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THE WORKS  
OF  
JAMES ABRAM GARFIELD

VOL. II.







J. A. Garfield.



THE WORKS  
OF  
JAMES ABRAM GARFIELD

EDITED BY  
BURKE A. HINSDALE  
PRESIDENT OF HIRAM COLLEGE

VOL. II.



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THE WORKS  
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PUBLIC EXPENDITURES:  
THEIR INCREASE AND DIMINUTION.

SPEECH DELIVERED IN THE HOUSE OF REPRESENTATIVES,  
JANUARY 23, 1872.

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MR. CHAIRMAN, — In opening the discussion of this bill, I realize the difficulties which at all times attend the work of making appropriations for carrying on the government. But there are more than ordinary difficulties attending the work of a chairman who succeeds to a position which has been so adorned as has the chairmanship of the Committee on Appropriations during the last two years.<sup>1</sup> The most that I can now venture is to express the hope that, by the generous aid of my colleagues on the committee, and the support of the House, I may be able to follow, at a humble distance, in the path my predecessor has travelled.

I would not occupy any time this morning in the preliminary discussion of this bill, but for the fact that this general appropriation bill, more than any other of the twelve which will come before the House, embraces in its scope nearly the whole civil establishment of the government. The approval of this bill is, in a certain sense, the approval of the whole system to which

<sup>1</sup> The reference is to Mr. Dawes, of Massachusetts, who preceded Mr. Garfield as chairman of the Committee on Appropriations. The speech was made in Committee of the Whole.

the other appropriations will refer. If our general plan of appropriations ought to be attacked, this is the place to begin. If these bills have a sufficient reason for being in the main what they are, that sufficient reason can be given for the passage of this bill substantially as it stands in the print before us. I therefore beg the indulgence of the committee while I call attention to a few questions which have arisen in my mind in the study I have given this subject.

And, first of all, I will consider what part expenditures play in the affairs of government. It is difficult to discuss expenditures comprehensively without discussing also the revenues; but I shall on this occasion allude to the revenues only on a single point. Revenue and the expenditure of revenue form by far the most important element in the government of modern nations. Revenue is not, as some one has said, the friction of a government, but rather its motive power. Without it, the machinery of a government cannot move; and by it all the movements of a government are regulated. The expenditure of revenue forms the grand level from which all heights and depths of legislative action are measured. The increase and the diminution of the burdens of taxation depend alike upon their relation to this level of expenditures. That level once given, all other policies must conform to it and be determined by it. The expenditure of revenue and its distribution, therefore, form the best test of the health, the wisdom, and the virtue of a government. Is a government corrupt, that corruption will inevitably, sooner or later, show itself at the door of the treasury in demands for money. There is scarcely a conceivable form of corruption or public wrong that does not at last present itself at the cashier's desk and demand money. The Legislature, therefore, that stands at the cashier's desk and watches with Argus eyes the demands for payment over the counter, is most certain to see all the forms of public rascality. At that place, too, we may feel the nation's pulse; we may determine whether it is in the delirium of fever, or whether the currents of its life are flowing with the steady throbbings of health. What could have torn down the gaudy fabric of the late French Empire so effectually as the simple expedient of compiling and publishing a balance-sheet of the expenditures of Napoleon III.'s government, as compared with the expenditures of the fifteen years which preceded his reign? A quiet student of finance exhibited the fact that during the



fifteen years of that reign the expenditures of his government had been increased by the enormous total of \$350,000,000 in gold per annum. Much of this vast sum had been covered up under various forms of statement; but the merciless statistician stripped off the disguise and showed the yawning, bottomless gulf into which France was rushing to certain and inevitable ruin. Ere long she took the fatal plunge. She had kept on a fair exterior; but all the while the solid foundations of her strength were being honeycombed through and through by extravagance and corruption in her finances; and at last she went down in the smoke and desolation of war. It was only the crashing through of the worthless fabric that was ready to perish when the occasion should come. We have seen in some of our own municipal governments, and perhaps in some of our State governments, the same process going on, which, if not arrested, must ultimately bring them to a fate hardly less deplorable.

Such, in my view, are the relations which the expenditures of the revenue sustain to the honor and safety of the nation. How, then, shall they be regulated? By what gauge shall we determine the amount of revenue that ought to be expended by a nation? This question is full of difficulty, and I can hope to do little more than to offer a few suggestions in the direction of its solution.

And, first, I remark that the mere amount of the appropriations is in itself no test. To say that this government is expending \$292,000,000 a year may be to say that we are penurious and niggardly in our expenditures, or it may be to say that we are lavish and prodigal. There must be some ground of relative judgment, some test by which we can determine whether expenditures are reasonable or exorbitant. It has occurred to me that two tests can be applied.

The first and most important is the relation of expenditure to the population. In some ratio corresponding to the increase of population it may be reasonable to increase the expenditures of a government. This is the test usually applied in Europe. In an official table of the expenditures of the British government for the last fifteen years, now before me, I find the statement of the expenditure *per capita* of the population set over against the annual average of each year. The average expenditure *per capita* for that period is £2 7s. 7d., or about \$12 in

gold, with a slight tendency to decrease each year. In our own country, commencing with 1830 and taking the years when the census was taken, I find that the expenditures, *per capita*, exclusive of payments on the principal and interest of the public debt, were as follows:—

In 1830 . . . . .	\$1.03	In 1860 . . . . .	\$1.94
In 1840 . . . . .	1.41	In 1870 . . . . .	4.26
In 1850 . . . . .	1.60		

or, excluding pensions, \$3.52.

No doubt this test is valuable. But how shall it be applied? Shall the increase of expenditures keep pace with the increase of population? We know that population tends to increase in a geometrical ratio, that is, at a per cent compounded annually. If the normal increase of expenditures follows the same law, we might look forward to the future with alarm. It is manifest, however, that the necessity of expenditures does not keep pace with the mere increase of numbers; and while the total sum of money expended from year to year must necessarily be greater, the amount *per capita* ought in all well-regulated governments, in time of peace, to grow gradually less.

But in a country like ours there is another element besides population that helps to determine the movement of expenditures. That element can hardly be found in any other country. It is the increase and settlement of our territory, the organic increase of the nation by the addition of new States. To begin with the original thirteen States, and gauge expenditure till now by the increase of population alone, would be manifestly incorrect. But the fact that there have been added twenty-four States, and that we now have nine Territories, not including Alaska, brings a new and important element into the calculation. It is impossible to estimate the effect of this element upon expenditures. But if we examine our own records from the beginning of the government, it will appear that every great increase of settled territory has very considerably added to the expenditures.

If these reflections be just, it will follow that the ordinary movement of our expenditures depends upon the action of two forces: first, the natural growth of population, and second, the extension of our territory and the increase in the number of our States. Some day, no doubt—and I hope at no distant date—we shall have reached the limit of territorial expansion.

I hope we have reached it now, except to enlarge the number of the States within our borders; and when we have settled our unoccupied lands, when we have laid down the fixed and certain boundaries of our country, then the movement of our expenditure in time of peace will be remitted to the operation of the one law, the increase of population. That law, as I have already intimated, is not an increase by a per cent compounded annually, but by a per cent that decreases annually. No doubt the expenditures will always increase from year to year; but they ought not to increase by the same per cent from year to year; the rate of increase ought gradually to grow less.

In England, for example, where the territory is fixed, and they are remitted to the single law of increase of population, the increase of expenditures during the last fifteen years of peace has been only about one and three quarters per cent compounded annually. I believe nobody has made a very careful estimate of the rate in our country; our growth has been too irregular to afford data for an accurate estimate. But a gentleman who has given much attention to the subject expressed to me the belief that our expenditures in time of peace have increased about eight per cent compounded annually. This is too high; yet I am sure that somewhere between that and the English rate will be found our rate of increase in times of peace. I am aware that such estimates as these are unsatisfactory, and that nothing short of the actual test of experience can determine the movements of our expenditures; but these suggestions, which have resulted from some study of the subject, I offer for the reflection of those who care to follow them out.

Thus far I have considered the expenditures that arise in times of peace. Any view of this subject would be incomplete that did not include a consideration of the effect of war upon national expenditures. I have spoken of what the rate for carrying on a government ought to be in time of peace. I will next consider the effect of war on the rate of increase. And here we are confronted with that anarchic element, the plague of nations, which Jeremy Bentham called "mischief on the largest scale." After the fire and blood of the battle-field have disappeared, nowhere does war show its destroying power so certainly and so relentlessly as in the columns which represent the taxes and expenditures of the nation. Let me illustrate this by two examples.

In 1792, the year preceding the commencement of the great war against Napoleon, the expenditures of Great Britain were less than £20,000,000. In the twenty-four years that elapsed from the commencement of that wonderful struggle until its close at Waterloo, in 1815, the expenditures rose by successive bounds, until, in one year near the close of the war, it reached the enormous sum of £106,750,000. The unusual increase of the public debt, added to the natural growth of expenditures from causes already discussed, made it impossible for England ever to return to her old level of expenditure. It took twenty years after Waterloo to reduce expenditures from £77,750,000, the annual average of the second decade of the century, to £45,750,000, the expenditure for 1835. This last figure is the lowest that England has known in the present century. There followed nearly forty years of peace, from Waterloo to the Crimean war in 1854. The figures for that period may be taken to represent the natural growth of expenditures in England. During that time the expenditures increased, in a tolerably uniform ratio, from £45,750,000, the amount for 1835, to about £51,750,000, the average for the five years ending with 1854. This increase was about \$4,000,000 of our money per annum. Then came the Crimean war of 1854 to 1856, in one year of which the expenditures rose to £84,500,000. Again, as after the Napoleonic war, it required several years for the expenditures of the kingdom to get down to the new level of peace, which level was much higher than that of the former peace. The last ten years, the expenditures of Great Britain have again been gradually increasing; the average for the six years ending with March 31, 1871, being £68,750,000.

As the second example of the effect of war on the movement of national expenditures, I call attention to our own history. Considering the ordinary expenses of the government, exclusive of payments on the principal and interest of the public debt, the annual average may be stated thus.

Beginning with 1791, the last decade of the eighteenth century showed an annual average of \$3,750,000. The first decade of the present century, the average was nearly \$5,500,000. Or, commencing with 1791, there followed twenty years of peace, during which the annual average of ordinary expenditures was more than doubled. Then followed four years, from 1812 to 1815, inclusive, in which the war with England swelled the

average to \$25,500,000. The five years succeeding that war, the average was \$16,500,000; and it was not until 1821 that the new level of peace was reached. The five years from 1821 to 1825, inclusive, the annual average was \$11,500,000. From 1825 to 1830, \$13,000,000. From 1830 to 1835, \$17,000,000. From 1835 to 1840, in which period occurred the Seminole war, \$30,500,000. From 1840 to 1845, \$27,000,000. From 1845 to 1850, in which period occurred the Mexican war, it was \$40,500,000. From 1850 to 1855, \$47,500,000. From 1855 to June 30, 1861, \$67,000,000. From June 30, 1861, to June 30, 1866, \$713,750,000; and from June 30, 1866, to June 30, 1871, the annual average was \$189,000,000.

It is interesting to inquire how far we may reasonably expect to go in the descending scale before we reach the new level of peace. We have already seen that it took England twenty years after Waterloo to reach such a level. Our own experience has been peculiar in this, that our people have been impatient of debt, and have always determinedly set about the work of reducing it. Throughout our history there may be seen a curious uniformity in the movement of the annual expenditures for the years immediately following a war. We have not the data to determine how long it was after the War of Independence before the expenditures ceased to decrease, that is, before they reached the point where their natural growth more than balanced the tendency to reduction of war expenditure; but in the years immediately following all our subsequent wars, the decrease has continued for a period almost exactly twice the length of the war itself. After the war of 1812-15, the expenditures continued to decline for eight years, reaching the lowest point in 1823. After the Seminole war, which ran through three years, 1836, 1837, and 1838, the new level was not reached until 1844, six years after its close. After the Mexican war, which lasted two years, it took four years, until 1852, to reach the level of peace.

It is perhaps unsafe to base our calculations for the future on these analogies; but the wars already referred to have been of such varied character, and their financial effects have been so uniform, as to make it not unreasonable to expect that a similar result will follow our late war. If so, the decrease of our ordinary expenditures, exclusive of the principal and interest of the public debt, will continue until 1875 or 1876.

It will be seen by an analysis of our current expenditures that, exclusive of charges on the public debt, nearly fifty million dollars are expenditures directly for the late war. Many of these expenditures will not again appear, such as the bounty and back pay of volunteer soldiers, and payment for illegal captures of British vessels and cargoes. We may reasonably expect that the expenditures for pensions will hereafter steadily decrease, unless our legislation should be unwarrantably extravagant. We may also expect a large decrease in expenditures for the internal revenue department. Possibly, we may ultimately be able to abolish the department altogether. In the accounting and disbursing bureaus of the Treasury Department we may also expect a further reduction of the force now employed in settling war claims.

We cannot expect so rapid a reduction of the public debt and its burden of interest as we have witnessed for the last three years; but the reduction will doubtless continue, and the burden of interest will constantly decrease. I know it is not safe to attempt to forecast the future; but I venture to express the belief, that, if peace continues, the year 1876 will witness our ordinary expenditures reduced to \$135,000,000, and the interest on our public debt to \$95,000,000; making our total expenditures, exclusive of payment on the principal of the public debt, \$230,000,000. Judging from our own experience and from that of other nations, we may not hope thereafter to reach a lower figure. In making this estimate I have assumed that there will be a considerable reduction of the burdens of taxation, and that the revenue in excess of expenditures will not be nearly so great as now.

The movement of our public debt may be thus summarily stated. January 1, 1789, we had a debt of \$75,000,000. It took twenty-one years to reduce its bulk to \$45,000,000, the amount outstanding in 1812. The war with England raised it to \$127,000,000, where it stood in 1816. It took twenty years more to pay it off. The war with Mexico left us with a debt of \$68,000,000, and it took ten years to reduce it to \$28,500,000, the lowest point it has ever reached since 1846. The debt created by our late war reached its stupendous maximum on July 31, 1865. In the six and a half years that have since elapsed it has been reduced by the sum of \$556,579,578, a reduction of twenty and a half per cent of its whole amount. During that

time the annual interest on the debt has been reduced by the sum of \$42,608,329. I subjoin a table prepared at the Treasury Department, which exhibits, in successive years, the movement of the principal and interest of the public debt since its maximum was reached.

*Statement of Reduction of Public Debt, Interest Charge, and Treasury Balances.*

Date.	Amount of the Principal of Public Debt.	Balance in Treasury.		Total Treasury Balance.	Debt less Cash.	Yearly Interest charged.
		Gold.	Currency.			
July 31, 1865, max.	\$2,872,734,908	\$35,337,858	\$81,401,775	\$116,739,633	\$2,755,995,275	\$151,832,051
Mar. 1, 1869	2,606,994,694	98,741,261	16,853,529	115,594,790	2,401,399,994	126,389,550
Mar. 1, 1870	2,407,174,240	103,174,209	20,854,606	124,028,815	2,283,145,431	114,852,089
July 1, 1871	2,353,211,332	96,683,900	9,533,363	106,217,263	2,246,994,069	111,439,385
July 1, 1872	2,326,710,016	111,432,826	15,861,493	127,294,319	2,199,415,697	109,223,622
	<sup>1</sup> \$546,024,892			<sup>2</sup> \$10,554,686	<sup>1</sup> \$556,579,578	<sup>1</sup> \$42,608,329

This rapid reduction of the principal and interest of our public debt tends also to strengthen the hope that for three or four years to come our expenditures will continue to decrease. It would be cheering, indeed, if we might also hope that, when the nation again begins the ascent, it will be up the beautiful slope where no sign of war shall come for many long years. If so, the ascent will be gradual and gentle, and will mark the course of that highway along which the nation shall move upward and forever upward in its grand career of prosperity. But let it be forever borne in mind that the day which witnesses a new war increases more and more heavily than ever the calamities of the past. For the burdens of the past are mainly the burdens of war, and a national debt may rise to a point at which the people lose heart and grow hopeless.

Conceding to England all her wealth, all her greatness, and all her glory, still one fact in her history is so full of gloomy portent that I have never been able to understand how her statesmen can look upon it without the profoundest alarm. It would seem that all hope of paying off, or even of considerably reducing her public debt, is extinguished in the minds of her people. The last attempt in that direction was made by Mr. Gladstone, then Chancellor of the Exchequer. In his speech on the budget of 1866, after affirming that nine leading nations of Europe had incurred a debt of no less than £1,500,000,000

<sup>1</sup> Reduction since July 31, 1865.

<sup>2</sup> Increase over July 31, 1865.

during the last twenty-five years, and that too in a time of very general peace, he said that America was the only great nation of the world that was considerably reducing her debt. Then referring to the British debt, he said: —

“ At the close of the war against France in 1815, the British debt was £902,264,000. On the 5th of January, 1854, it was £800,515,000. From 1815 to 1854, there were nearly forty years of the most profound tranquillity ever known in this country. . . . The rate of decrease during that period was £2,609,000 per annum. . . . I do not believe, if we take the whole years of peace since 1815, that the average reduction would reach £3,000,000. If ever we should become involved in any great and protracted war, we must expect to see the debt increase at about ten times the annual rate by which we reduce it in time of peace.”

