in fever infected camps. Almost every paper from Buffalo which I have lately seen is recording the death of some hero of that regiment.

Men who enter the army, although they see no active service in the field, encounter often an enemy more terrible and fatal than Spanish bullets, in the exposed camp; in the night dews with only the poor protection of the tent where the enemy steals in from the malarial waters, the swamps and fever infected places, and the soldier succumbs to death not upon the field of glory and battle where he would like to die for

"There is something of pride in the perilous hour  
What e'er be the shape in which death may lower;  
For fame is there to say who bleeds  
And honor's eye on daring deeds."

But he dies in silence and perhaps far away from home and kindred; he is as much of a hero as though he died upon the field.

I believe that the regimental and company officers of the 202nd Regiment have so far done their whole duty. No one can accuse any of

them of a want of patriotism in entering the service. The regiment has been brought to a high state of perfection and discipline. It is concededly one of the best in the service.

It is a fact well known that many of the officers and men of this regiment were anxious to enter the service when the war commenced, but for various reasons were unable to do so.

The people of the United States responded with singlar unanimity to the call of the country in this war. All who contributed to the country's aid, whether in the field or the hospital or by contributions to the health and comfort of the soldiers; from the general commanding to the hospital nurse, and the mother who knit the stockings for her volunteer boy to take upon his perilous work deserve the credit due to their several acts, and there should be no jealous discrimination as between the people who have thus served their country.

HAMILTON WARD.

This was not published, for Mr. Mahany getting wind of it wired Judge Ward's elder son saying that the statement would defeat him if published, and offering to withdraw his objectionable remarks, which he subsequently did, although not as fully as was anticipated. Mr. Ward, after hearing from his son and at the request of Mr. E. H. Butler and others, finally withdrew his letter. It is published here as it was one of his last utterances prepared for the public eye, and because its tone was most characteristic of his generous and kindly heart.

## CHAPTER X.

### **His Death.**

December 27th, 1898, was a busy day for Justice Ward. He was anxious to finish his opinions in cases which had been argued at the last term, in order that he might have a little leisure before the convening of the Court for the January term.

The holidays had not passed as pleasantly as usual, because for the first time the family circle was broken, the elder son being absent in Cuba with his regiment, and most of the time had been devoted by the Judge to work. However, on the next day he had planned to have his old friends, Mr. and Mrs. William F. Jones, of Wellsville, dine with him, and so working busily all of the 27th he finished his last case about five o'clock. He dined heartily at six and retired at an early hour. In the night, about three A. M., he called his wife and son, complained of being in great pain, lay down on his bed and in an instant passed away. He had frequently expressed the wish that his death might be in such a manner.

The physicians, who were called as soon as possible, expressed some doubt as to the cause of death, but generally agreed that it was heart failure. Twice before in his life he had had attacks of vertigo, which resembled fainting fits, and the attack which produced his death was doubtless of this character.

The funeral was held January 4th, at the house, having been delayed to enable the elder son to arrive from Cuba, and the services were conducted by the Rev. F. W. Beecher and F. La Grange Smith, of the Episcopal Church. In place of a sermon was read one verse of a poem of James J. Clark, which was found opened and marked in Mr. Ward's room after his death.

The volume of poems was presented to Mr. Ward by the author.

The body was deposited in the receiving vault in the cemetery. It was removed in the spring to the family vault,



which was constructed on a knoll in the cemetery, to the summit of which Mr. Ward had been for years accustomed to stroll, and gaze over the village below him.

Hundreds of friends sent letters and telegrams of condolence, and the press made much comment. The local paper, the Belmont Despatch, said:

"Hon. Hamilton Ward, Justice of the Supreme Court, and Allegany's most distinguished citizen, died at his home in this village at 3:30 o'clock Wednesday morning. On the afternoon of the previous day he had been working, as usual while in Belmont, with his stenographer, Mr. Eldyn Reynolds, and though having been recently burdened by a great amount of judicial labor, owing to the sudden death of Justice Manley C. Greene, he seemed in excellent health, and retired early Tuesday night, feeling as well as ever. At about three o'clock he awakened Mrs. Ward and his son, John C. Ward, who is home on vacation from the N. Y. Theological Seminary, and complained of serious pains in his heart. A doctor was immediately summoned, but before his arrival the heart had ceased to beat, and the Judge had passed the river. He had gone at the full meridian of intellectual greatness, with all his physical and mental powers intact. The step from active life to the quiet mystery of death had been so unlooked for, so undreamed of, that the reality of that dreary early morning seemed impossible to Mrs. Ward until the said truth was brought forcibly to her mind by a consultation of physicians.