A steady though not extravagant reduction of our debt should be the fixed policy of the nation.

In order to judge more accurately the future of our expenditures, I ask attention to an analysis of those of the last fiscal year. In doing so I will venture a criticism on the form in which the records of receipts and expenditures are presented to us in the reports of the Secretary of the Treasury. In preparing the analysis which I shall present I noticed several items which I cannot regard as real expenditures, nor have they ever in fact been receipts of the government. In his last report, the Secretary of the Treasury states that the expenditures for the fiscal year ending June 30, 1871, amounted to \$292,177,188.25. Now, I call the attention of the committee to several items included in that sum, which should not be counted in an exhibit of what it costs to run the government.

For instance, in exchanging coin in the Treasury for outstanding bonds, the premium on the coin is set down as revenue, and the premium on the bonds purchased is set down as an expenditure. Of course the books of the Treasury ought to show these transactions in full; but the two amounts should not go to swell the receipts and expenditures of the government. The one is not revenue in the ordinary meaning of that term, nor is the other expenditure. Yet here, on pages 3 and 5 of the tables appended to the Secretary's report, is set down as premiums on sales of coin nearly \$9,000,000, and as premiums paid on purchased bonds, a little more than \$9,000,000. The figures presented to the country ought to be the difference between the two sums, which difference in this case



should be set down as part of the expense of managing the national debt. That difference, we find, is only \$123,954; yet, by this record, the government is charged with having expended over \$9,000,000 for that purpose.

Here is another item. I understand that when a ship arrives in port, and the merchant desires to get his goods at once, he makes a deposit at the custom-house of a sum larger than the amount of the duties; and when the amount to be collected is ascertained, the balance of his deposit is refunded. Now, all the sums paid back to merchants in this way, sums which never belonged to the Treasury, never were revenue in fact or in law, are charged as expenditures. On page 4, under the heading of "Miscellaneous Expenditures," I find this entry: "Refunding excess of deposits for unascertained duties, \$1,787,266.59."

There is another item, which gentlemen who care to follow these remarks, will also find on page 4. When imported goods are re-exported, a drawback is allowed to the full amount of the duty. In many cases the duty does not come into the Treasury at all, and of course the cancelling of the duty is not a payment out of the Treasury. That sum should neither be reckoned as expenses nor as receipts; but yet \$978,358 of "Debentures and drawbacks under the customs laws" is set down among the expenditures for the last fiscal year. Both this and the preceding item are set down as a part of the cost of collecting the customs revenue.

Another item of \$490,660 for "Refunding customs duties erroneously or illegally collected," which appears in the list of expenses, manifestly never belonged to the United States.

There are two similar items in connection with the administration of the internal revenue department, amounting to more than a million dollars, in which the taxes were erroneously or illegally paid and subsequently returned to the citizens who paid them; also, in the Land Office, an item of repayment for land erroneously sold. Without troubling the committee with a more specific statement of the items, I submit the following table:—

*Items stated in Tables of the Secretary's Report as Expenses of the United States for the fiscal year ending June 30, 1871.*

Refunding excess of deposits for unascertained duties . . . . .	\$1,787,266.59
Debentures and drawbacks under customs laws . . . . .	978,358.33
Refunding duties erroneously or illegally collected . . . . .	<u>490,659.68</u>
Amount carried forward . . . . .	\$3,256,284.60

## PUBLIC EXPENDITURES.

Amount brought forward . . . . .	\$3,256,284.60
Internal revenue allowances and drawbacks . . . . .	451,203.66
Refunding taxes erroneously or illegally collected . . . . .	612,243.30
Repayment for lands erroneously sold . . . . .	43,765.49
Premium on purchase of bonds . . . . .	9,016,794.74
Refunding excess of deposits for surveying public lands . . . . .	22,232.66
	<u>\$13,402,524.45</u>

There are three other items which, I am inclined to believe, should go into this statement, and which would swell the amount to nearly fifteen millions; but I omit them, because I am not perfectly satisfied that they belong here. Now, of course all these items appear on both sides of the ledger, and correctly represent the transactions. But our taxes and expenses are heavy enough without the addition of sums, that apparently, but not really, swell the totals on both sides of the account.

The account of all these transactions should, of course, be kept at the Treasury. Doubtless that is the correct method of keeping the books; but is not a just method of expressing to the people what their government costs.

I call the attention of the committee to the account of expenditures of the War Department on page 5 of the Secretary's tables. Gentlemen will see that the total expenditures of that Department are set down at \$35,799,991.82. Now, in order to get that sum, \$8,280,093, the proceeds of sales of ordnance, was deducted. That is, the War Department sold ordnance to the amount of \$8,280,093, and used the proceeds to defray its ordinary expenses. But the whole of that sum is subtracted as though it were not an expenditure of the War Department. It should manifestly be set down as a charge which the government has had to pay. It would be proper, of course, to account for it on the other side of the ledger as "receipts from sales of property," and doubtless it was so entered; but to cut it out of the total expenditures of the year because it came from the sale of old property does not correctly state the expenditures of the Department.

I make this explanation before presenting a table which I shall offer in a moment, and in which, for the sake of comparison, I have in the main followed the Treasury mode of statement.

In order more clearly to understand the nature of our expenditures, I have endeavored to analyze more closely some of

the large groups set down in the Secretary's report. For instance, I find under the head of "Miscellaneous Expenses" over forty million dollars. It will be interesting to know some of the larger items of which that sum is composed. I find, also, that the War Department appears to be charged with \$44,080,084.82 as the expenditures for the year. This sum contains many large amounts that do not properly belong to the expense of maintaining our military establishment. For example, an item of more than \$10,000,000 of bounty and back pay to soldiers of the late war, is no part of the cost of maintaining our present army; also, \$2,379,246 paid to States to reimburse them for raising volunteers; also, \$4,834,277 for the improvement of rivers and harbors; and several similar items, which it would be very unjust to set down as the current expenses of our military establishment.

The accounts should be so grouped as to do justice to all the departments of the government. In the following table I have followed the Secretary's method of stating the accounts in all respects except these. I have omitted the \$9,016,794 expenditure for premium on bonds purchased, and have put down only the \$123,954, the difference between that sum and the proceeds from premium on sales of coin. I have also reckoned the \$8,280,093, proceeds of sales of ordnance, as money expended by the War Department. These changes vary but little the total expenditure of the year from the statement of the Secretary. In order to understand more clearly the nature of the expenditures for the last fiscal year, I will distribute the amounts into three groups, as follows:—

1. *The Amounts paid during the Year on Account of the late War.*

Interest on the public debt . . . . .	\$125,576,565.93
Expenses of refunding the national debt . . . . .	332,173.04
Difference between premium on bonds purchased and gold sold . . . . .	123,954.79
Pensions . . . . .	34,443,894.88
National asylum for volunteers . . . . .	296,287.32
Bounties and back pay to volunteer soldiers . . . . .	10,656,300.53
Reimbursing States for expenses of volunteers . . . . .	2,379,246.72
Horses and other property lost in service in the late war . . . . .	228,836.75
Illegal capture of British vessels and cargoes during the late war . . . . .	760,728.72
Return of captured and abandoned property, and expenses of suits . . . . .	743,540.09
Capture of Jefferson Davis . . . . .	1,611.50
Total . . . . .	\$175,543,140.27

## PUBLIC EXPENDITURES.

Amount brought forward . . . . . \$175,543,140.27

2. *Present Military and Naval Establishments.*

For the Army, after deducting payments for the late war, already mentioned in Group 1, and for improvements of rivers and harbors . . . . . \$25,683,524.25  
 For the Navy . . . . . 19,431,027.21  


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 45,114,551.46

3. *The Civil Service proper, being all the Expenditures not named in the first and second Groups.*

The civil list, being expenses of legislative, judicial, and executive officers of the government, not including internal revenue and customs departments . . . . . \$15,802,599.98  
 Foreign intercourse . . . . . 1,604,373.87  
 Indians . . . . . 7,426,997.44  
 Improvements of rivers and harbors . . . . . 4,834,277.88  
 Public buildings and grounds, including repairs . . . . . 3,286,011.30  
 Expenses of mints, coast survey, lighthouses, revenue-cutter service, and marine hospitals . . . . . 6,134,701.12  
 Cost of collecting customs duties, exclusive of revenue-cutter service, and building and repairing custom-houses . . . . . 10,543,199.60  
 Cost of assessing and collecting internal revenue . . . . . 9,001,680.71  
 Deficiency in revenue of the Post-Office Department, including carrying of free mail matter . . . . . 4,400,000.00  
 Expenses of the eighth and ninth censuses . . . . . 1,955,111.13  
 Mail steamship service . . . . . 731,250.00  
 Refunding of Massachusetts interest on advances for war of 1812-15 . . . . . 678,362.41  
 Survey of public lands . . . . . 564,940.76  
 Miscellaneous . . . . . 3,943,243.50  


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 70,906,749.70  
 Grand total . . . . . \$291,564,441.43

It will be seen that I have placed in the first group all those items of expenditure, exclusive of the principal of the public debt, which are paid directly for expenses of the late war. These items explain themselves, and amount to \$175,543,140.27. The second group exhibits the current military and naval expenses of the government, excluding expenditures for the improvement of harbors and rivers, which is properly a civil expenditure, and also excluding payments for the late war, which belong to another group. In the third group I have placed the civil expenditures proper, — all that do not belong to the first two groups. From this table it appears that, of the expenses during the past year, sixty and

one half per cent of the whole amount, leaving out the payment of the principal of the public debt, was directly for the late war; fourteen per cent was for the support of our army and navy; and twenty-five and one half per cent, for all the other departments of the government. Or, stated more summarily, sixty and one half per cent of all our expenditures last year was for the war, and thirty-nine and one half per cent for current expenses.

It will be interesting to compare this analysis with a similar analysis of the expenses of the British government for the past year. This table, which I have compiled from official reports, makes the same three groups for the expenditures of that country that I have made for our own.

*British Expenditures for 1871.*

Items.	Totals.	Per cent.
Charges on the public debt (interest) . . . . .	£26,826,436	38½
Army . . . . .	£13,430,400	
Navy . . . . .	9,456,641	
	22,887,041	33
All other expenditures . . . . .	£49,713,477 19,986,062	28½
Total . . . . .	£69,699,539	100

The interest on the British debt is thirty-eight and one half per cent of the whole annual expenditures. The cost of the army and navy is thirty-three per cent of the whole. These two elements, being the cost of past and prospective wars, make seventy-one and one half per cent of the whole expenditure. All other expenditures of their government amount to but twenty-eight and one half per cent. It is curious to observe that their civil establishment costs almost the same per cent of the whole expenditures as ours does. But while thirty-three per cent of all of their expenditures is for their present military and naval establishments, ours cost but fourteen per cent, — less than one half of their rate.

Leaving these general considerations, I call the attention of the committee to the appropriations for next year, and to the bill under consideration. The Committee on Appropriations found that a most excellent example had been set last year and the year before by their predecessors. In almost every case of a continuing expenditure, we found it safe to take their appropriations as the basis of our own. We have

not yet gone over the twelve appropriation bills, which we are required to present for the action of this House; but we have gone so nearly over them that I am able to state approximately what the result will be.

Gentlemen will remember that our appropriations are of two kinds, permanent and annual. The permanent appropriations are those provided for by statute to meet special obligations of the government as they arise, and for the payment of which no specific act of appropriation is necessary except the law which created the obligation. These include interest on the public debt; expenditures of national loans; repayment of taxes improperly collected; bounties and back pay to soldiers of the late war; property lost in the military service; support of the national asylums for disabled volunteer soldiers; marine hospitals; the Smithsonian Institution, and many other similar expenditures. The amount of this class of appropriations for the next fiscal year will be about nine million dollars less than for the current year. The amount of permanent appropriations for the fiscal year 1871 was \$183,302,243; the amount for the fiscal year 1872 is estimated at \$163,601,861; and for the fiscal year 1873, at \$154,961,237. The other class of appropriations are those provided for each year in the regular appropriation bills. The amount of appropriations of this class made last year for the current fiscal year was \$162,096,526.60. In the corresponding bills for the next fiscal year the committee will recommend appropriations which amount to about \$152,000,000. We hope that when these bills shall have become laws the total amount appropriated in them will be at least \$9,000,000 less than the corresponding appropriations for last year.

I next call attention briefly to the Legislative, Executive, and Judicial Bill now before the House. As it stands in the print before us it appropriates \$17,772,753 for the fiscal year ending June 30, 1873. The corresponding bill of last year, which made appropriations for the current fiscal year, as it was first introduced, appropriated \$18,635,840. When it became a law, the amount had increased to \$20,772,402. I am authorized to recommend some increase above the amounts named in the print before us, but I hope that increase will not carry the bill much, if any, above \$18,000,000. The estimates on which this bill is based call for the sum of \$20,009,418. The committee have cut down those estimates, so that the pending bill appro-

priates \$2,336,000 less than the estimates, and \$3,000,000 less than the amount appropriated for the same objects last year. Justice to the Committee on Appropriations of last year requires me to say that we claim no merit for the whole amount of this reduction. The leading item is a reduction of \$1,000,000 in the amount appropriated as compensation and mileage of the members of the House of Representatives. We propose this for the reason that this appropriation bill will not apply to any Congress but the present. This Congress will expire on the 4th of March, 1873, and this appropriation is for the year ending on the 30th of June following. Under our present laws there will be no Congress in session between March and June of 1873; there will be no organized House of Representatives until the following December. We thought it unnecessary to appropriate a large sum of money for a Congress that will not assemble within the fiscal year for which these appropriations are made.

We have made a reduction of \$680,000 in the appropriation for assessing and collecting internal revenue; and that reduction is accomplished by a clause in the bill limiting the compensation of collectors of revenue to \$4,500 a year, which limitation I hope will meet the approval of the House. The work of collecting the internal revenue has been greatly reduced and simplified, and a very general impression prevails that we pay too much money for the work. There are many other items of reduction which will be noticed as we proceed to consider the bill by sections.

We have added a few clauses to protect the Treasury against fraudulent claims, and to cut off some expenditures which have grown up as a matter of custom, but which appear to us unnecessary.

I may venture to say for the Committee on Appropriations, that, while they have endeavored to follow the line of rigid and reasonable economy, they have not forgotten the vastness and variety of the functions of the government, whose operations should be maintained vigorously and generously. It would be a mistake to cut down expenditures in any department, so as to cripple any work which must be done, and which can better be done at once and ended, by a liberal appropriation, than to drag on through a series of years by reason of insufficient appropriations. It is better to make a reduction of whole

groups, when that can be done, than merely to cut down individual items.

But I hope that members of the House will bear in mind that in many of our civil departments we have large forces of employees, which the settlement of war accounts made necessary, and which, when their work is done, it will require no little courage and effort to reduce to a peace basis. In doing so, it would be well for us to adopt the sentiment recently expressed by Mr. Gladstone, in the House of Commons, that "the true way to save is not the cutting down of single items, but a more complete organization of our departments, and the determination that, for whatever the country spends, it shall have full value in labor, talents, or materials."

In conclusion, Mr. Chairman, I thank the members of the House for the patience with which they have listened to these dry details, and for the kind attention with which they have honored me.

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SEE the article entitled "National Appropriations and Misappropriations" for an interesting discussion of that part of this speech in which Mr. Garfield considers the future course of national expenditures in the United States.



# NATIONAL AID TO EDUCATION.

SPEECH DELIVERED IN THE HOUSE OF REPRESENTATIVES.

FEBRUARY 6, 1872.

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ON the 15th of January, 1872, Mr. L. W. Perce, of Mississippi, introduced from the Committee on Education and Labor a bill to establish an Educational Fund, the first section of which provided that the net proceeds of the public lands should be forever set apart for the education of the people. Other sections provided that one half of such net proceeds, at the close of each fiscal year, should be invested in five per cent bonds of the United States, the same to constitute a perpetual educational fund; and that the other half of said proceeds, together with the yearly interest on the perpetual endowment, should be apportioned among the States for the purposes of common education, according to their population, on their complying with certain terms and conditions set forth in the bill. The bill passed the House, February 8, but was not considered in the Senate. Mr. Garfield supported the measure in this speech.

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“The preservation of the means of knowledge among the lowest ranks is of more importance to the public than all the property of all the rich men in the country.”—JOHN ADAMS, *Works*, Vol. III. p. 457.

“That all education should be in the hands of a centralized authority, whether composed of clergy or of philosophers, and be consequently all framed on the same model, and directed to the perpetuation of the same type, is a state of things which, instead of becoming more acceptable, will assuredly be more repugnant to mankind with every step of their progress in the unfettered exercise of their highest faculties.”—JOHN STUART MILL, *The Positive Philosophy of Auguste Comte*, p. 92.

MR. SPEAKER,—In the few minutes given me, I shall address myself to two questions. The first is, What do we propose by this bill to give to the cause of education? and the second is, How do we propose to give it? Is the gift itself wise? and is the mode in which we propose to give it wise? Answers to these questions will include all I have to say.