Hamilton Ward was born at Salisbury, Herkimer County, July 3, 1829, and had all but rounded his allotted three score years and ten when the sudden summons of the river boatman unexpectedly called him to the other side. His was an eminently successful career. Most of the readers of this paper knew Judge Ward better than the writer; knew him personally in sorrow and joy, in business and pleasure; you knew him as Edward Everett knew Daniel Webster as "a man with perhaps some of the human faults, of a lofty spirit, a genial temperament, an open hand and a warm heart, with an aspiring eye to the high objects of political ambition, but with an honest pride of capacity equal to what-



ever station he sought, and with a consciousness that he should reflect back whatever honor it conferred." But the writer knew him as many another young man has known him, as a warm-hearted counsellor, who seemed personally interested in his welfare out of pure good nature. The burden of his often repeated advice was industry. Work and lots of it, indefatigable effort, but always with recreation after the labor. His own life was an inspiring example of this precept. He was a prodigious, tireless worker, yet a genial, companionable man to a very marked degree.

It was never necessary for Judge Ward to consult a memorandum book before he spoke to a man. He cordially greeted everybody, and that one of the most warmly with whom he had the last political battle. If he was worsted he was the first to compliment his adversary upon his victory, and if he was himself the victor he doubly disarmed his enemy by the generosity of his conduct. He combined in a rare degree the talents of great energy and extreme geniality. These were the secrets of his power. \* \* \* \*

A more profound sorrow has never been known in this community than that which is now upon us. The courteous, kindly judge will never again chat in his wonted genial way with the children upon the street, or relate his witty anecdotes to a crowd of young attorneys, laughing in such a hearty fashion that his age seemed less by a score than that of most men of forty-five. He was a great companion, and he died as he lived, happy and courageous. His thousand genial anecdotes will live on the tongues of men to an old and honored age and be heard in goodly company fully as long as his learned legal opinions hold place in their everlasting law books. In politics he was a dashing fighter, a daring combatant, but above all active, adriot, painstaking and perfectly tireless. He had a great capacity for political detail. He never really harbored a political enmity, and he was closer to the common people of this county than any great politician who ever lived within its borders. He really loved the Republican party and thoroughly believed in it. Yet many of his best friends were Democrats. It is truly re-

lated by E. W. Chamberlain that the Judge's own father became a Democrat after the disruption of the Whig party and refused to vote for his son in his first contest for Congress. The old gentleman was living here in Belmont at the time. The young lawyer laughed good naturedly about it, and in after years added the incident to his stock of entertaining stories.

The personality of Judge Ward was an intensely picturesque one and his loss at this time is irreparable. Retiring from the bench next year he might have had leisure in Allegany to counsel friends, and influence public and party plans, and his mature judgment and ripe experience would have been invaluable to society. But he has departed mourned by the entire State, esteemed in the nation, honored by bench and bar, and we humbly submit to the omnipotent decree of an all-wise Providence.

(From Judge Norton and Mr. Elba Reynolds.)

In very kind response to a request from The Despatch made to several prominent Alleganians, for brief personal reminiscences of Justice Ward, Judge Norton and Mr. Elba Reynolds responded hastily as follows. Their words will be read with great interest:

"My first acquaintance with Judge Ward dates back to the time when as a small boy attending the district school in Belmont, I used to meet him while on his morning walks. He always had a pleasant greeting for me and seemed to take a lively interest in my growth and welfare. Years afterwards when he was about closing his Congressional career, I became a student in his office, and whenever he had a spare day or two we spent our time together in the back room of the office, I reading the elementary law books to him, he listening attentively and making comments as the reading progressed. Whenever he had a case in Court, his first work would be to very thoroughly prepare it for trial. His witnesses were always seen and their testimony arranged so as to be brought out effectively and to the best advantage. His pleadings were usually somewhat verbose, and he frequently said to me it is better to have too much than too lit-

tle in your papers. He always instructed his students to make a most careful preparation upon the law in the case, frequently cautioning them that if they were beaten upon the facts it was not their fault, but if they were beaten upon the law they alone were to blame, and many of his characteristics were deeply impressed upon the numerous students who at various times graduated from his office, and for whom he always had a kindly feeling, calling them his boys, and in many ways the intimate relations of instructor and student continued during his whole lifetime.

In the Greeley campaign of 1872 Judge Ward for some time was quite strongly inclined to support Greeley, but finally concluded to take the stump for the Republican ticket, taking me with him to initiate me into the mysteries of campaign speaking, which he did with many useful suggestion and words of encouragement. His political work was largely done in secret and I have many times ridden with him over the hills and through valleys of Allegany in the night time on political missions while I was a student in his office. He had unusual powers of organization and leadership, was the possessor of great energy and perseverance, and much of his success can be attributed to his untiring industry. In political matters as well as in the practice of his profession, he was an aggressive fighter, with a vigorous power of expression and positive convictions upon every subject, but companionable and genial, with a rare power for placating his enemies. In all the public positions which he occupied he did his duty fearlessly and brought to its discharge the same vigor and energy which he always manifested in his private affairs. His public career is too well known to the people of Western New York to require comment here, and there are many phases of his personal life which are familiar to people in this vicinity. Personally he was universally liked, and the animosities which follow sharp controversies in politics and the practice of law were soon lost in the amenities of social life.

He often gave expression to the warm attachment he entertained for Allegany County, and frequently commented upon the loyalty of its people to him in all his ambitions.

He cherished a deep affection for them and loved the associations commenced in his early manhood and so long continued throughout a useful, honorable and successful career.

S. M. NORTON."

"Hon. Hamilton Ward is dead. And as I stand beside all that is mortal of one I knew so well, my mind goes back over the twenty-five years of close business and social life together, and from my knowledge of the man it is certain that the brightest legal mind of this section has gone out forever. Coming to Mr. Ward when but a boy, and remaining with him through all the ups and downs of life for a quarter of a century, I had learned to know him as a friend and father, for he was ever ready to whisper wise counsels and to extend his strong arm to assist one asking his help. Hamilton Ward was a man of extraordinary brain power and an untiring working, with him whatever was worth doing at all, must be done well, and through all my acquaintance with him, he strictly adhered to this rule, and back in the eighties for years it was his common practice to work for sixteen hours of the twenty-four. He particularly excelled in applying case law to the question under consideration. This, coupled with his honesty of purpose and thorough, unceasing labors, gave him his great success as a lawyer and jurist.

Judge Ward had many noble elements that make up a great and good man, with but few of the frailties of life, many less than the great majority of us, and his life will bear the closest scrutiny of time, for many of his charities and kindnesses were covered, but whatever faults he had were as an open book. And in his death the deserving multitude have lost a steadfast friend, the Allegany County Bar its brightest light, the Judiciary an honest and able Judge, the County of Allegany its most distinguished citizen, and the village of Belmont has sustained an irreparable loss.

ELBA REYNOLDS."

The Brooklyn Eagle, edited by his old friend, St. Clair McKelway, after referring to the public positions held by Justice Ward, said:

This is the tabular record of the busy life of a singular, original, resolute and attractive public man. Dead at 69 and beginning public service in 1856, when he was 27 years of age, he was, between those years, active in politics, often in office and was always peculiarly distinguished for the principle of gratitude and for the manly friendships which he sustained in both parties. He was not a great man, a great lawyer or a great judge, but he was a man of respectable ability, of much practical common sense, of undoubted force of character, and he will be long remembered for his sturdy independence, personal courage and hearty ways by those who knew him well.