And, first, we propose, without any change in the present land policy, to give the net proceeds of the public lands to the cause of education. During the last fifteen years these proceeds have amounted to a little more than thirty-three million dollars, or one per cent of the entire revenues of the United States for that period. The gift is not great; but yet, in one view of the case, it is princely. To dedicate to the cause of education, for the future, a fund which is now one per cent of the revenues of the United States, is, to my mind, a great thought, and I am glad to give it my indorsement. It seems to me that in this act we shall almost copy its prototype in what God himself has done on this great continent of ours. In the centre of its greatest breadth, where otherwise there might be a desert forever, he has planted a chain of the greatest lakes on the earth; and the exhalations arising from their pure waters every day come down in gracious showers, and make that a blooming garden which otherwise might be a desert waste. It is proposed that the proceeds arising from the sale of our wilderness lands, like the dew, shall fall forever, not upon the lands, but upon the minds of the children of the nation, giving them, for all time to come, all the blessing and growth and greatness that education can afford. That thought—I say it again—is a great one, worthy of a great nation; and this country will remember the man who formulated it into language, and will remember the Congress that made it law.

The other point is one of even greater practical value and significance just now than the one to which I have referred. It is this: How is this great gift to be distributed? We propose to give it, Mr. Speaker, through our American system of education; and, in giving it, we do not propose to mar in the least degree the harmony and beauty of that system. If we did, I should be compelled to give my voice and vote against the measure. Here and now, when we are inaugurating this policy, I desire to state for myself, and, as I believe, for many who sit around me, that we do here solemnly protest that this gift is not to destroy or disturb what I venture to call our great American system of education, but is rather to be used through that system, and to be wholly subordinated to it. On this question I have been compelled heretofore to differ from many friends of education, here and elsewhere,—many who think it wise for Congress, in certain contingencies, to take charge of the

system of education in the States. I will not now discuss the constitutional aspects of that question; but I desire to say, that all the philosophy of our educational system forbids that we should take such a course.

In the few moments awarded to me, I wish to make an appeal for our system as a whole as against any other known to me. We look sometimes with great admiration at a government like Germany, that can command the light of its education to shine everywhere, and can enforce its school laws everywhere, throughout the empire. Under our system we do not rejoice in that, but we rather rejoice that here two forces play with all their vast power in the field of education. The first is that of the local municipal authority under our State governments; there is the centre of responsibility; there is the chief educational power; there can be enforced Luther's great thought of placing on magistrates the duty of educating children.

Luther was the first to perceive that Christian schools were an absolute necessity. In a celebrated paper addressed to the municipal councillors of the Empire in 1524, he demanded the establishment of schools in all the villages of Germany. To tolerate ignorance was, in the energetic language of the reformer, to make common cause with the Devil. The father of a family who abandoned his children to ignorance was a consummate rascal. Addressing the German authorities, he said:—

“Magistrates, remember that God formally commands you to instruct children. This Divine commandment parents have transgressed by indolence, by lack of intelligence, and because of over work. The duty devolves upon you, magistrates, to call fathers to their duty, and to prevent the return of these evils which we suffer to-day.

“Give attention to your children; many parents are like ostriches, . . . content to have laid an egg, but caring for it no longer. Now, that which constitutes the prosperity of a city is not its treasures, its strong walls, its beautiful mansions, and its brilliant decorations. The real wealth of a city, its safety and its force, is an abundance of citizens, instructed, honest, and cultivated. If in our days we rarely meet such citizens, whose fault is it, if not yours, magistrates, who have allowed our youth to grow up like neglected shrubbery in the forest? Ignorance is more dangerous for a people than the armies of an enemy.”

After quoting this passage from Luther, Laboulaye, in his eloquent essay entitled, *L'État et ses Limites*, says: “This familiar and true eloquence was not lost. There is not a Protestant

country which has not placed in the front rank of its duties the establishment and maintenance of popular schools.”<sup>1</sup>

The duties enjoined in these great utterances of Luther are recognized to the fullest extent by the American system. But they are recognized as belonging to the authorities of the State, the county, the township, the local communities. There these obligations may be urged with all the strength of their high sanctions; there may be brought to bear all the patriotism, all the morality, all the philanthropy, all the philosophy, of our people; and there it is brought to bear in its noblest and best forms.

But there is another force even greater than that of the State and the local governments. It is the force of private voluntary enterprise, — that force which has built up the multitude of private schools, academies, and colleges throughout the United States, not always wisely, but always with enthusiasm and wonderful energy. I say, therefore, that our local self-government, joined to and co-operating with private enterprise, has made the American system of education what it is.

In further illustration of its merits, I beg leave to state a few facts of great significance. The governments of Europe are now beginning to see that our system is better and more efficient than theirs. The public mind of England is now, and has been for several years, profoundly moved on the subject of education. Several commissioners have lately been sent by the British government to examine the school systems of other countries, and lay before Parliament the results of their investigations, so as to enable that body to profit by the experience of other nations.

Rev. J. Frazier, one of the assistant commissioners appointed for this purpose, visited this country in 1865, and in the following year made his report to Parliament. While he found much to criticise in our system of education, he did not withhold his expressions of astonishment at the important part which private enterprise played in our system. In concluding his report, he speaks of the United States as “a nation of which it is no flattery or exaggeration to say, that it is, if not the most highly, yet certainly the most generally, educated and intelligent people on the globe.”

But a more valuable report was delivered to Parliament in

<sup>1</sup> Pages 204, 205.

1866, by Matthew Arnold, one of the most cultivated and profound thinkers of England. He was sent by Parliament to examine the schools and universities of the Continent; and after visiting all the leading states of Europe, and making himself thoroughly familiar with their systems of education, he delivered a most searching and able report. In the concluding chapter, he discusses the wants of England on the subject of education. No one who reads that chapter can fail to admire the boldness and power with which he points out the chief obstacles to popular education in England. He exhibits the significant fact, that, while during the last half-century there has been a general transformation in the civil organization of European governments, England with all her liberty and progress, is shackled with what he calls a civil organization, which is, from the top to the bottom of it, not modern. He says: —

“Transform it she must, unless she means to come at last to the same sentence as the church of Sardis: ‘Thou hast a name that thou livest, and art dead.’ However, on no part of this immense task of transformation have I now to touch, except on that part which relates to education. But this part, indeed, is the most important of all; and it is the part whose happy accomplishment may render that of all the rest, instead of being troubled and difficult, gradual and easy. . . .

“Obligatory instruction is talked of. But what is the capital difficulty in the way of obligatory instruction, or indeed any national system of instruction, in this country? It is this: that the moment the working-class of this country have this question of instruction really brought home to them, their self-respect will make them demand, like the working-classes on the Continent, *public* schools, and not schools which the clergyman, or the squire, or the mill-owner, calls ‘my school.’ And what is the capital difficulty in the way of giving them public schools? It is this: that the public school for the people must rest upon the municipal organization of the country. In France, Germany, Italy, Switzerland, the public elementary school has, and exists by having, the commune and the municipal government of the commune as its foundations, and it could not exist without them. But we in England have our municipal organization still to get; the country districts, with us, have at present only the feudal and ecclesiastical organization of the Middle Ages, or of France before the Revolution. . . . The real preliminary to an effective system of popular education is, in fact, to provide the country with an effective municipal organization; and here, then, is at the outset an illustration of what I said, that modern societies need a civil organization which is modern.”<sup>1</sup>

<sup>1</sup> Schools Inquiry Commission, Vol. VI. pp. 624, 625 (London, 1868).

In November, 1869, a report was made to the Minister of Public Instruction, by M. C. Hippeau, a man of great learning, and who, in the previous year, had been ordered by the French government to visit the United States and make a careful study of our system of public education. In summing up his conclusions at the end of his report, he expresses opinions which are remarkable for their boldness, when we remember the character of the French government at that time; and his recommendations have a most significant application to the principle under consideration. I translate his concluding paragraphs: —

“What impresses me most strongly as the result of this study of public instruction in the United States is the admirable power of private enterprise in a country where the citizens early adopted the habit of foreseeing their own wants for themselves; of meeting together and acting in concert; of combining their means of action; of determining the amount of pecuniary contribution which they will impose upon themselves, and of regulating its use; and, finally, of choosing administrators who shall render them an account of the resources placed at their disposal, and of the use which they may make of their authority. . . .

“The marvellous progress made in the United States during the last twenty years would have been impossible if the national life, instead of being manifested on all points of the surface, had been concentrated in a capital, under the pressure of a strongly organized administration, which, holding the people under constant tutelage, wholly relieved them from the care of thinking and acting by themselves and for themselves.

“Will France enter upon that path of decentralization which will infallibly result in giving a scope now unknown to all her vital forces, and to the admirable resources which she possesses? In what especially concerns public instruction, shall we see her multiplying, as in America, those free associations, those generous donations, which will enable us to place public instruction on the broadest foundation, and to revive in our provinces the old universities that will become more flourishing as the citizens shall interest themselves directly in their progress? . . . . To accomplish this, it will also be necessary that governments, appreciating the wants of their epoch, shall with good grace relinquish a part of the duties now imposed upon them, and aid the people in supporting the rigid *régime* of liberty, by enlarging the powers of the municipal councils and of the councils of the departments, by favoring associations and public meetings, by opening the freest field to the examination and discussion of national interests; in short, by deserving the eulogy addressed by a man of genius to a great minister of France: ‘Monseigneur, you have labored ten years to make yourself useless.’”<sup>1</sup>

<sup>1</sup> *Instruction Publique aux États-Unis*, pp. 340-342 (Paris, 1870).

I have made these citations to show how strongly the public thought of Europe is moving toward our system of public education, as better and freer than theirs. I do not now discuss the broader political question of State and municipal government as contrasted with centralized government. I am considering what is the best system of organizing the educational work of a nation, not from the political standpoint alone, but from the standpoint of the schoolhouse itself. This work of public education partakes in a peculiar way of the spirit of the human mind in its efforts for culture. The mind must be as free from extraneous control as possible,— must work under the inspiration of its own desire for knowledge; and, while instructors and books are necessary helps, the fullest and highest success must spring from the power of self-help. So the best system of education is that which draws its chief support from the voluntary effort of the community, from the individual efforts of citizens, and from those burdens of taxation which they voluntarily impose upon themselves. The assistance proposed in this bill is to be given through the channels of this our American system. The amount proposed is large enough to stimulate to greater effort and to general emulation the different States and the local school authorities, but not large enough to carry the system on, and to weaken all these forces by making the friends of education feel that the work is done for them without their own effort. Government will be only a help to them in the work of education, not a commander.

In the pending bill, we disclaim any control over the educational system of the States. We only require reports of what they do with our bounty; and those reports, brought here and published for the information of the people, will spread abroad the light, and awaken the enthusiasm and emulation of our people. This policy is in harmony with the act of 1867 creating the Bureau of Education, whose fruits have already been so abundant in good results. I hope that the House will set its seal of approval on our American system of education, and will adopt this mode of advancing and strengthening it.

## DR. SAMUEL F. B. MORSE.

REMARKS MADE AT THE MORSE MEMORIAL MEETING, HELD  
IN THE HALL OF THE HOUSE OF REPRESENTATIVES,

APRIL 16, 1872.

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THE grave has just closed over the mortal remains of one whose name will be forever associated with a series of achievements in the domain of discovery and invention the most wonderful our race has ever known,—wonderful in the results accomplished, more wonderful still in the agencies employed, most wonderful in the scientific revelations which preceded and accompanied their development.

The electro-magnetic telegraph is the embodiment—I might say the incarnation—of many centuries of thought, of many generations of effort to elicit from Nature one of her deepest mysteries. No one man, no one century, could have achieved it. It is the child of the human race,—“the heir of all the ages.” How wonderful were the steps which led to its creation!

The very name of this telegraphic instrument bears record of its history,—“electric, magnetic”; the first word from the bit of yellow amber, whose qualities of attraction and repulsion were discovered by a Grecian philosopher twenty-four centuries ago, and the second from Magnesia, the village of Asia Minor where first was found the loadstone whose touch forever turns the needle to the north. These were the earliest forms in which that subtle, all-pervading force revealed itself to men. In the childhood of the race, men stood dumb in the presence of its more terrible manifestations. When it gleamed in the purple aurora, or shot dusky-red from the clouds, it was the eye-flash of an angry God, before whom mortals quailed in helpless fear. When the electric light burned blue on the spear-points of the Roman legions, it was to them and their leaders a portent from



the gods, beckoning to victory. When the phosphorescent light, which the sailors still call St. Elmo's fire, hovered on the masts and spars of the Roman ship, it was Castor and Pollux, twin gods of the sea, guiding the mariner to port, or the beacon of an avenging god luring him to death.

When we consider the startling forms in which this element presents itself, it is not surprising that so many centuries elapsed before man dared to confront and question its awful mystery. And it was fitting that here, in this new, free world, the first answer came, revealing to our Franklin the great truth, that the lightning of the sky and the electricity of the laboratory are one, — that in the simple electric toy are embodied all the mysteries of the thunderbolt.

Until near the beginning of the present century, the only known method of producing electricity was by friction. But the discoveries of Galvani in 1789, and of Volta in 1800, resulted in the production of electricity by the chemical action of acids upon metals, and gave to the world the galvanic battery, the voltaic pile, and the electric current. This was the first step in that path of modern discovery which led to the telegraph. But further discoveries were necessary to make the telegraph possible. The next great step was taken by Oersted, the Swedish Professor, who, in 1819–20, made the discovery that the needle, when placed near the galvanic battery, was deflected at right angles to the electric current. In the four modest pages in which Oersted announced this discovery to the world, the science of electro-magnetism was founded. As Franklin had exhibited the relation between lightning and the electric fluid, so Oersted exhibited the relation between magnetism and electricity. From 1820 to 1825 his discovery was further developed by Davy and Sturgeon of England, and Arago and Ampère of France. They found that, by sending a current of electricity through a wire coiled around a piece of soft iron, the iron became a magnet while the current was passing, and ceased to be a magnet when the current was broken. This gave an intermittent power, — a power to grapple and to let go, at the will of the electrician. Ampère suggested that a telegraph was possible by applying this power to a needle. In 1825 Barlow of England made experiments to verify this suggestion of the telegraph, and pronounced it impracticable on the ground that the batteries then used would not send the fluid

through even two hundred feet of wire without a sensible diminution of its force. In 1831 Joseph Henry, now Secretary of the Smithsonian Institution, then a Professor at Albany, New York, as the result of numerous experiments, discovered a method by which he produced a battery of such intensity as to overcome the difficulty spoken of by Barlow in 1825. By means of this discovery, he magnetized soft iron at a great distance from the battery, pointed out the fact that a telegraph was possible, and actually rang a bell by means of the electro-magnet acting on a long wire. This was the last step in the series of great discoveries which preceded the invention of the telegraph.

When these discoveries ended, the work of the inventor began. It was in 1832, the year that succeeded the last of these great discoveries, when Professor Morse first turned his thoughts to that work whose triumph is the triumph of his race. He had devoted twenty-two years of his manhood to the study and practice of art. He had sat at the feet of the great masters of Europe, and had already, by his own works of art, achieved a noble name; and he now turned to the grander work of interpreting to the world that subtle and mysterious element with which the thinkers of the human race had so long been occupied.

I cannot here recount the story of that long struggle through which he passed to the accomplishment of his great result; how he struggled with poverty, with the vast difficulties of the subject itself, with the unfaith, the indifference, and the contempt which almost everywhere confronted him; how, at the very moment of his triumph, he was on the verge of despair, when in this very Capitol his project met the jeers of almost a majority of the national legislature. But when has despair yielded to such a triumph? When has such a morning risen on such a night? To all cavillers and doubters this instrument and its language are a triumphant answer. That chainless spirit which fills the immensity of space with its invisible presence,—which dwells in the blaze of the sun, follows the path of the farthest star, and courses the depths of earth and sea,—that mighty spirit has at last yielded to the human will. It has entered a body prepared for its dwelling. It has found a voice through which it speaks to the human ear. It has taken its place as the humble servant of man; and through all coming

time its work will be associated with the name and fame of Samuel F. B. Morse.

Were there no other proof of the present value of his work, these alone would suffice, — that throughout the world, whatever the language or the dialect of those who use it, the telegraph speaks a language whose first element is the alphabet of Morse; and in 1869, of the sixteen thousand telegraphic instruments used on the lines of Europe, thirteen thousand were of the pattern invented by him. The future of this great achievement can be measured by no known standards. Morse gave us the instrument and the alphabet. The world is only beginning to spell out the lesson, whose meaning the future will read.

# THE PRESIDENTIAL CAMPAIGN OF 1872.

SPEECH DELIVERED AT WARREN, OHIO.

JULY 31, 1872.

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TOWARDS the close of President Grant's first administration, a considerable disaffection appeared in the Republican party. This culminated in the nomination for the Presidency, at Cincinnati, in June, 1872, of Horace Greeley, by a so-called Liberal-Republican Convention, and also by the National Democratic Convention at Baltimore in July following. The Republicans renominated President Grant. The following is the speech in which Mr. Garfield opened the campaign, delivered before the Convention of the Nineteenth Congressional District, which had just nominated him for the sixth time to the House of Representatives.