Without attempting to give any account of his life, one can hardly touch his name without interesting reminiscences yielding to the slightest pressure. He was in Congress, for instance, in the war time, and he had much to do with reconstruction legislation. He sought to temper it with clemency, and, indeed, with humanity. His views on finance were sound in an unsound time. He was against the greenbacks, and was true to the gold standard, to which New York State has always been true, when there were personal unpopularity and political danger in taking such a stand. He was a sincere friend of Roscoe Conkling and of Thomas C. Platt, because both of them had been good to him, and because he admired them, believed in them and was grateful to them. As Attorney-General of the State, he acceptably performed the ordinary duties of the office, and addressed himself to any extraordinary duties in it which came up with a resolution and a gallantry that were quite notable, and which tempered or extenuated many of his errors in their treatment.

Long ago he had cause to be interested in the proposition that persons in interest in suits of a socially delicate quality should have a right to testify. Perhaps clients of his were concerned in the passage of a law to that effect. He came to Albany legitimately to promote a bill of that character before the Assembly. He discovered that a dry, prosy, learned and pedagogical sort of Democrat named William B. Ruggles, whom he had never known, was sup-

porting the measure upon principle with learning, with logic and with success in the Assembly. Hamilton Ward took notes in his memory, but said nothing. Many years afterward, when he became Attorney-General, he found that William B. Ruggles had been Attorney-General Schoonmaker's first assistant, and he asked Mr. Ruggles, although a Democrat, to continue in the place under him. The amount of pressure from Cornell, Conkling, perhaps Mr. Platt and others which Hamilton Ward withstood in this case had not been exceeded in the annals of Republican resistance at that time. All the language which he used in adhering to his purpose was not fit to print, but it was in the highest degree effective, and in the strongest sense characteristic. It was also successful.

While still Attorney-General, he intervened in a remarkable manner in a murder trial in Albany. A lawyer had been killed by a client. The lawyer was the leading defender of persons accused of crime in Albany County. The client who killed him was a one-armed veteran of the war between the States, named Hughes, for whom the lawyer had collected arrears of pension amounting to about \$1,300. In settling with the client, the lawyer, it was alleged, demanded about \$1,100 for expenses, leaving a little over \$200 for the soldier. A clasp knife made its appearance in a scuffle which ensued, and the one-armed man slew the lawyer in his office. When trial came near, the District Attorney of Albany County was surprised by a letter from the Attorney-General, in which the latter requested opportunity to join in the prosecution on the ground, as naively stated by himself: "Down in Allegany County they do say I'm hell on murder cases." After Mr. Ward summed up the case, the jury brought in a verdict in the second degree against the defendant, which carried with it a life sentence.

The trial was held in the Assembly Chamber of the old Capitol. The new Capitol was occupied by the Legislature, and the demolition of the old was under way, but was suspended because the County Courthouse had been burned down. When the defendant was about to be sentenced, he rose and thanked the court "for an impartial trial," his law-



yer for "a faithful defense," the Attorney-General "for a considerate prosecution," and closing said: "And now within this room, more accustomed to the sound of parliamentary than of judicial eloquence, I move the previous question and await my sentence!" Mr. Ward saw that that man was made bookkeeper in Dannemora Prison, where he died in comfort, seven years afterward, happier and more contented as a convict than he had ever been as a tramp.

When David B. Hill was Governor, the Executive Mansion was made a fit habitation for the chief magistrates of the State. Money was not spared, and a Republican committee of the Assembly thought there was political capital in a report censuring the expenditure. A Republican member from Mr. Ward's county held the balance of power on the committee, and told him that he thought the Governor had done right, and felt he should sustain him, though the pressure on him to join in an adverse report was very great. Hamilton Ward literally ordered him to stand by the Governor on the matter in question to the last, and he did so.

Mr. Ward and Gov. Hill were not acquainted with one another then, there is reason to believe, but the Governor was a grateful and remembering man, and he appointed not a Democrat, but Hamilton Ward himself to the Supreme Court, when a vacancy occurred in the judicial district in which Mr. Ward lived. As already said, Judge Ward remained upon the bench until his death, this morning, and he owed his place there to his superiority to rise above partisan opportunity in the interest of justice to a Democratic opponent, who made the Executive Mansion commensurate with the needs and dignity of a residence for the chief officer of the Empire State.