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**G**ENTLEMEN OF THE CONVENTION AND FELLOW-CITIZENS, I should do injustice to myself if I did not in the strongest terms express my gratitude and my gratification for this renewed proof of your confidence and approval in unanimously nominating me to represent this district in the Forty-third Congress. Ten years ago, while I was with the army in the field, you first chose me as your Representative in Congress. The period which has elapsed since then has been filled with events of the most important and startling character. The problems which have confronted the national legislature have been of more than ordinary difficulty; but through them all I have enjoyed the benefit of your counsels and have felt the strength of your constant support. You have never asked me to be the mere echo of the party voice, or the unquestioning follower of party policy. Few Congressional districts have a nobler record than this. With no city in its limits large enough to attract those elements which corrupt and poison the fountains of political power; with a population equally removed from distressing poverty and from

that excess of wealth which sometimes brings with it a disregard of the rights and interests of others; with a high average of intelligence, and habits of reading and independently judging of public affairs, — the people of this district, for more than half a century, have held and expressed bold and independent opinions on all public questions. During that whole period they have supported and defended their representative in maintaining an independent position in the national legislature, and whenever he has acted with honest and intelligent courage in the interests of truth, they have generously sustained him, even when he has differed from them in minor matters of opinion and policy. Another circumstance is also worthy of notice. There is in this district no one great interest which overshadows all others, and compels its representative to become the special advocate of one interest to the neglect of all others. This is a national constituency. That course of legislation and administration which will best subserve the interests of the whole country will also best subserve the interests of the people of this district.

You can hardly realize what confidence and strength it gives a representative to know that he has such a district behind him. It enables him to aid in maintaining for the national legislature that position of independent judgment which holds undisturbed the balance of power between the co-ordinate branches of the government. It is not in accordance with the spirit of our government that representatives should be chosen on the merits or demerits of the President, or of any party leader, nor should an Executive be chosen to share his powers with members of Congress. It was the anxious care of the founders of this republic that the co-ordinate branches of the government should each, as far as possible, be independent in its own sphere. The independence of the legislature depends upon the independent action of its members, and that in turn upon the independent character and spirit of the people who choose them. The discussion of this topic leads me to consider a subject which at the present moment occupies the front rank in national questions, and on which much will be said on both sides during the coming campaign; I allude to the reform in our civil service.

No man whose vision is not utterly blinded by partisan feeling will deny that our civil service has fallen far below the high place which the founders intended it should occupy; and it is

no doubt true that the doctrine of "spoils," introduced in the days of Jackson, has been the chief motive power in dishonoring and degrading that service. But a careful study of the subject has led me to conclude that at the present moment another element is at work even more dangerous than the doctrine of "spoils"; it is the tendency of the different departments of the government to interfere with the independence of each other. While it is made the constitutional duty of the President to recommend to Congress such measures as he considers for the public good, it was never intended that he should dictate to Congress the policy of the government, nor use the power of his great office to force upon Congress his own peculiar views of legislation. The tendency to do this, beginning in the days of Jackson, had a steady growth until its culmination in the administration of Andrew Johnson, when adherence to his policy of reconstruction was made the test of party fealty and the ground of all Executive favors. The effort to impeach Johnson was really an effort to protect Congress against the unlawful encroachments of Executive power. Curiously enough, since 1867 a strong tendency has been developed in the opposite direction, and I do not hesitate to declare that we are now in greater danger of disturbing the balance and distribution of powers, by the interference of Congress with the Executive office, than we were in the days of Johnson from Executive usurpation.

By the provisions of the Civil Tenure Act the President cannot remove an officer even for the worst of crimes; he can only suspend him until the Senate approves or disapproves the nomination of a successor. This has placed in the hands of the Senate so much control over Executive appointments that it has at last resulted in a custom, now rigidly followed by the Senate, not to confirm a nomination for an office in any State unless the Administration Senator from that State approves. This substantially subjects the President to the dictation of the Senators and Representatives in whose State he wishes to make an appointment. Thus his action is virtually no longer free; his appointments must be the result of compromise with the Senators and members; and yet, under our theory of government, the President is held responsible for the character of the officers he appoints. Bad appointments have been made under the present Administration, but most of them have been made under the conditions I have named.

Mr. Greeley insists that the first step toward civil service reform is the adoption of the one-term principle, by which the prospect of a re-election shall be removed from the Executive; but if I am right in the views already expressed, the first step toward reform lies farther back, and must be the restoration of that independence to the legislative and executive departments respectively which the Constitution requires. Let it once be fixed and understood that neither Senators nor Representatives, singly or combined, can dictate appointments to the Executive, and then again, as in former days, the whole responsibility of the selection of officers will justly rest upon the President and the heads of departments. No time should be lost in inaugurating this reform.

Many citizens and a few Senators and Representatives have sustained the President in his attempts to reform the civil service. He has undertaken to establish a body of rules by which selections for office shall be made on the ground of personal merit and fitness for the public service. But many members of Congress of both parties have denounced the attempt, and loaded it with all the odium they could command. I have done what I could to sustain the President in this effort; and though something has been accomplished, yet I am satisfied that no plan of competitive examination or advisory boards can cure the evil until the Executive is left free and untrammelled in the exercise of his constitutional powers, and is held to a strict responsibility for the result of his action. During the debate on the appropriation to carry into effect his plan of civil service reform, I called on the President in company with my colleague, Hon. A. F. Perry, of Cincinnati, and had a full conversation on the subject. The President expressed an earnest desire to better the condition of the service, but it was easy to see that with him the chief obstacles in the way of success were those to which I have alluded. No mere change of administration will solve the difficulty. Mr. Greeley himself has lately said that in the case of his election he shall make no difference between his Republican and Democratic supporters in his appointments to office, thus tacitly admitting that the offices of the government are to be for his supporters. That is no civil service reform.

Turning from these general reflections, I now call attention to the more striking features of the campaign now opening. If

we were to judge alone by the platforms of the opposing parties, we might be in doubt whether this campaign is a contest for principles or a mere struggle between men. The battle has already begun in a spirit of unusual violence, and bids fair to be as fierce and disreputable in the spirit in which it is carried on as any we have ever witnessed. Neither candidate ought to be elected by force of the abuse heaped upon him by his adversaries; but the issues deserve to be discussed with manly fairness and justice. Unless the Democratic Convention soon to meet in Louisville shall put another candidate in the field, the choice for the Presidency will lie between General Grant and Horace Greeley. The relative merits of the two men, the spirit, character, and opinions of the parties represented by each, and the dangers to be apprehended from the accession to power of one or the other of those parties, are fair matters of discussion. No doubt each candidate is open to criticisms more or less severe. No doubt each party can be justly charged with errors of judgment and faults of conduct and of principle. All these are legitimate topics of debate, and must be considered in making an intelligent choice. For myself I prefer General Grant and the party which has put him in nomination, to Horace Greeley and the party which supports him. I shall indicate briefly the reasons for this preference.

The first is found in the past career of the two parties. While it is true that no party can stand on its record alone, yet it is also true that its record shows the spirit and character of the organization, and enables us to judge what it will probably do in the future. The most ardent defender of the Democratic party will not deny that during the last twelve years the history of that party has been a record of repeated failures; of doctrines strenuously advocated, but soon after exploded and abandoned; of measures recommended to the nation but rejected as unworthy of adoption, and now no longer finding any considerable number of supporters even in the party itself. It will perhaps be said by some defender of the new movement that the party now in the field against the Republican party is no longer the Democracy which we have fought for the last twelve years. They may say in the exuberance of their hopes for the future, as Senator Schurz said in his St. Louis speech a few days since: "The Democratic party no longer recognizes itself. . . . It has been swallowed up by the new era. . . ."



No party can do what the Democratic party has done without dropping its historical identity. . . . It cannot return to its old grooves; that is impossible; the first attempt would shiver it to atoms." This view of the brilliant Senator from Missouri would be possible if the Democratic party had, by any act or admission of its own, consented to dissolve its organization. But let it not be forgotten that this very month the Democracy assembled in convention at Baltimore, with a full body of delegates from each State and from each Congressional district of the Union; that the call for this convention was strictly to the Democracy, — a call to a convention to which none but Democrats were invited; that its organization and proceedings were regular in every respect; that in the adoption of a platform it had before it all the time-honored principles of Democracy, from the days of Jackson down, from which to select; and the fact that it adopted a platform made by its late enemies, which contradicted every important doctrine put forth by the party for the last ten years, proves nothing more than that it has chosen to try new doctrines in the hope of better success. Let it not be forgotten that in nominating a candidate it had the whole field of Democratic statesmen from which to choose. The fact that it chose for its candidate a man who has been for forty years its most conspicuous enemy is by no means an acknowledgment that it has dissolved its organization, but only that it has chosen to wear a mask, and put on the uniform of its enemy as a stratagem of war. Even if twenty per cent of the supporters of Horace Greeley should be those who have hitherto acted with the Republican party, the significant fact will still remain that eighty out of every hundred of his supporters will be Democrats of the old school, acting through an unbroken organization, and inevitably controlling the policy of the new party. Twenty-seven hundred thousand Democrats voted for the Democratic candidate at the Presidential election of 1868; and it will be vain and idle for a few, or even for many thousand Republicans, to hope that they can leaven this enormous lump and convert it, from what they know it has so long been, into an earnest, unselfish, pure, and patriotic party. If the new movement had been preceded by an actual formal dissolution of the Democracy, and the formation of a new party, there might have been reasonable grounds for expecting a better result. But I fear that our Republican friends who have

gone into it will find themselves like those ancient travellers who entered the cave of the sorcerer hoping to seize and subjugate him, but were themselves robbed and enslaved by the giants of the cave. I ask these Republicans whether they have full confidence that the great Democratic party, whose alliance they now seek, really intends, as it declares in its platform, to "recognize the equality of all men before the law, without regard to race or color," and to "resist any reopening of questions settled by the late amendments to the Constitution." What do they see in the past conduct of that party to give them any such assurance? Do they believe that that party, which has long assailed the sanctity of our public credit, will now insist that it "shall be sacredly maintained"? Do they really believe that the party, so many of whose members followed Mr. Pendleton in his theory of greenback expansion, will now insist on a speedy return to specie payments? If they believe all these things, as promised in the platform, I can only say that they will have no difficulty in believing that the age of miracles is about to return. Let the old members of the Liberty party, who for forty years have struggled through evil and through good report for the enfranchisement of the colored race, but who now join the new movement, call upon their colored fellow-citizens north and south to trust their new-found liberties to the hands of that great party from whom it has been wrenched after the struggle of a bloody war; and when they have convinced the colored man that safety lies in that new fold, I shall begin to have faith in the movement. You may promise the colored man your support and the support of the new party, but can you keep your contract?

Before leaving this review of the past I will say I rejoice that the Democracy has at last, in words at least, abandoned its old doctrines of disunion and obstruction, even though it still maintains its organization. I rejoice that the principles for which the nation has struggled so long and so earnestly are at last admitted even by their most strenuous opposers. So much at least is gained.

From the career of the Democracy I turn to the record of the Republican party. Its most violent enemy will not deny that during the last twelve years the Republican party has done a great and noble work in defending the life of the nation and the rights of its citizens. Nor will it be denied that

every great and good achievement in the interests of the Union and of personal liberty has been effected against the most strenuous opposition of the Democratic party. Each gain for the interest of the nation and the liberty of its citizens has been preceded by successful battle with the Democracy. Problems of unusual difficulty growing out of the war have confronted the Republican party at every step of its career. Here and there great mistakes have been committed, but on the whole its work has been nobly done, and the condition of the nation has been greatly bettered in consequence of its efforts.

If we consider the history of the party during President Grant's administration only, still it may truthfully be said that there has been much good work done, and much progress made. In the matter of our foreign relations, while the policy in reference to San Domingo may justly be criticised, and while the attempt to acquire that island was, in my judgment, unwise, yet on the whole the general results of our foreign policy have been fairly good. The treaty with Great Britain, though made under circumstances of great difficulty, is now reaching a satisfactory conclusion, honorable alike to both nations, and in its mode of settlement a credit to human nature.

The Indian policy of the government, judged by any fair rules of criticism, has been a commendable success. Formerly the Indians were scattered through the Western territories in predatory bands, alarming the settlers and making the frontiers everywhere unsafe. During the last three years eighty thousand of these roaming Indians have been gathered upon reservations, making in all one hundred and thirty thousand that are now thus located and are supporting themselves without aid from the government. One hundred and thirteen thousand more are now at the various agencies, supported in part by the government. Fifty or sixty agents, representatives of the churches of the country, together with a force of several hundred blacksmiths, carpenters, farmers, millers, and teachers, are now aiding these tribes in the work of becoming civilized and self-supporting. Only fifty thousand Indians are still roaming, and during the coming year nearly all of them will have been placed on reservations or at agencies where they can choose between civilization, with its accompanying blessings, and that barbarism which will lead them to final extinction.

But perhaps no department of administration furnishes so

complete and searching a test of the wisdom or folly of a government as the management of financial affairs. Government is a great machine, and no motion can be made, no function exercised, which does not cost money. This motive power must be supplied by taxation. The taxes must be collected and the moneys expended by the executive department of the government. There can scarcely be conceived a form of official corruption which will not exhibit itself sooner or later in the public expenditures. Here, then, is the place to look for maladministration. While I do not assert that the financial administration of the government is free from faults, I do assert, with the utmost confidence, that on the whole the taxes have been levied, the revenues collected, and the public moneys expended, with conspicuous wisdom and honesty.

While the burdens of taxation laid upon the people in consequence of the war have been very heavy, there has nevertheless been a steady and constant reduction of that burden since the close of the war. Since July, 1866, taxes have been abolished which were producing at the time of their repeal \$310,000,000. The internal revenue system, which grew out of the war, the burdens of which rested on almost every product of industry, has now been so reduced by the act of June last and preceding acts, that all forms of internal taxation are now abolished except taxes on liquors, tobacco, banks and bankers, and stamps on patent medicines and on checks. The form in which the late law leaves the system will go far toward abolishing the bureau. While this great reduction in taxation has been going on, the expenditures of the government have diminished until they are now more than a hundred million dollars less than they were when the present administration came into power; and during the same time the principal of the public debt has been reduced by the sum of \$334,000,000.

It has been my duty, as chairman of the Committee on Appropriations, to study carefully during the past session of Congress the expenditures in the various departments of the government. This committee consists of Republican and Democratic members, and I know I shall not be successfully contradicted when I say that the government is now managed with marked and rigid economy. From a careful analysis of the expenditures for the fiscal year ending June 30, 1871, I find that of the \$291,500,000 expended during the year \$175,500,000

was for expenditures directly growing out of the late war, leaving but \$116,000,000 for all other expenditures of the government; and even of this amount a considerable portion resulted indirectly from the war. During the fiscal year just closed the total expenditures were \$227,500,000, being nearly fifteen millions less than for the previous year. During the last four years the public credit has been greatly enhanced both at home and abroad, and on the whole it can be said, with entire justice, that the industrial interests of the country have been steadily and rapidly improving.

On this point I cite the testimony of Hon. James Brooks, a leading Democrat in the House of Representatives. On the 31st of January last, speaking in the House of the public credit, he said: "The action of Congress upon this subject has lifted the public credit to an enviable position throughout the whole world. Just before the close of the war our government was borrowing money at twelve per cent. After the peace the rate of interest rapidly fell to seven per cent. In 1869 it fell to six per cent; in 1870, to five and a half per cent; and before the end of 1871 it fell to a small fraction more than five per cent. The interest upon the public debt has been rapidly going down. I said in this House two years ago, . . . that in my judgment, such was the rising credit of the country, there would be no difficulty, if time could only be given, in negotiating the whole public debt of this country at the rate of four per cent per annum."<sup>1</sup> This is honorable and weighty testimony. I insist that these facts cannot be explained away, nor are they consistent with any allegation of general mismanagement and corruption. They are honorable to the Congress and the Executive to whose care the financial affairs of the country were committed.

With this review of the career and organization of the two parties, as they now present themselves before the country, I am warranted in affirming that it is safe and wise to trust the Republican organization, and that it is both dangerous and unwise to commit the fortunes of the country to the Democracy and its new allies.

In the second place, I find a reason for my choice in the character and supporters of the two candidates. That both are entitled to much credit for what they have done, and that both have faults, must be admitted. No amount of detraction can

<sup>1</sup> Congressional Globe, January 31, 1872, p. 746.

cover up or obscure the fact that General Grant rendered to the country great and illustrious service during its struggle for the Union. No amount of hostile criticism can obliterate the fact that he persevered and exhibited high and masterly qualities as a leader in the field, and that his personal services were of inestimable value to the nation. That his administration of the government during the last four years has been on the whole successful, is a fact I have already fairly established; that he has made mistakes in administration will not be denied. There have been unfortunate divisions and antagonisms among his supporters, and much of this antagonism has assumed the form of personal hostility to him. For these reasons many thoughtful Republicans were opposed to his renomination. But it is undeniably true that the great mass of the Republican party believed it wisest to continue him at the head of the government. They know his record in war, and his conduct in peace; and they believe that a continuation of his administration will result in a continuation of the general prosperity of the country. His four years of experience have enabled him better to understand the wants of the country and the duties of his office, and we have the authority of Mr. Greeley for saying that Grant will be far better qualified for his great office in 1872 than he was in 1868. Few Americans have been assailed with more partisan and personal malignity, and few, if any, have rendered the nation such illustrious service. Let any fair man strike a balance between his merits and his demerits, and then compare the result with a similar estimate of Horace Greeley!