Hamilton Ward's life was full of instances of this sort. He was a most interesting conversationalist, or rather monologist, a sturdy, intrepid, sunny and happy man, and those who knew him well can recall few more typically American products in character, in resolution and in heartiness than he was. He fell far below greatness, but he never fell below manhood, and many a possibly better man was less liked and will be sooner forgotten.



Courts in Buffalo and Rochester immediately adjourned upon the announcement of his death, and the Express of December 29th says:

### JUDGE WARD DEAD.

The late Hamilton Ward had a long, varied and active career in public life. He was singularly successful in passing from one stage of it to another. His abilities were far above the ordinary.

His death leaves another vacancy in the Appellate Division for this department—the second within a few months. Judicial vacancies are fairly showering down upon the ambitious lawyers of the Eighth Judicial District.”

The Belmont Courier of January 1st said:

### HAMILTON WARD.

Death came to Judge Hamilton Ward in the early twilight of a busy, eventful, useful life. The goal of rest and self-satisfied contentment was near at hand. Sharp, sudden and unexpected was the blow which has brought grief to a home and deep sorrow to this community.

Not a blemish marks his public career. His brilliance brought him great opportunities, which he accepted and his services to the people stand an ineffaceable monument to his memory.

In his home he was kind and indulgent. Between him and his sons, Captain Ward and John C. Ward, there was a band of comradeship rarely seen between father and sons. It was not easy to realize that Justice Ward was close to three score and ten years old. He had all the vivacity and enthusiasm of a young man, and he had not allowed himself to forget in his busy life that young men have dreams and ambitions. \* \* \* \*

The Buffalo News of January 4th said:

### A MAN OF RARE FORCE.

The courts of Erie County are closed today, and our bench and bar are joining with the judges and lawyers of

Allegany County in paying the last honors to Hamilton Ward, Justice of the Supreme Court, at his home at Belmont. The tribute is a fitting one—not merely formal but suitable as a recognition of the merits of a man of great force of character.

For more than a generation Hamilton Ward was known throughout the State as one of the leaders in public affairs in his section. He was even up to his death an embodiment of the characteristic element of our public life. He combined a ready insight into affairs with a shrewdness and directness of method in political tactics that kept him ever at the front until his elevation to the bench. His career as a member of the Supreme Court was one of exceptional success and honor. His work was thorough and he had the grasp of principle as well as of details which gives success in the law as well as in political life. The quick perception of the main issue, which is called common sense in the unprofessional affairs of life, was of service here. A little of the practical philosophy of common life is as valuable an acquisition to a judge as to a layman. It helps greatly in the determination of questions of equity as well as of the application of law to conduct. Judge Ward had this practical philosophy. It was fundamental with him. It was a part of his equipment always in use. It helped to make him popular in politics and to win him success in the administration of the law.

A man of rare force and full of resources was Hamilton Ward. He had his enemies as all such men have, but he had his friends also, as he deserved.

The funeral is best described in the Belmont Despatch of January 6th.

“In addition to the large number of prominent Alleghenians present, a hundred distinguished Western New Yorkers gathered here Wednesday morning to attend the funeral of the late Justice Hamilton Ward. It was observed at the homestead on Washington Street at 11 o'clock, and the large house was so crowded that very many were unable to pass through and out again to the porches and yard.

The disagreeable atmospheric conditions could not deter this concourse of people from paying honor to the late Justice, whom all the citizens of this county loved as a close and personal friend.

The funeral services were begun at 11.15 sharp by the officiating clergyman, Rev. F. W. Beecher of St. John Episcopal Church at Wellsville. He was assisted by Rev. F. LaGrange Smith, the bright young rector of Judge Ward's own church, St. Philips, of this place. The services were from the Episcopal burial ritual with three selections from a choir composed of Miss Bertha Bradt, Miss Kathryn Clark, Miss Anna Hatch, Miss Ella Sortore, Warren Gorton, W. P. Clark and Floyd Sortore, with Mrs. John Bradt accompanist. The selections were "Lead Kindly Light," "Peace, Perfect eace," and "One Sweetly Solemn Thought." The floral offerings were very beautiful. The handsome casket was decked with beautiful cut flowers.