Let us consider the comparison. In doing so I make no assault on Mr. Greeley. I will in no wise detract from the great service he has rendered to the cause of liberty, nor from the fame he has earned. He has established a great public journal, and has placed himself almost if not quite at the head of his profession. But have these achievements fitted him for the Presidency of the United States? Horace Greeley at the head of the Tribune, as the popular advocate of equal rights, is one thing; Horace Greeley at the head of the Democratic party, to conduct the affairs of the nation, is quite another. In that position we should see the head and face of an old friend resting on the shoulders and body of an old and relentless enemy, guided by his heart, life, and activity. It is idle to suppose that any man can conduct an administration with any success unless

he does it in general and substantial concurrence with the opinions and aspirations of those who elected him. If Mr. Greeley continues to be, in any considerable degree, the man he has been hitherto, in case of his election, the gap between himself and the great body of his supporters will yawn wider than Erebus, and in it will be swallowed all peace and harmony of administration. On the first day of his term he will be confronted by a hungry throng of office-seekers, who will demand the place of every man now in office who did not support him as a candidate. If he declares that political differences of opinion shall be no cause for removal, he begins a battle with overwhelming odds against him. If he yields, no result is possible but complete submission to the Democracy. It has been urged, with some truth, that Grant has made bad appointments; I ask if there is anything in Mr. Greeley's knowledge, or in the kind of men with whom he has long associated in the politics of New York, that promises better results? Let his present Tammany supporters answer.

But even if he should be able to mould and guide in accordance with his own views the discordant party which elects him, what sort of guidance will that be? What public man in the United States has been less stable and constant in his opinions and judgment than Horace Greeley? Who does not know that during the great struggle for the national life, when the country needed the steady and persistent bending of every energy to the one great work of attacking secession and subduing rebellion, while Grant was resisting the one and fighting the other with undeviating purpose, Horace Greeley was passing through all the changes of opinion, from his early recommendation to let the South go, to his fierce and reckless "On to Richmond" cry, — from his resistance to the re-election of Lincoln, to his negotiations with the Rebel agents at Niagara? What business man can review the financial opinions of Mr. Greeley, as vehemently advocated during the last six years, without a feeling of apprehension and alarm at even the remote prospect of such opinions being entertained by the chief Executive of the nation, with the opportunity for enforcing them in the practical administration of the government? Doubtless a majority of our citizens desire a resumption of specie payments, brought about by a safe and careful policy; but who can contemplate without alarm the possibility of seeing a notice that the

Secretary has resumed specie payments put up some morning over the door of the Treasury, and that the fifty millions of surplus gold in the Treasury marks the extent of his resources for maintaining that resumption? Who does not see growing out of such a policy a most sudden and violent shock to business, and measureless financial disaster? Yet that very policy has been most fiercely advocated by Mr. Greeley for the last four years. He has exhibited extremes of opinion on many other national topics, which would be most unfortunate if exhibited in the chief Executive of the nation.

The higher the office, the greater the opportunity to impress the personal peculiarities of the incumbent upon the administration. Who would be willing to run the risk of having Mr. Greeley's various and conflicting opinions forced into the current of public affairs, with the passionate and extreme vehemence so characteristic of the man? It is not safe to try fantastic experiments with so delicate and complicated a machine as the government of the United States. Considering his past, it is the latest of modern wonders that he could consent to be the candidate of the Democratic party, — a wonder only equalled by the fact that they have accepted him.

What has occurred during the last ten months to change the opinion Mr. Greeley so pointedly expressed in this place in his speech of September 25, 1871? He then said: "I saw the other day a suggestion that I would probably be the best Democratic candidate to run against General Grant for President. I thought that the most absurd thing I ever heard of. If the Democratic party were called upon to decide between Grant and myself, I know that their regard for what they must call principle would induce them to vote against me. Why, I am a decided enemy of that party, 'even in its most respectable aspects'!" Where is that hostility now? Has he surrendered for the sake of office, or have the Democracy become converts to his opinions? You will remember that during his visit to this valley he strongly advocated the doctrine of protection; you know to what an extreme he has always pushed that doctrine; you will remember, for example, that he has frequently said that, if he could have his way, he would put a tariff on pig iron of one hundred dollars a ton. Where now are all these eloquent pleas for the principle of protection? He himself was a signer of the Missouri call for the Cincinnati Convention, a call issued chiefly



for the purpose of advocating the doctrine of free trade in its fullest and broadest sense. Has he surrendered that opinion to the Democracy, or have they surrendered to him? or have the Revenue Reformers been swallowed up by their bitterest enemies? They tell us the subject is relegated to the Congressional districts. So is every other topic, with equal propriety. But how will Mr. Greeley, if elected, treat it in his messages to Congress, where he is bound to recommend such measures as he believes the good of the country requires?

Democrats of the late Rebel States tell us they are for Greeley in spite of his doctrines of abolition and his financial theories, because he is in favor of universal amnesty, and is their friend. For myself, I honor Mr. Greeley for his advocacy of universal amnesty, which I have several times voted for in the House of Representatives. But what would he do for the South were he the President? It is said that some of the Southern State governments have been badly and corruptly managed; and so they have. But how can the President interfere to remedy that evil? Congress, not the President, can remove political disabilities; and there are not now five hundred men in the nation who rest under the disabilities of the Fourteenth Amendment. What change for the better do the people of the South expect from Mr. Greeley? Is it the Ku-Klux law of which they complain? There has been no more vehement defender of that law in all the land than Mr. Greeley. I remember that when I, in company with twenty-five other Republicans, successfully opposed the more extreme features of that bill as it was first introduced into the House, we were denounced by the editor of the Tribune, who declared that we had shorn the bill of its most valuable provisions. Do they expect him to aid in repealing the election law, which they call the bayonet law? Let them not forget that the editor of the Tribune complained that the law was confined to Federal elections, and expressed the wish that it had been extended to State and local elections as well. Do they wish him to become the champion of State rights, and to resist the supposed centralizing tendencies of the Republican party? Do they not know that he has been more nearly consistent in his advocacy and defence of that tendency, than in any other doctrine he has ever professed?

From this strange and unnatural combination between Republicans and Democrats it must result that one of the parties will

be outrageously cheated, unless it be true that both have agreed to abandon all principles, all convictions, all aims and objects, except the simple one to win office, — to gain power.

In advocating the claims of the Republican party to the confidence of the nation, I do not by any means assert that we should always stand by and defend the party to which we may belong. It frequently becomes the duty of a citizen to abandon and help destroy a party that has outlived its usefulness, or become unworthy of confidence. But will any man who approves of the great achievements of the Republican party say that its work is ended, — that in the presence of its old enemy it should dissolve and leave the Democracy master of the field and custodian of all the precious results of the conflict? To save what has been gained, to preserve and perpetuate the fruits of past effort, is only next in importance to the work of winning the first victory.

It is alleged that corruptions have crept into the Republican party, and this also is true. But where has any party shown a more determined purpose to discover and correct its own faults, and what party has more relentlessly pursued and punished its unfaithful servants? At the last session of Congress, the House of Representatives never once failed to order a searching investigation into any department of the government when any member, either Republican or Democrat, demanded it. In one instance, some Republican members of the Senate seemed to oppose the formation of an investigating committee; but the mistake was promptly rectified, and the investigation was ordered. So long as the people demand of their representatives the free and fearless discharge of their duties, there need be no corruption of long continuance.

The virulent attacks that are now made on General Grant are mainly of a personal character. Nothing in his own life, or the life of his family, escapes the assaults of those who have joined in the conspiracy against the Republican party. His son and daughter are travelling in Europe, and for this their father is assailed and denounced. The President is fond of a good horse, and Senator Sumner quotes from Plato to show that a good ruler must be a ruler, not of horses, but of men. Amid the Babel of talk which fills the world he is a good listener. For this he is called the "grim sphinx of the White House," who silently plots the ruin of his country. One day he is denounced for

being absent from the capital and leaving public affairs to take care of themselves, and the next he is scheming to grasp all power and convert the republic into a consolidated despotism. He has accepted presents, and just now there is a special outburst of virtuous indignation in consequence. Doubtless he would have saved himself from embarrassment if he had not done so. Doubtless the practice of John Quincy Adams and General Thomas was the wiser one. But the critics of General Grant know that he has accepted no presents since he became President, and that, as a successful general accepting from a people whom he had so signally served testimonials of their gratitude, he did no more than was done by McClellan, and Sherman, and Farragut, and Meade, — no more than has been done by the great modern and ancient captains of other nations. They charge that he has converted the Executive mansion into a military camp. It is not a thing unusual for a President to detail officers of the army to perform confidential duties in his office. It has been rather the rule than the exception. I was last week reading Lewis and Clarke's record of their explorations, from 1804 to 1807, from the mouth of the Missouri River to the Pacific Ocean, and on the first page of that report it is stated that "Captain Lewis, of the United States army, and private secretary of the President," was placed in charge of that expedition. The secretaries of whom complaint is made were members of General Grant's staff in the field for many years, and they are now serving their old chief at the Executive mansion, without compensation other than their pay as army officers.

The great majority of criticisms made on the President are of this character. The people will consider them at their true value, and will balance them against the great facts that relate to the general course of public affairs and the welfare and prosperity of the country.

In view of all these considerations, past and present, I believe the thoughtful men of the country will stand by the Republican party and the President, who have achieved so much for the nation, and under whose administration of public affairs the country has enjoyed, and is still enjoying, a high degree of prosperity. Again, gentlemen of the convention, thanking you for the compliment of this nomination, I accept the trust with the purpose of exercising on all public questions that same independent judgment which you have long allowed to your representatives.

# THE FUTURE OF THE REPUBLIC: ITS DANGERS AND ITS HOPES.

AN ADDRESS DELIVERED BEFORE THE LITERARY SOCIETIES OF  
WESTERN RESERVE COLLEGE, HUDSON, OHIO,

JULY 2, 1873.

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MR. CHAIRMAN AND GENTLEMEN OF THE LITERARY SOCIETIES, — On many accounts I should have preferred to address you on some theme directly connected with college work. It would have been pleasant to turn away from the busy, noisy world, and spend an hour with you in the peaceful shades of academic life. But you are soon to appear upon a stage where powerful forces, old and new, are acting with unwonted vigor, and producing results worthy of your profoundest study. A thousand fields await and invite you; but be your choice what it may, you will be responsible citizens of your country, and the glory of its successes and the disgrace of its failures will in large measure rest upon you. When the last of the three classes now in college shall graduate, the republic will have completed its first century; and so quick and active are the elements which now determine the fate of nations, that it may depend upon you and your generation alone whether our institutions shall survive a second century.

Few men can now lead isolated lives. In a country like ours the relations of the state to the citizen are vitally intimate and reciprocal. The permanence and prosperity of the state make the success and prosperity of the citizen possible, while the worthy and honorable success of the citizen strengthens and adorns the state. Whatever career, therefore, you may follow, you cannot be indifferent to the fortunes of your country. I propose, then, as the theme for this hour, The Future of the Republic. May we rationally hope that its life and success

will be permanent? or has it entered upon a career of brilliant, but brief mortality? When our fathers shaped and fashioned it, and breathed into its beautiful form the inspiration of their great lives, did they utter a vain and empty boast when they pronounced upon it the loving benediction, *Esto perpetua*?

What do men mean when they predict immortality of anything earthly?

The first Napoleon was one day walking through the galleries of the Louvre, filled with the wonders of art which he had stolen from the conquered capitals of Europe. As he passed the marvellous picture of Peter Martyr, one of the seven masterpieces of the world, he overheard an enthusiastic artist exclaim, "Immortal work!" Turning quickly upon his heel, the Emperor asked, "What is the average life of an oil painting?" "Five hundred years," answered the artist. "Immortal!" the Corsican scornfully repeated as he passed on, thinking, doubtless, of Austerlitz and Marengo. Six years ago the wonderful picture of Peter Martyr was dissolved in the flames of a burning church at Venice, and, like Austerlitz, is now only a memory and a dream.

When the great lyric poet of Rome ventured to predict immortality for his works, he could think of no higher human symbol of immortality than the Eternal City and her institutions, crowded with seven centuries of glorious growth; and so Horace declared that his verses would be remembered as long as the high-priest of Apollo and the silent vestal virgin should climb the steps of the Capitol. Fifteen centuries ago the sacred fires of Vesta went out, never to be rekindled. For a thousand years Apollo has had no shrine, no priest, no worshipper, on the earth. The steps of the Capitol, and the temples that crowned the Capitoline hill, live only in dreams. And to-day the antiquary digs and disputes among the ruins, and is unable to tell us where the great citadel of Rome stood.<sup>1</sup>

There is much in the history of dead empires to sadden and discourage our hope for the permanence of any human institution. But a deeper study reveals the fact, that nations have perished only when their institutions have ceased to be serviceable to the human race,—when their faith has become an empty form, and the destruction of the old is indispensable to the growth of the new. Growth is better than permanence, and

<sup>1</sup> Hare, Walks in Rome, Chap. III.

permanent growth is better than all. Our faith is large in time; and we

“Doubt not through the ages one increasing purpose runs,  
And the thoughts of men are widened with the process of the suns.”

It matters little what may be the forms of national institutions, if the life, freedom, and growth of society are secured. To save the life of a nation it is sometimes necessary to discard the old form and make room for the new growth; for

“Old decays but foster new creations;  
Bones and ashes feed the golden corn;  
Fresh elixirs wander every moment  
Down the veins through which the live part feeds its child, the live unborn.”

There are two classes of forces whose action and reaction determine the condition of a nation, the forces of repression and expression. The one acts from without,—limits, curbs, restrains; the other acts from within,—expands, enlarges, propels. Constitutional forms, statutory limitations, conservative customs, belong to the first; the free play of individual life, opinion, and action, belong to the second. If these forces be happily balanced, if there be a wise conservation and correlation of both, a nation may enjoy the double blessing of progress and permanence. How are these forces acting upon our nation at the present time? Our success has been so great hitherto, we have passed safely through so many perils which at the time seemed almost fatal, that we may assume that the republic will continue to live and prosper unless it shall be assailed by dangers which outnumber and outweigh the elements of its strength. It is idle to boast of what we are, and what we are to be, unless at the same time we compare our strength with the magnitude of our dangers. What, then, are our dangers, and how can they be conquered?

In the first place, our great dangers are not from without. Separated from all great rivals by broad seas, and protected from foreign complications by the wise policy introduced by Washington and now become traditional,—the policy of non-interference,—nothing but reckless and gratuitous folly on our part can lead us into serious peril from abroad. Our republic is the undisputed master of its geographical position. It is the central figure in what must soon be the grandest of all theatres of national effort. Civilization has always clustered about some sea as the centre and arena of its activity. For many centuries the

Mediterranean was the historic sea, around which were grouped the great nations of classic antiquity. The grander forces of modern history required a larger theatre of operations; and the race turned remorselessly away from the scenes and monuments of its ancient glory. It changed the front of Europe to the westward, and made the Atlantic and its shores the scene and centre of the new and grander activities. The Atlantic is still the great historic sea. Even in its sunken wrecks might be read the records of modern nations. On its western shore, our republic holds the chief place of power. But there is still a grander sea; and who shall say that the Pacific will not yet become the great historic sea of the future, — the vast amphitheatre around which shall sit in majesty and power the two Americas, Asia, Africa, and the chief colonies of Europe? In that august assemblage of nations, the United States will be "easily chief," if she fill worthily the measure of her high destiny, — if she do not abdicate the seat which Providence and Nature have assigned her.

I repeat it, then, our great dangers are not from without. We do not live by the consent of any other nation. We must look within to find the elements of danger. The first and most obvious of these is territorial expansion, overgrowth; the danger that we shall break in pieces by our own weight. Expansion as a source of weakness has been the commonplace of historians and publicists for many centuries; and its truth has found many striking illustrations in the experience of mankind. But we have fair ground for believing that new conditions and new forces have nearly, if not wholly, removed the ground of this danger. Distance, estrangement, isolation, have been overcome by the recent amazing growth in the means of intercommunication. For political and industrial purposes, California and Massachusetts are nearer neighbors to-day than were Philadelphia and Boston in the days of the Revolution. The people of all our thirty-seven States know more of each other's affairs than the Vermonter knew of the Virginian fifty years ago. It was distance, isolation, ignorance of separate parts, that broke the cohesive force of the great empires of antiquity. Public affairs are now more public, and private less private, than in former ages. The railroad, the telegraph, and the press have virtually brought our citizens, with their opinions and industries, face to face; and they live almost in each other's sight. The

leading political, social, and industrial events of this day will be reported and discussed at more than two millions of American breakfast-tables to-morrow morning. Public opinion is kept in constant exercise and training. It keeps itself constantly in hand,—ready to approve, condemn, and command. It may be wrong; it may be tyrannical; but it is all-pervading, and constitutes more than ever before a strong bond of nationality.

Fortunately, our greatest line of extension is from east to west, and our pathway along the parallels of latitude is not too broad for safety, for it lies within the zone of national developments. The Gulf of Mexico is our special providence on the south. Perhaps it would be more fortunate for us if the northern shore of that gulf stretched westward to the Pacific. If our territory embraced the tropics, the sun would be our enemy; the stars in their courses would fight against us. Now these celestial forces are our friends, and help to make us one. Let us hope that the republic will be content to maintain this friendly alliance.

Our northern boundary is not yet wholly surveyed. Perhaps our neighbors across the lakes will some day take a hint from nature, and save themselves and us the discomfort of an artificial boundary. Restrained within our present southern limits, with a population more homogeneous than that of any other great nation, and with a wonderful power to absorb and assimilate to our own type the European races that come among us, we have but little reason to fear that we shall be broken up by divided interests and internal feuds because of our great territorial extent.

After all, territory is but the body of a nation. The people who inhabit its hills and its valleys are its soul, its spirit, its life. In them dwells its hope of immortality. Among them, if anywhere, are to be found its chief elements of destruction. And this leads me to consider an alleged danger to our institutions which, if well founded, would be radical and fatal. I refer to the allegation that universal suffrage, as the supreme source of political authority, is a fatal mistake. When I hear this proposition urged, I feel, as most Americans doubtless do, that it is a kind of moral treason to listen to it, and that to entertain it would be political atheism. That the consent of the governed is the only true source of national authority, and is the safest and firmest foundation on which to build a govern-



ment, is the most fundamental axiom of our political faith. But we must not forget that a majority — perhaps a large majority — of the thinkers, writers, and statesmen of Christendom declare that our axiom is no axiom, — indeed, is not true, but is a delusion, a snare, and a fatal heresy.

At the risk of offending our American pride, I shall quote what is probably the most formidable indictment of the democratic principle ever penned. It was written by the late Lord Macaulay, a profound student of society and government, and a man who, on most subjects, entertained broad and liberal views. Millions of Americans have read and admired his *History and Essays*; but only a few thousands have read his brief but remarkable letter of 1857, in which he discusses the future of our government. We are so confident of our position that we seldom care to debate it. The letter was addressed to the Hon. H. S. Randall, of New York, in acknowledgment of a copy of that gentleman's *Life of Jefferson*. I quote it almost entire.

“HOLLY LODGE, KENSINGTON, LONDON,  
May 23, 1857.

“DEAR SIR, . . . . You are surprised to learn that I have not a high opinion of Mr. Jefferson, and I am surprised at your surprise. I am certain that I never wrote a line, and that I never, in Parliament, in conversation, or even on the hustings, — a place where it is the fashion to court the populace, — uttered a word indicating an opinion that the supreme authority in a state ought to be intrusted to the majority of citizens told by the head; in other words, to the poorest and most ignorant part of society. I have long been convinced that institutions purely democratic must, sooner or later, destroy liberty or civilization, or both. In Europe, where the population is dense, the effect of such institutions would be almost instantaneous. What happened lately in France is an example. In 1848, a pure democracy was established there. During a short time there was reason to expect a general spoliation, a national bankruptcy, a new partition of the soil, a maximum of prices, a ruinous load of taxation laid on the rich for the purpose of supporting the poor in idleness. Such a system would, in twenty years, have made France as poor and barbarous as the France of the Carolingians. Happily, the danger was averted; and now there is a despotism, a silent tribune, an enslaved press. Liberty is gone, but civilization has been saved. I have not the smallest doubt that, if we had a purely democratic government here, the effect would be the same. Either the poor would plunder the rich, and civilization would perish, or order and prosperity would be saved by a

strong military government, and liberty would perish. You may think that your country enjoys an exemption from these evils. I will frankly own to you that I am of a very different opinion. Your fate I believe to be certain, though it is deferred by a physical cause. As long as you have a boundless extent of fertile and unoccupied land, your laboring population will be far more at ease than the laboring population of the Old World; and while that is the case, the Jefferson politics may continue to exist without causing any fatal calamity. But the time will come when New England will be as thickly peopled as Old England. Wages will be as low, and will fluctuate as much with you as with us. You will have your Manchesters and Birminghams. And in those Manchesters and Birminghams hundreds of thousands of artisans will assuredly be sometimes out of work. Then your institutions will be fairly brought to the test. Distress everywhere makes the laborer mutinous and discontented, and inclines him to listen with eagerness to agitators, who tell him that it is a monstrous iniquity that one man should have a million while another cannot get a full meal. In bad years there is plenty of grumbling here, and sometimes a little rioting. But it matters little, for here the sufferers are not the rulers. The supreme power is in the hands of a class, numerous indeed, but select, — of an educated class, — of a class which is, and knows itself to be, deeply interested in the security of property, and the maintenance of order. Accordingly, the malcontents are firmly, yet gently, restrained. The bad time is got over without robbing the wealthy to relieve the indigent. The springs of national prosperity soon begin to flow again: work is plentiful, wages rise, and all is tranquillity and cheerfulness. I have seen England pass three or four times through such critical seasons as I have described. Through such seasons the United States will have to pass in the course of the next century, if not of this. How will you pass through them? I heartily wish you a good deliverance. But my reason and my wishes are at war, and I cannot help foreboding the worst. It is quite plain that your government will never be able to restrain a distressed and discontented majority. For with you the majority is the government, and has the rich, who are always a minority, absolutely at its mercy. The day will come when, in the State of New York, a multitude of people, none of whom has had more than half a breakfast, or expects to have more than half a dinner, will choose a legislature. Is it possible to doubt what sort of a legislature will be chosen? On one side is a statesman preaching patience, respect for vested rights, strict observance of public faith; on the other is a demagogue ranting about the tyranny of capitalists and usurers, and asking why anybody should be permitted to drink champagne, and to ride in a carriage, while thousands of honest folks are in want of necessaries. Which of the two candidates is likely to be preferred by a workingman who hears his children cry for more bread? I seriously

apprehend that you will, in some such season of adversity as I have described, do things which will prevent prosperity from returning; that you will act like people who should, in a year of scarcity, devour all the seed corn, and thus make the next a year, not of scarcity, but of absolute famine. There will be, I fear, spoliation. The spoliation will increase the distress. The distress will produce fresh spoliation. There is nothing to stop you. Your Constitution is all sail and no anchor. As I said before, when a society has entered on this downward progress, either civilization or liberty must perish. Either some Cæsar or Napoleon will seize the reins of government with a strong hand, or your republic will be as fearfully plundered and laid waste by barbarians in the twentieth century, as the Roman empire was in the fifth,—with this difference, that the Huns and Vandals who ravaged the Roman empire came from without, and that your Huns and Vandals will have been engendered within your country by your own institutions.

“Thinking thus, of course I cannot reckon Jefferson among the benefactors of mankind.”<sup>1</sup>

Certainly this letter contains food for serious thought; and it would be idle to deny that the writer has pointed out what may become serious dangers in our future. But the evils he complains of are by no means confined to democratic governments, nor do they, in the main, grow out of popular suffrage. If they do, England herself has taken a dangerous step since Macaulay wrote. Ten years after the date of this letter she extended the suffrage to eight hundred thousand of her workingmen, a class hitherto ignored in politics. And still later we have extended it to an ignorant and lately enslaved population of more than four millions. Whether for weal or for woe, enlarged suffrage is the tendency of all modern nations. I venture the declaration, that this opinion of Macaulay’s is vulnerable on several grounds.

In the first place, it is based upon a belief from which few if any British writers have been able to emancipate themselves; namely, the belief that mankind are born into permanent classes, and that in the main they must live, work, and die in the fixed class or condition in which they are born. It is hardly possible for a man reared in an aristocracy like that of England to eliminate this conviction from his mind, for the British empire is built upon it. Their theory of national stability is, that there must be a permanent class who shall hold in their own hands so much of the wealth, the privilege, and the political power of

<sup>1</sup> The copy here followed is that found in the Appendix to Harpers’ edition of “The Life and Letters of Lord Macaulay,” by G. O. Trevelyan.

the kingdom, that they can compel the admiration and obedience of all other classes. At several periods of English history there have been serious encroachments upon this doctrine. But, on the whole, British phlegm has held to it sturdily, and still maintains it. The great voiceless class of day-laborers have made but little headway against the doctrine. The editor of a leading British magazine told me, a few years ago, that in twenty-five years of observation he had never known a mere farm-laborer in England to rise above his class. Some, he said, had done so in manufactures, some in trade, but in mere farm labor not one. The government of a country where such a fact is possible has much to answer for.

We deny the justice or the necessity of keeping ninety-nine of the population in perpetual poverty and obscurity, in order that the hundredth may be rich and powerful enough to hold the ninety-nine in subjection. Where such permanent classes exist, the conflict of which Macaulay speaks is inevitable. And why? Not that men are inclined to fight the class above them, but that they fight against any artificial barrier which makes it impossible for them to enter that higher class and become a part of it. We point to the fact, that in this country there are no classes in the British sense of that word,—no impassable barriers of caste. Now that slavery is abolished, we can truly say that through our political society there run no fixed horizontal strata above which none can pass. Our society resembles rather the waves of the ocean, whose every drop may move freely among its fellows, and may rise toward the light until it flashes on the crest of the highest wave.

Again, in depicting the dangers of universal suffrage, Macaulay leaves wholly out of the account the great counterbalancing force of universal education. He contemplates a government delivered over to a vast multitude of ignorant, vicious men, who have learned no self-control, who have never comprehended the national life, and who wield the ballot solely for personal and selfish ends. If this were indeed the necessary condition of democratic communities, it would be difficult, perhaps impossible, to escape the logic of Macaulay's letter. And here is a real peril,—the danger that we shall rely upon the mere extent of the suffrage as a national safeguard. We cannot safely, even for a moment, lose sight of the *quality* of the suffrage, which is more important than its quantity.

We are apt to be deluded into false security by political catchwords, devised to flatter rather than instruct. We have happily escaped the dogma of the divine right of kings. Let us not fall into the equally pernicious error that multitude is divine because it is a multitude. The words of our great publicist, the late Dr. Lieber, whose faith in republican liberty was undoubted, should never be forgotten. In discussing the doctrine of *Vox populi, vox Dei*, he said, "Woe to the country in which political hypocrisy first calls the people almighty, then teaches that the voice of the people is divine, then pretends to take a mere clamor for the true voice of the people, and lastly gets up the desired clamor."<sup>1</sup> This sentence ought to be read in every political caucus. It would make an interesting and significant preamble to most of our political platforms. It is only when the people speak truth and justice that their voice can be called "the voice of God." Our faith in the democratic principle rests upon the belief that intelligent men will see that their highest political good is in liberty, regulated by just and equal laws; and that, in the distribution of political power, it is safe to follow the maxim, "Each for all, and all for each." We confront the dangers of suffrage by the blessings of universal education. We believe that the strength of the state is the aggregate strength of its individual citizens; and that the suffrage is the link that binds, in a bond of mutual interest and responsibility, the fortunes of the citizen to the fortunes of the state. Hence, as popular suffrage is the broadest base, so, when coupled with intelligence and virtue, it becomes the strongest, the most enduring base on which to build the superstructure of government.

There is another class of dangers, unlike any we have yet considered, — dangers engendered by civilization itself, and made formidable by the very forces which man is employing as the most effective means of bettering his condition and advancing civilization. I select the railway problem as an example of this class. I can do but little more than to state the question, and call your attention to its daily increasing magnitude.

We are so involved in the events and movements of society, that we do not stop to realize — what is undeniably true — that, during the last forty years, all modern societies have entered upon a period of change, more marked, more pervading, more

<sup>1</sup> Civil Liberty and Self-Government, (Philadelphia, 1859,) p. 415.

radical, than any that has occurred during the last three hundred years. In saying this, I do not forget our own political and military history, nor the French Revolution of 1789. The changes now taking place have been wrought and are being wrought mainly, almost wholly, by a single mechanical contrivance, the steam locomotive. Imagine, if you can, what would happen if to-morrow morning the railway locomotive, and its corollary, the telegraph, were blotted from the earth. At first thought, it would seem impossible to get on at all with the feeble substitutes that we should be compelled to adopt in place of these great forces. To what humble proportions mankind would be compelled to scale down the great enterprises they are now pushing forward with such ease! But were this calamity to happen, we should simply be placed where we were forty-three years ago.

There are many persons in this audience who well remember the day when Andrew Jackson, after four weeks of toilsome travel from his home in Tennessee, reached Washington, and took his first oath of office as President of the United States. That was in 1829. The railway locomotive did not then exist. During that year Henry Clay was struggling to make his name immortal by linking it with the then vast project of building a national road — a turnpike — from the national capital to the banks of the Mississippi. In the autumn of that very year, George Stephenson ran his first experimental locomotive, the "Rocket," from Manchester to Liverpool and back. The rumble of its wheels, redoubled a million times, is echoing to-day on every continent. In 1870 there were about 125,000 miles of railroad on the two hemispheres, constructed at a cost of little less than \$100,000 per mile, and representing nearly \$12,000,000,000 of invested capital. A Parliamentary commission found that during the year 1866 the railway cars of Great Britain carried an average of 850,000 passengers per day; and during that year the work done by their 8,125 locomotives would have required for its performance three and a half millions of horses and nearly two millions of men.

What have our people done for the locomotive, and what has it done for us? To the United States, with its vast territorial areas, the railroad was a vital necessity. Talleyrand once said to the first Napoleon, that "the United States was a giant without bones." Since that time our gristle has been rapidly hard-

ening. Sixty-seven thousand miles of iron track is a tolerable skeleton even for a giant. When this new power appeared, our people everywhere felt the necessity of setting it to work; and individuals, cities, States, and the nation lavished their resources without stint to make a pathway for it. Fortunes were sunk under almost every mile of our earlier roads, in the effort to capture and utilize this new power. If the State did not head the subscription for a new road, it usually came to the rescue before the work was completed. The lands given by the States and by the national government to aid in the construction of railroads reach an aggregate of nearly 250,000,000 acres,—a territory equal to nine times the area of Ohio. With these vast resources we have made paths for the steam giant; and to-day nearly a quarter of a million of our business and working men are in his immediate service. Such a power naturally attracts to its enterprises the brightest and strongest intellects. It would be difficult to find, in any other profession, so large a proportion of men possessed of a high order of business ability as those who construct, manage, and operate our railroads.

The American people have done much for the locomotive, and it has done much for them. We have already seen that it has greatly reduced, if not wholly destroyed, the danger that the government will fall to pieces by its own weight. The railroad has not only brought our people and their industries together, but it has carried civilization into the wilderness, has built up States and Territories which but for its power would have remained deserts for a century to come. "Abroad and at home," as Mr. Adams tersely declares, "it has equally nationalized people, and cosmopolized nations." It has played a most important part in the recent movement for the unification and preservation of nations. It enabled us to do what the old military science had pronounced impossible, to conquer a revolted population of eleven millions, occupying a territory one fifth as large as the continent of Europe. In Mr. Adams's able essay on the railway system, he has pointed out some of the remarkable achievements of the railroad in our recent history. For example, a single railroad track enabled Sherman to maintain eighty thousand fighting men three hundred miles beyond his base of supplies. Another line, in a space of seven days, brought a reinforcement of two fully equipped army corps around a circuit of thirteen hundred miles, to strengthen an

army at a threatened point. Mr. Adams calls attention to the still more striking fact, that, for ten years past, — with fifteen hundred millions of our indebtedness abroad, an enormous debt at home, unparalleled public expenditures, and a depreciated paper currency, — in defiance of all past experience, we have been steadily conquering our difficulties, have escaped the predicted collapse, and are promptly meeting our engagements; because, through energetic railroad development, the country has been producing real wealth as no country has produced it before. Finally, he sums up the case by declaring that the locomotive has “dragged the country through its difficulties in spite of itself.”<sup>1</sup> It is unnecessary to particularize further; for whether there be peace or war, society cannot exist in its present order without the railroad.

I have noticed briefly what American society has done for the locomotive, and what it has done for society. Let us now inquire what it is doing and is likely to do *to* society.

The national Constitution and the constitutions of most of the States were formed before the locomotive existed; and of course no special provisions were made for its control. Are our institutions strong enough to stand the shock and strain of this new force? A government made for the kingdom of Liliput might fail to handle the forces of Brobdingnag. It cannot have escaped your attention, that all the forces of society, new and old, are now acting with unusual vigor in all departments of life. They crowd your college course with new studies each year. They challenge you with new problems. They assail you with new and imperious demands. Your culture must be more thorough, and the scope and amount of your knowledge far greater, to-day, than the graduate of forty years ago required to keep abreast of the age. Much more knowledge and culture are now required for every profession. A recent English writer of great thoughtfulness and power has said that the demands of our civilization are too great for the stamina and endurance of our people; that “our race is overweighted, and appears likely to be drudged into degeneracy by demands that exceed its powers.”<sup>2</sup> But interesting and important as that reflection is, in relation to individual life, the rapid development of our material interests raises another question even more mo-

<sup>1</sup> Chapters of Erie, etc., (Boston, 1871,) pp. 352, 353.