Seats had been reserved in the residence for the eminent men expected from Buffalo by special train, which left there at 8.04 A. M. It reached this place at 10.59 A. M. in charge of Erie Passenger Agent H. T. Jaeger and Roadmaster Bowen, included in its party E. H. Butler, editor of the Buffalo News; Justices of the Supreme Court Childs, Frank C. Laughlin, Warren B. Hooker and T. C. White, County Judge Emery, ex-Senator Van Gorder, Henry Ware Sprague, ex-Corporation Counsel Feldman, U. S. District Attorney Emory P. Close, Assistant District Attorney Cary, Frederick Haller, ex-Senator Laughlin and Irving F. Cragen.

The family were seated in a front room, at the left of the hall, apart from others, and the casket was so placed as to be in the center of the house, and when the clergymen stood near it to read the service they could be easily seen from the several rooms. With the family were: Mrs. Ward, Hamilton Ward, Jr., who returned on Tuesday from Pinar del Rio, Cuba, where he has been in the 202nd Regiment in the service of his country; John Ward, the second son, who was fortunately home on vacation from the New

York Theological Seminary at the time of his father's death; Miss Elizabeth Ward, of New York City, a sister of the Judge; Mr. and Mrs. E. W. Chamberlain, of this place; Miss Julia Chamberlain, of Waterloo, and Wright Chamberlain, of Waterloo, and others.

Rev. F. W. Beecher, the officiating clergyman, was for nearly a quarter of a century an acquaintance and friend of Judge Ward, and he spoke very feelingly of his friend, and while he proposed not in any way to pronounce a funeral oration, or preach a funeral sermon, or even make a funeral address, he said his attention had just been called to an incident which threw a light on Judge Ward's esthetic side. He was a lover of music and poetry. In the Judge's room a book had been found by Captain Hamilton Ward, and the place marked and the poem emphasized by the pencil of the late jurist. Mr. Beecher said this was a true indication of an undercurrent of thought that was not evident to a chance acquaintance, whom the Judge might have met in political or judicial life. And then he read this little poem, which was entitled: "The Isles of the By and By."

"In the balmy Isle where the angels roam  
By the crystal seas of our Father's Home,  
There are forms of grace and of beauty rare  
And the ones we have lost are there.  
We must part in tears when the twilight dies,  
On the far-off hills of our evening skies;  
We shall meet in joy where our dear ones stand  
In the gates of the morning land.  
We shall fall asleep where the autumn grieves  
O'er the fading flowers and the falling leaves  
We shall wake again where the angels sing  
In the bloom of eternal spring."

These lines are from a poem of James Gowdy Clark, whom we all know as a wonderfully sweet singer. He was a great admirer of Judge Ward, and the little book of "Poetry and Song," from which the above verses were taken was the author's autograph copy, and stuck in the back of

it is a personal letter to the Judge, an interesting sentence of which goes: "Somehow you are one of the few representative public men that got hold of my heart in the old, golden days of Republicanism."

After the choir's last selection the acting bearers, Fred-eric H. Church, D. P. Richardson, A. L. Elliott, George H. Blackman, Eldyn Reynolds, and B. P. Mapes, bore the casket to the funeral car, and were followed by the honorary bearers: Justice Adams of Canadaigua, Justice McLennan of Syracuse, Justice White of Buffalo, Justice Lambert of Fredonia, Justice Spring of Franklinville, Justice Laughlin of Buffalo, Justice Childs of Medina, County Judge S. M. Norton, ex-County Judge C. A. Farnum, Hon. W. F. Jones of Wellsville and C. S. Whitney, Esq., of Belmont.

The interment was made temporarily in the receiving vault at the Belmont cemetery, and the permanent interment will probably be in a family mausoleum to be constructed in this village's beautiful cemetery.

A few of the prominent Alleganians present at the funeral were: District Attorney Frederick H. Church, Hon. Frank B. Church, Hon. O. A. Fuller, Captain George Blackman, Hon. W. F. Jones, John B. Jones, Mr. and Mrs. E. B. Hall, Mrs. A. S. Brown, Hon. C. A. Farnum, Hon. Sumner Baldwin, John McEwen, W. J. Richardson, William Duke, Grant Duke, Oak Duke, Frank Fisher, Willet L. Ward, Homer Elliott, E. W. Barnes, E. A. Childs and Dr. F. T. Coyle of Wellsville; Judge S. M. Norton, Captain J. E. Rice, A. Miner Wellman, Ben J. Rice, A. L. Elliott, H. S. Corbin, James T. Ward, T. J. Rose and F. R. Utter of Friendship; Hon. D. P. Richardson, Frank Sullivan Smith and M. S. Blair of Angelica. Among others present were: Hon. Charles S. Cary, Judge Kruse and James Waring of Olean; De Merville Page and I. W. Near of Hornellsville; Dr. Fred Lewis of Buffalo, Mrs. Murray of Waterloo, and District Attorney Charles Johnson of Seneca Falls. From Cuba there were Walter Renwick and John Leggett, and from Andover Crayton Early, and Ransom Richardson of Fillmore was present.

At a meeting of the Allegany County Bar Association a committee of ex-Judge Harlan J. Swift, Judge Norton and ex-Judge Farnum was named to draft resolutions on the death of Judge Ward and present them to the family.

Immediately after the funeral of Judge Ward, the judges and members of the bar of the Eighth Judicial District met at the Court House and adopted the following:

"We, members of the judiciary and bar of the Eighth Judicial District of the State of New York, meeting at the Court House in Belmont, in the County of Allegany, on the 4th day of January, 1898, after attending the last funeral rites of the Honorable Hamilton Ward, one of the Justices of the Supreme Court, feel that it is fitting that we should publicly express our humble tribute to one of our members.

"We recognize the important service he has rendered the public during his active life of nearly half a century as District Attorney of Allegany County, member of the National Legislature during the period immediately following the close of our civil war and the accomplishment of reconstruction, as Attorney-General of the State, and lastly in the fulfillment of a busy life as one of the Justices of the Supreme Court, where he so well earned his reputation for studious consideration of the questions falling to him for determination.

"We grieve with the sorrowing family and extend to them our deepest sympathy in their affliction; we feel that the Judiciary has lost one of its most honored and distinguished members."

Judge Lambert, then presiding at a term of Supreme Court in Belmont, after the presentation of the foregoing directed the clerk to spread the same upon the minutes.

Action on his death was taken by the Rochester Bar Association, and a memorial was proposed by his associates at the Appellate Division.

The representatives of the bar appeared at the opening of the Court on January 17th, and the proceedings are set forth in a printed pamphlet as follows:

At the opening of the present term of the Appellate Di-



vision Presiding Justice Hardin spoke briefly of the death of Associate Justice Ward, as follows:

"On the twenty-eighth day of December last, at his home in Belmont, Judge Ward, an esteemed and valued associate of this court, fell into that sleep that knows no waking. The funeral took place at his residence on the fourth day of January. It was attended by his colleagues of the Eighth District and by the members of the bar, largely in that vicinity. Circumstances were such that I was not able to attend the burial services. However, the court was represented by Judges Adams and McLennan, who witnessed the last ceremonies that were performed over the remains of our departed brother.

"Owing to the circumstance that Judge Adams was present at the funeral, and the further circumstance that he had longer association with the deceased, he has kindly consented to prepare the testimonial which this court deems fit and proper to make respecting our departed brother, which he will now present."

Judge Adams read the memorial, after which Hon. George Raines, presenting the memorial of the Rochester Bar Association, said:

"If the court please, I have been deputed as the chairman of a committee to present to this court the resolutions adopted at a meeting of the Rochester Bar Association, of which Hon. Walter S. Hubbell was chairman, touching the death of your Associate Justice Ward."

The resolutions were then read.

"These resolutions so fully express the sentiments of our Rochester Bar," he continued, "towards the late associate justice of this court, that it is idle to add words which might be appropriate, were there not a written record made of his life.

"Personal relations arising nearly thirty years since between the deceased justice and myself have grown with each year nearer and nearer. I can only add to these resolutions my own sense of personal bereavement in the loss which this bench and community has sustained."