<sup>2</sup> Francis Galton, Hereditary Genius, (New York, 1871,) p. 345.



mentous. May it not be true that the new forces are also overweighting the strength of our social and political institutions? The editor of the Nation declares the simple truth when in a recent issue he says: "The locomotive is coming in contact with the framework of our institutions. In this country of simple government, the most powerful centralizing force which civilization has yet produced has, within the next score years, yet to assume its relations to that political machinery which is to control and regulate it."

The railway problem would have been much easier of solution if its difficulties had been understood in the beginning. But we have waited until the child has become a giant. We attempted to mount a columbiad on a carriage whose strength was only sufficient to stand the recoil of a twelve-pound shot. The danger to be apprehended does not arise from the railroad merely, but from its combination with the piece of legal machinery known as the private corporation.

In discussing this theme we must not make an indiscriminate attack upon corporations. The corporation, limited to its proper uses, is one of the most valuable of the many useful creations of law. One class of corporations has played a most important and conspicuous part in securing the liberties of mankind. It was the municipal corporations—the free cities and chartered towns—that preserved and developed the spirit of freedom during the darkness of the Middle Ages, and powerfully aided in the overthrow of the feudal system. The charters of London and of the lesser cities and towns of England made the most effective resistance to the tyranny of Charles II. and the judicial savagery of Jeffreys. The spirit of the free town and the chartered colony taught our own fathers how to win their independence. The New England township was the political unit which formed the basis of most of our States. This class of corporations has been most useful, and almost always safe, because they have been kept constantly within the control of the community for whose benefit they were created.<sup>1</sup> The States have never surrendered the power of amending their charters. The early English law writers classified all corporations as public or private; calling those of a municipal character public or *quasi* public, and all others private corporations. The latter

<sup>1</sup> The recent phases of municipal government in our large cities should, perhaps, lead me to modify this statement.

class, at that time, and indeed long afterward, consisted chiefly of such organizations as hospitals, colleges, and other charities supported by private benefactions. The ownership of the property, not the object of the corporation, was made the basis of classification. If the property was owned wholly by the state or the municipality, the corporation was public; if owned wholly or partly by individual citizens, the corporation was private. From this distinction have arisen the legal difficulties attending any attempt, on the part of the community, to control the great business corporations. Under the name of private corporations, organizations have grown up, not for the perpetuation of a great charity, like a college or hospital, nor to enable a company of citizens more conveniently to carry on a private industry; but corporations unknown to the early law writers have arisen, and to them have been committed the vast powers of the railroad and the telegraph, the great instruments by which modern communities live, move, and have their being.

Since the dawn of history, the great thoroughfares have belonged to the people,—have been known as the king's highways or the public highways, and have been open to the free use of all, on payment of a small, uniform tax or toll to keep them in repair. But now the most perfect, and by far the most important roads known to mankind are owned and managed as private property, by a comparatively small number of private citizens. In all its uses, the railroad is the most public of all our roads; and in all the objects to which its work relates, the railway corporation is as public as any organization can be. But, in the start, it was labelled a private corporation; and, so far as its legal status is concerned, it is now grouped with eleemosynary institutions and private charities, and enjoys similar immunities and exemptions. It remains to be seen how long the community will suffer itself to be the victim of an abstract definition.

It will be readily conceded that a corporation is strictly and really private, when it is authorized to carry on such a business as a private citizen may carry on. But when the state has delegated to a corporation the sovereign right of eminent domain, — the right to take from the private citizen, without his consent, a portion of his real estate, to build its structure across farm, garden, and lawn, into and through, over or under the blocks, squares, streets, churches, and dwellings of incorporated cities and towns, across navigable rivers, and over and along

public highways, — it requires a stretch of the common imagination, and much refinement and subtlety of the law, to maintain the old fiction that such an organization is not a public corporation.

In the famous Dartmouth College Case it was decided, in 1819, by the Supreme Court of the United States, that the charter of Dartmouth College is a contract between the State and the corporation, which the legislature cannot alter without the consent of the corporation; and that any such alteration is void, being in conflict with that clause of the Constitution of the United States which forbids a State to make any law impairing the obligation of contracts. This decision has stood for more than half a century as a monument of judicial learning, and the great safeguard of vested rights. But Chief Justice Marshall pronounced this decision ten years before the steam railway was born, and it is clear he did not contemplate the class of corporations that have since come into being. But, year by year, the doctrine of that case has been extended to the whole class of private corporations, including railroad and telegraph companies. But few of the States, in their early charters to railroads, reserved any effectual control of the operations of the corporations they created. In many instances, like that of the Illinois Central charter, the right to amend was not reserved. In most States each legislature has narrowed and abridged the powers of its successors, and enlarged the powers of the corporations; and these, by the strong grip of the law, and in the name of private property and vested rights, hold fast all they have received. By these means, not only the corporations, but the vast railroad and telegraph systems, have virtually passed from the control of the State. It is painfully evident, from the experience of the last few years, that the efforts of the States to regulate their railroads have amounted to but little more than feeble annoyance. In many cases the corporations have treated such efforts as impertinent intermeddling, and have brushed away legislative restrictions as easily as Gulliver broke the cords with which the Lilliputians attempted to bind him. In these contests the corporations have become conscious of their strength, and have entered upon the work of controlling the States. Already they have captured several of the oldest and strongest of them; and these discrowned sovereigns now follow in chains the triumphal chariot of their conquerors. And

this does not imply that merely the officers and representatives of States have been subjected to the railways, but that the corporations have grasped the sources and fountains of power, and control the choice of both officers and representatives.

The private corporation has another great advantage over the municipal corporation. The jurisdiction of the latter is confined to its own territory; but by the recent constructions and devices of the law, a private corporation, though it has no soul, no conscience, and can commit no crime, is yet a citizen of the State that creates it, and can make and execute contracts with individuals and corporations of other States. Thus, the way has been opened to those vast consolidations which have placed the control of the whole system in the hands of a few, and have developed the Charlemagnes and the Cæsars of our internal commerce.

In addition to these external conquests, the great managers have in many cases grasped the private property of the corporations themselves; and the stocks which represent the investment have become mere counters in the great gambling-houses of Wall Street, where the daily ebb and flow of the stock market sweeps and tosses the business and trade of the continent.

If these corporations were in reality private corporations, transacting only private business, the community might perhaps stand by in wonder and amazement at their achievements; but a great and vital public interest is involved in the system,—an interest which affects the social and political organization in a thousand ways. Prominent among these is the public necessity for means of transportation. Mr. Adams says that the estimated average amount transported by rail had risen from \$85 for each inhabitant in 1860 to \$300 in 1870, and that the public are now paying to railroads for travel and transportation \$450,000,000 per annum, an average of \$12 per head for the whole population.<sup>1</sup> Two thirds of this sum, he says, is paid for the actual work of transportation, and the remaining third “for the use of the capital and the risk involved in the business.” This latter sum is the tax on transportation, and is as really a *tax* as though it were paid on the grand duplicate of the State.

<sup>1</sup> The amount for the year 1872 is set down at \$473,241,055. Poor's Railroad Manual for 1873, *Intro.*, p. li.

“In other words,” quoting from Mr. Adams, “certain private individuals, responsible to no authority, and subject to no supervision, but looking solely to their own interests, or to those of their immediate constituency, yearly levy upon the American people a tax, as a suitable remuneration of their private capital, equal to one half of the expenses of the United States government, including interest on the national debt.”

I do not say that this tax is excessive; perhaps it is not; but its rate is determined, and the amount levied and collected, not by the authority of the state, but by private persons, whose chief concern is to serve their own interests.

We have seen that the transportation tax is the amount paid to the companies for their investment. How much they shall invest, where and under what limitations it shall be invested, has been wholly left to the companies themselves; but whether they have invested their capital wisely or unwisely, however much the business may be overdone, the investors must be paid for the use of their capital, and that payment is made by the community. In most of the States, railroads may be built in unlimited numbers, wherever five or ten men, who incorporate themselves under the general law, may choose to build them. This has probably been allowed, in the belief that free competition in building and operating roads would produce economy in the management and cheapness in transportation. But this expectation has utterly failed. All railroad experience has verified the truth of George Stephenson’s aphorism, that, “when combination is possible, competition is impossible.” Great Britain has gone much further into the investigation of this question than we have, and the result of her latest study is thus expressed in the *London Quarterly Review*, of April last: —

“By the common consent of all practical men, competition — the ordinary safeguard of the public in matters of trade — has ceased to afford the slightest protection (except in the few unimportant cases of rival sea traffic) against railway monopoly. . . .

“In spite of the recommendations of these authorities [Parliament and Parliamentary commissions], combination and amalgamation have proceeded, at the instance of the companies, without check, and almost without regulation. United systems now exist, constituting, by their magnitude and by their exclusive possession of whole districts, monopolies to which the earlier authorities would have been most strongly opposed. Nor is there any reason to suppose that the progress of com-

bination has ceased, or that it will cease until Great Britain is divided between a small number of great companies.' "

The article concludes with these striking words: —

"We have tried the *laissez faire* policy, and it has failed; we have tried a meddlesome policy, and it has failed also. We have now . . . to meet the coming day when all the railways, having completed their several systems, may, and probably in their own interests will, combine together to take advantage of the public. In the face of this contingency we have simply to make our choice between two alternatives, — either to let the state manage the railways, or to let the railways manage the state." <sup>1</sup>

It is easy to see that we are repeating the experience of Great Britain on a vast scale. We have doubled our miles of railway in the last eight years. In the last two years we have built and put into operation 14,206 miles of road, — more than a quarter of all we had in January, 1871.

The cost of constructing the roads we are now operating was \$3,160,000,000; and during the year 1872 there were transported by rail more than 200,000,000 tons of freight. The process of consolidation of our leading lines of road has been even more rapid than that of construction; and whatever dangers we may expect from the system are rapidly culminating to the point of full development. In antagonism to these and to similar combinations of capitalists are the combinations of laborers in trades unions and labor leagues. The indications are abundant that we shall soon see, set in full array, a conflict between capital and labor, — a conflict between forces that ought not to be enemies; for labor is the creator of capital, which is only another name for accumulated labor. It is the duty of statesmanship to study the relation which the government sustains and ought to sustain to this struggle, and to provide that it shall not be the partisan supporter of either combatant, but the just protector of both. The right to labor has not been sufficiently emphasized as one of the rights of man. The right to enjoy the fruits of labor has been better secured.

In view of the facts now set forth, the question returns, What is likely to be the effect of railway and other similar combinations upon our community and our political institutions? Is it true, as asserted by the British writer quoted above, that

<sup>1</sup> London Quarterly Review, (American ed.,) Vol. CXXXIV. pp. 198, 206.

the state must soon recapture and control the railroads, or be captured and subjugated by them? Or do the phenomena we are witnessing indicate that general breaking up of the social and political order of modern nations so confidently predicted by a class of philosophers whose opinions have hitherto made but little impression on the public mind? That you may not neglect this broader view of the question, I will quote some sentences written by Charles Fourier, sixty-six years ago,—nearly a quarter of a century before the fire of the first steam locomotive was lighted. After tracing the course of civilization through its several phases of development, and declaring that it was then (1808) past the middle of its third phase, and moving towards its own destruction, he said:—

“Civilization is tending towards the fourth phase, by the influence of joint stock corporations, which, under the cover of certain legal privileges, dictate terms and conditions to labor, and arbitrarily exclude from it whomever they please. These corporations contain the germ of a vast feudal coalition, which is destined soon to invade the whole industrial and financial system, and give birth to a commercial feudalism. . . . These corporations will become dangerous and lead to new outbreaks and convulsions only by being extended to the whole commercial and industrial system. The event is not far distant, and will be brought about all the more easily from the fact that it is not apprehended. . . . Extremes meet; and the greater the extent to which anarchical competition is carried, the nearer is the approach to the reign of *universal monopoly*, which is the opposite excess. It is the fate of civilization to be always balancing between extremes. Circumstances are tending toward the organization of the commercial classes into federal companies, or affiliated monopolies, which, operating in conjunction with the great landed interest, will reduce the middle and laboring classes to a state of commercial vassalage, and by the influence of combined action, will become master of the productive industry of entire nations. The small operators will be forced indirectly to dispose of their products according to the wishes of these monopolists; they will become mere agents for the coalition. We shall thus see the reappearance of feudalism in an inverse order, founded on mercantile leagues, and answering to the baronial leagues of the Middle Ages. Everything is concurring to produce this result. . . . We are marching with rapid strides towards a commercial feudalism, and to the fourth phase of civilization.”<sup>1</sup>

These declarations read something like prophecy, so far as

<sup>1</sup> Theory of the Four Movements, etc., Eng. Trans., (New York, 1857,) pp. 198, 207.

they relate to the effects of combined corporations. New mechanical forces have hastened the development of corporations since Fourier wrote. We need not take alarm at his prophecy of the speedy decay of civilization; but the analogy between the industrial condition of society at the present time and the feudalism of the Middle Ages is both striking and instructive. In the darkness and chaos of that period, the feudal system was the first important step towards the organization of modern nations. Powerful chiefs and barons intrenched themselves in castles, and in return for submission and service gave to their vassals rude protection and ruder laws. But as the feudal chiefs grew in power and wealth, they became the oppressors of their people, taxed and robbed them at will, and finally, in their arrogance, defied the kings and emperors of the mediæval states. From their castles, planted on the great thoroughfares, they practised the most capricious extortions on commerce and travel, and thus gave to modern language the phrase "to levy black mail."<sup>1</sup> The consolidation of our great industrial and commercial companies, the power they wield, and the relations they sustain to the States and to the industry of the people, do not fall far short of Fourier's definition of commercial or industrial feudalism. The modern barons, more powerful than their military prototypes, own our greatest highways, and levy tribute at will upon all our vast industries. And, as the old feudalism was finally controlled and subordinated only by the combined efforts of the kings and the people of the free cities and towns, so our modern feudalism can be subordinated to the public good only by the great body of the people acting through their governments by wise and just laws.

My theme does not include, nor will this occasion permit, the discussion of methods by which this great work of adjustment may be accomplished. But I refuse to believe that the genius and energy that have developed these new and tremendous forces, will fail to make them, not the masters, but the faithful servants of society. It will be a disgrace to our age and to us

<sup>1</sup> "A very large proportion of the rural nobility lived by robbery. Their castles, as the ruins still bear witness, were erected upon inaccessible hills, and in defiles that command the public road. An Archbishop of Cologne having built a fortress of this kind, the governor inquired how he was to maintain himself, no revenue having been assigned for that purpose: the prelate only desired him to remark that the castle was situated near the junction of four roads." — Hallam's Middle Ages, Vol. II. p. 95 (London, 1868).



if we do not discover some method by which the public functions of these organizations may be brought into full subordination to the public, and that too without violence, and without unjust interference with the rights of private individuals. It will be unworthy of our age and of us, if we make the discussion of this subject a mere warfare against men. For in these great industrial enterprises have been, and still are, engaged some of the noblest and worthiest men of our time. It is the system, its tendencies and its dangers, which society itself has produced, that we are now to confront. And these industries must not be crippled, but promoted. The evils complained of are mainly of our own making. States and communities have willingly and thoughtlessly conferred these great powers upon railways, and they must seek to rectify their own errors without injury to the industries they have encouraged.

Already methods are being suggested. Massachusetts is discussing the proposal to purchase and operate a portion of her railroad system, and thus bring the rest into competition with the State as the representative of the people. It is claimed that the success of this plan has been proved by the experience of Belgium. Another proposition is that the State purchase the roads and open them, like other highways, to the free use of the public, subject to such regulations and toll as the safety of transportation and the maintenance of the system may require. This, it is claimed, would remove the stocks and bonds from the gambling operations of the markets, and place the levying of the transportation tax in the hands of the State, and under the control of those who pay. Others, again, insist that the system has overgrown the limits and the powers of the separate States, and must be taken in hand by the national government, under that provision of the national Constitution which empowers Congress to regulate commerce among the several States. When it is objected that this would be a great and dangerous step towards political centralization, — which many think has already been pushed too far, — it is responded that, as the railway is the greatest centralizing force of modern times, nothing but a kindred force can control it; and it is better to rule it than to be ruled by it. Other solutions have been proposed; but these are sufficient to show how strongly the current of public thought is setting towards the subject. Indications are not wanting that the discussion will be attended by passion, and

by a full exhibition of that low, political cunning which plays with the passions and prejudices of men, and measures success by results, and not by the character of the means employed. I have ventured to criticise the judicial application of the Dartmouth College case; and I venture the further opinion, that some features of that decision, as applied to the railway and similar corporations, must give way, under the new elements which time has added to the problem. But this must be done, not by denouncing judges who faithfully administer the law, but by such prudent changes in the law, and perhaps in our constitutions, as will guide the courts in future adjudications.<sup>1</sup>

It depends upon the wisdom, the culture, the self-control of our people, to determine how wisely and how well this question shall be settled. But that it will be solved, and solved in the interest of liberty and justice, I do not doubt. And its solution will open the way to a solution of a whole chapter of similar questions that relate to the conflict between capital and labor. The gloomy views of socialistic writers on this question would have more force, if the dangers here discussed had grown up in spite of our efforts to prevent them. But the fact is they have grown by our help, while we were unconscious of the fact that they were dangers.