The presiding justice then ordered that the testimonial in behalf of the court and the resolutions of the Rochester Bar Association would be entered in the records of the court, and that a copy thereof be sent to the family of the late judge.

### MEMORIAL OF MR. JUSTICE WARD.

For the second time within the short period of three months death has invaded our midst and taken from this court one of its honored members. But a few weeks since we were called upon to mourn the loss of our youngest brother, stricken in the very vigor of his manhood, suddenly, without a moment's warning; and to-day the chair lately occupied by the eldest member of the court has become vacant under circumstances strikingly similar to those which terminated the earthly career of our late associate, Justice Green.

Mr. Justice Ward occupied a seat upon the bench of this court from its organization in January, 1896, down to the date of his death, during which time he brought to the discharge of the arduous and manifold duties pertaining to that position the experience of a long and active life, a disposition to be just and upright in every official deliverance, and a determination as intense as it was unalterable, to so administer the law of the land as that it should prove a shield to the oppressed and a sword to the oppressor.

He was peculiarly a self-made man, having enjoyed but limited advantages in early life, but by constant application and diligent effort he so fully equipped himself for life's struggle that he soon outstripped his more fortunate competitors and, surmounting every obstacle, ultimately won his way to honorable distinction and a moderate fortune. In every position which he occupied, whether as District Attorney, Attorney-General, Member of Congress or a Justice of the Supreme Court, he manifested to a remarkable degree that rugged good sense which, with him, was a weapon far more potent than the subtle refinements of the logician,

and which, wielded in his characteristic fashion, not infrequently enabled him to reach, and to force others to reach, satisfactory conclusions without much regard to technicalities or forms.

In his personal relations with his associates upon the bench Judge Ward was always kindly, courteous and open hearted. He was, in every sense of the word, a positive man, and, consequently, like most persons of a sanguine temperament, he sometimes identified himself so completely with the cause he was advocating as to be somewhat impatient of opposition, and unable for the time being to distinguish clearly between honest criticism and personal discourtesy. But while he was quick to resent anything which might be construed into an affront, he was equally alert to make suitable apology and reparation when he became conscious that during the heat of a discussion he had been betrayed into the utterance of a word which might possibly carry with it a sting.

Perhaps the trait of character which more strongly and more frequently than any other manifested itself in Judge Ward was his sympathy for the poor and helpless. No person in stress of circumstances ever appealed to him in vain. His heart opened up involuntarily to the needy, the destitute and the oppressed, and he was ill at ease until he had ministered to their necessities. So immutably was this tenderness of all human virtues impressed upon the heart of our deceased brother that it was sometimes with the greatest difficulty that he could bring himself to dispose of a case upon strict legal principles when such a disposition was not in accord with his sense of equity and justice; and for this reason he often expressed doubt as to his fitness to sit as an administrator of the law, pure and simple.

It is not our purpose, however, to enter at this time into any extended analysis of the character of our lamented brother, but simply to place upon record our estimate of him as an associate and friend, whose sudden departure from our midst we shall long deplore, and whose many good qualities of mind and heart we shall always cherish.

## RESOLUTION OF THE ROCHESTER BAR.

The Rochester Bar Association meets a second time within a few months on account of the sudden death of a justice of our department of the Appellate Division of the Supreme Court.

Hamilton Ward has lived a life notably busy and full of honor. As one of the justices of our Appellate Division, we have known him best. He was appointed by the Governor of the State to that court at its organization, and during the past three years of its existence he has taken a conspicuous part in most of its decisions. His opinions, remarkable for the research and painstaking care necessary in their production, form no small part of the thirty-four volumes comprising the reports of the Appellate Division of the Supreme Court, and furnish an enduring monument to his memory.

We realize that in the presence of death words are wholly inadequate, and we can only tender to his family and to his colleagues on the bench this expression of our sympathy in their sudden and painful bereavement.

We move that a copy of this memorial be spread upon the records of this association, and that a committee be appointed to present the same to the Appellate Division of his department upon the opening day of the next term.

WALTER S. HUBBELL,  
Chairman.

WILLIAM L. PLUMB,  
Secretary.









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