The intelligence and national spirit of our people exhibit their capacity for dealing with difficult problems. Those who saw the terrible elements of destruction that burst upon us twelve years ago, in the fury of civil war, would have been called dreamers and enthusiasts had they predicted that 1873 would witness the conflict ended, its cause annihilated, the bitterness and hatred it had occasioned nearly gone, and the nation, with union and unity restored, smiling again over the turf of half a million soldiers' graves.

Finally, our great hope for the future — our great safeguard against danger — is to be found in the general and thorough education of our people, and in the virtue which accompanies such education. And all these elements depend in a large

<sup>1</sup> One member of the court, Mr. Justice Duvall, dissented from the opinion of the Court in the Dartmouth College case. Even Chief Justice Marshall, in pronouncing the opinion of the court, used expressions which would not at all apply to our railway companies. He said, "These eleemosynary institutions do not fill the place which would otherwise be occupied by the government, but that which would otherwise remain vacant." (4 Wheaton, 647.) There has been a growing dissent against the enlarged application of this principle.

measure upon the intellectual and moral culture of the young men who go out from our higher institutions of learning. From the standpoint of this general culture we may trustfully encounter the perils that assail us. Secure against dangers from abroad; united at home by the strongest ties of common interest and patriotic pride; holding and unifying our vast territory by the most potent forces of civilization; relying upon the intelligent strength and responsibility of each citizen, and most of all upon the power of truth, — without undue arrogance, we may hope that, in the centuries to come, our republic will continue to live and hold its high place among the nations, as

“ . . . the heir of all the ages, in the foremost files of time.”

# THE NORTHWEST TERRITORY: SETTLEMENT OF THE WESTERN RESERVE.

ADDRESS DELIVERED AT BURTON, OHIO, BEFORE THE HISTORICAL SOCIETY OF GEAUGA COUNTY,

SEPTEMBER 16, 1873.

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IN furnishing the Geauga County Historical Society with the manuscript of the following address, Mr. Garfield sent a letter, dated Washington, D. C., December 13, 1873, in which he stated the sources from which he had drawn his historical data. The most valuable part of the letter was a lengthy extract from his remarks of February 18, 1873, made on the following paragraph of the Miscellaneous Appropriation Bill then pending: "To enable the Joint Committee on the Library to purchase and print a series of unpublished historical documents relating to the early French discoveries in the Northwest, and on the Mississippi, \$10,000, or so much thereof as may be necessary, the printing of the same to be under the direction of the said committee."

Mr. Garfield's remarks on that question in full were as follows:—

"Mr. Chairman,— We appropriate every year considerable sums of money for the purpose of increasing the library of Congress. We propose here to designate a particular kind of purchase which we desire to have made. It is just as much a part of our discretion and right as any appropriation that we can make.

"And now what is it for which we seek to provide? For the period of two whole centuries the French were exploring a great part of this continent, and from 1669 to 1750 they occupied a great portion of the valley west of the Alleghany Mountains. Under the direction of their government, learned men, army officers, men interested in science, were sent out to make explorations along the great rivers of the Northwest, along all our Great Lakes, and through the Rocky Mountains, long before a man of the Anglo-Saxon race, or a man speaking the English language, had ever trodden any of these wilds. They made full reports to the government at Paris, but in those days such reports were buried in the archives of the government, and were considered secret papers. They

have never seen the light. The archivist of the navy department of France, Pierre Margry, has had possession of these documents for years, and has with great pains transcribed them. I have received a letter from the greatest of our recent historians, Mr. Francis Parkman, in which he says: 'I have known about this collection many years, and have several times seen it, and examined it sufficiently to get a clear idea of its contents. Many of the most important documents composing it have been in my hands. I can testify in the strongest terms to its rare value for the history of the West. To the best of my belief, none of these documents which M. Margry now proposes to print have ever been in print before.'

"M. Margry has prepared for publication matter that will make nine volumes, according to the testimony before the committee. Three volumes relate to the discoveries of La Salle and his companions, Joutel, Tonty, Galinier, and Dollier de Casson; one, to La Mothe Cadillac, and the settlement of Detroit; two, to discoveries and explorations in the Rocky Mountains, in 1752, by De Niseville and the brothers La Vérandrye; one, to Fort Du Quesne and Natchitoches; two, to the settlement of Louisiana. The volumes will be published by M. Margry, under his own direction, if he can be assured of a subscription to a certain number of copies in advance, to be paid for only when the volumes are delivered.

"Now a book of this sort will be little popular in France, as it relates to so distant a country; but, here at home, and especially in the great Northwest, it will be of vital interest, as adding to our knowledge of our ancient history; and we propose, in putting this \$10,000 into the hands of the Committee on the Library, that, instead of placing on our shelves a great number of the worthless books that always find their way there, they shall put in this work of inestimable historical value, which cannot be duplicated elsewhere, which cannot be published except by the government, and which may be lost, and was so near being lost in the late war of the Commune. It seems to me that no wiser or more appropriate use could be made of any amount which we may devote to the library."

This appropriation was made. In 1881, the fourth volume of the Margry Papers was published.

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MR. CHAIRMAN AND FELLOW-CITIZENS, — When I accepted the invitation to address you on this interesting occasion, I did not assume that I could contribute anything in the way of original materials to the history of this portion of the Western Reserve. I hoped, however, that I might be able to point out some of the resources from which these materials may be drawn, and to express my interest in the effort you are

making to rescue a portion of them from the destroying hand of time.

From the historian's standpoint, our country is peculiarly and exceptionally fortunate. The origin of nearly all great nations, ancient and modern, is shrouded in fable or traditionary legend. The story of the founding of Rome by the wolf-nursed brothers, Romulus and Remus, has long been classed among the myths of history; and the more modern story of Hengist and Horsa's leading the Saxons to England, is almost equally legendary. The origin of Paris can never be known. Its foundation was laid long before Gaul had written records. But the settlement, civilization, and political institutions of our country can be traced from their first hour by the clear light of history. It is true that over this continent hangs an impenetrable veil of tradition, mystery, and silence. But it is the tradition of races fast passing away; the mystery of a still earlier race, which flourished and perished long before its discovery by the Europeans. The story of the mound-builders can never be told. The fate of the Indian tribes will soon be a half-forgotten tale. But the history of European civilization and institutions on this continent can be traced with precision and fulness, unless we become forgetful of the past, and neglect to save and perpetuate its precious memorials.

In discussing the scope of historical study in reference to our country, I will call attention to a few general facts concerning its discovery and settlement.

First. The romantic period of discovery on this continent.

There can scarcely be found in the realms of romance anything more fascinating than the records of discovery and adventure during the two centuries that followed the landing of Columbus on the soil of the New World. The greed for gold, the passion for adventure, the spirit of chivalry, the enthusiasm and fanaticism of religion, all conspired to throw into America the hardiest and most daring spirits of Europe, and made the vast wilderness of the New World the theatre of as stirring achievements as history has recorded.

Early in the sixteenth century, Spain, turning from the conquest of Granada and her triumph over the Moors, followed her golden dreams of the New World with the same spirit that in an earlier day animated her crusaders. In 1512, Ponce de Leon began his search for the fountain of perpetual youth, the tradi-

tion of which he had learned among the natives of the West Indies. He discovered the low-lying coasts of Florida, and explored its interior. Instead of the fountain of youth, he found his grave among its everglades. A few years later, De Soto, who had accompanied Pizarro in the conquest of Peru, landed in Florida with a gallant array of knights and nobles, and commenced his explorations through the Western wilderness. In 1541, he reached the banks of the Mississippi River, and, crossing it, pushed his discoveries westward over the great plains; but, finding neither the gold nor the South Sea of his dreams, he returned to be buried in the waters of the great river that he had discovered.

While England was more leisurely exploring the bays and rivers of the Atlantic coast, and searching for gold and peltry, the chevaliers and priests of France were chasing their dreams in the North, searching for a passage to Asia and the realms of far Cathay, and telling the mystery of the cross to the Indian tribes of the Far West. Coasting northward, her bold navigators discovered the mouth of the St. Lawrence; and, in 1535, Cartier sailed up its broad current to the rocky heights of Quebec, and to the rapids above Montreal, which were afterwards named *La Chine* in derision of the belief that the adventurers were about to find China. In 1609, Champlain pushed above the rapids, and discovered the beautiful lake that bears his name. In 1615, Father Le Caron pushed northward and westward through the wilderness, and discovered Lake Huron. In 1639, the Jesuit missionaries founded the Mission St. Mary. In 1654, another priest had entered the wilderness of Northern New York, and found the salt springs of Onondaga. In 1659-60, French traders and priests passed the winter on Lake Superior, and established missions along its shores.

Among the earlier discoverers, no name shines out with more brilliancy than that of René-Robert Cavelier, *Sieur de la Salle*. The story of his explorations can scarcely be equalled in romantic interest by any of the stirring tales of the crusaders. Born of a proud and wealthy family in the North of France, he was destined for the service of the Church and of the Jesuit order. But his restless spirit, fired with the love of adventure, broke away from ecclesiastical restraints to confront the dangers of the New World, and extend the empire of Louis XIV. From the best evidence accessible, it appears that he was the first

white man who saw the Ohio River. At twenty-six years of age, we find him with a small party near the western extremity of Lake Ontario, boldly entering the domain of the dreaded Iroquois, travelling southward and westward through the wintry wilderness until he reached a branch of the Ohio, probably the Alleghany. He followed it to the main stream, and descended that, until, in the winter of 1669-70, he reached the Falls of the Ohio, near the present site of Louisville. His companions refusing to go further, he returned to Quebec and prepared for still greater undertakings.

At the same time the Jesuit missionaries were pushing their discoveries on the Northern Lakes. In 1673, Joliet and Marquette started from Green Bay, dragging their canoes up the rapids of Fox River, crossed Lake Winnebago, found Indian guides to conduct them to the waters of the Wisconsin, descended that stream, and, on the 17th of June, reached the Mississippi near the spot where now stands the city of Prairie du Chien. To-morrow will be the two hundredth anniversary of that discovery. One hundred and forty-two years before that time, De Soto had seen the same river more than a thousand miles below; but during that interval it is not known that any white man had looked upon its waters.

Turning southward, these brave priests descended the great river, amid the awful solitudes. The stories of demons and monsters of the wilderness, which abounded among the Indian tribes, did not deter them from pushing their discoveries. They continued their journey southward to the mouth of the Arkansas River, telling as best they could the story of the cross to the wild tribes along the shores. Returning by way of the Kaskaskia, and travelling thence to Lake Michigan, they reached Green Bay at the end of September, 1673, having on their journey paddled their canoes more than twenty-five hundred miles. Marquette remained to establish missions among the Indians, and to die, three years later, on the eastern shore of Lake Michigan, while Joliet returned to Quebec to report his discoveries.

In the mean time, Count Frontenac, a noble of France, had been made Governor of Canada, and found in La Salle a fit counsellor and assistant in his vast schemes of discovery. La Salle was sent to France, to enlist the court and the ministers of Louis XIV.; and in 1678 returned to Canada, with full power



under Frontenac to carry forward his grand enterprises. He had developed three great purposes: first, to realize the old plan of Champlain, the finding of a pathway to China across the American continent; second, to occupy and develop the regions of the Northern Lakes; and, third, to descend the Mississippi and establish a fortified post at its mouth, thus securing an outlet for the trade of the interior, and checking the progress of Spain on the Gulf of Mexico.

In pursuance of this plan, we find La Salle and his companions, in January, 1679, dragging their cannon and materials for building a ship around the Falls of Niagara, and laying the keel of a vessel two leagues above the cataract, at the mouth of Cayuga Creek. She was a schooner of forty-five tons burden, and was named "The Griffin." On the 7th of August, 1679, with an armament of five cannon, and a crew and company of thirty-four men, she started on her voyage up Lake Erie, the first sail ever spread over the waters of that lake. On the fourth day she entered Detroit River; and, after encountering a terrible storm on Lake Huron, passed the straits, and reached Green Bay early in September. A few weeks later she started back for Niagara, laden with furs, but was never heard from again.

While awaiting the supplies which the Griffin was expected to bring, La Salle explored Lake Michigan to its southern extremity, ascended the Saint Joseph, crossed the portage to the Kankakee, descended the Illinois, and, landing at an Indian village on the site of the present village of Utica, Illinois, celebrated mass on New Year's Day, 1680. Before the winter was ended he became certain that the Griffin was lost. But, undaunted by his disasters, on the 3d of March, with five companions, he began the incredible feat of making the journey to Quebec on foot, in the dead of winter. This he accomplished. He reorganized his expedition, conquered every difficulty, and, on the 21st of December, 1681, with a party of fifty-four Frenchmen and friendly Indians, set out for the present site of Chicago, and, by way of the Illinois River, reached the Mississippi, February 6, 1682. He descended its stream, and on the 9th of April, 1682, standing on the shores of the Gulf of Mexico, solemnly proclaimed to his companions and to the wilderness, that in the name of Louis the Great he took possession of the great valley watered by the Mississippi River. He set up a column, and inscribed upon it the arms of France, and

named the country Louisiana. Upon this act rested the claim of France to the vast region stretching from the Alleghany to the Rocky Mountains, from the Rio Grande and the Gulf to the farthest springs of the Missouri.

I will not follow further the career of the great explorers. Enough has been said to exhibit the spirit and character of their work. I would I were able to inspire the young men of this country with a desire to read the history of these stirring days of discovery, which opened up to Europe the mysteries of this New World. Theodore Irving has well said of their work, —

“It was poetry put in action; it was the knight-errantry of the Old World carried into the depths of the American wilderness; indeed, the personal adventures, the feats of individual prowess, the picturesque descriptions of steel-clad cavaliers, with lance and helm and prancing steed, glittering through the wilderness of Florida, Georgia, Alabama, and the prairies of the Far West, would seem to us mere fictions of romance, did they not come to us recorded in the matter of fact narratives of contemporaries, and corroborated by minute and daily memoranda of eyewitnesses.”<sup>1</sup>

Second. The struggle for national dominion.

I next invite your attention to the less stirring, but not less important, struggle for the possession of the New World, which succeeded the period of discovery.

At the beginning of the eighteenth century, North America was claimed mainly by three great powers. Spain held possession of Mexico, and a belt reaching eastward to the Atlantic, and northward to the southern line of Georgia, except a portion near the mouth of the Mississippi held by the French. England held from the Spanish line on the south to the Northern Lakes and the St. Lawrence, and westward to the Alleghanies. France held all north of the Lakes and west of the Alleghanies, and southward to the possessions of Spain. Some of the boundary lines were but vaguely defined; others were disputed; but the general outlines were as stated.

Besides the struggle for national possession, the religious element entered largely into the contest. It was a struggle between the Catholic and Protestant faiths. The Protestant colonies of England were enveloped on three sides by the vigorous and perfectly organized Catholic powers of France and

<sup>1</sup> The Conquest of Florida by Hernando de Soto, by Theodore Irving, p. 24 (New York, 1869).

Spain. Indeed, at an early date, by the Bull of Pope Alexander VI., all America had been given to the Spaniards. But France, with a zeal equal to that of Spain, had entered the lists to contest for the prize. So far as the religious struggle was concerned, the efforts of France and Spain were resisted only by the Protestants of the Atlantic coast.

The main chain of the Alleghanies was supposed to be impassable until 1714, when Governor Spotswood of Virginia led an expedition to discover a pass to the great valley beyond. He found one somewhere near the western boundary of Virginia, and by it descended to the Ohio. On his return, he established the "Transmontane Order," or "Knights of the Golden Horseshoe." On the sandy plains of Eastern Virginia horseshoes were rarely used, but in climbing the mountains he had found them necessary; and, on creating his companions knights of this new order, he gave to each a golden horseshoe, inscribed with the motto, "Sic jurat transcendere montes."

Spotswood represented to the British ministry the great importance of planting settlements in the Western valley; and, with the foresight of a statesman, pointed out the danger of allowing the French the undisputed possession of that rich region.

The progress of England had been slower, but more certain, than that of her great rival. While the French were establishing trading-posts at points widely remote from each other, along the Lakes and the Mississippi, and in the wilderness of Ohio, Indiana, and Illinois, the English were slowly but firmly planting their settlements on the Atlantic slope, and preparing to contest the rich prize of the Great West. They possessed one great advantage over their French rivals. They had cultivated the friendship of the Iroquois confederacy, the most powerful combination of Indian tribes known to the New World. That confederacy held possession of the southern shores of Lakes Ontario and Erie; and their hostility to the French had confined the settlements of that people mainly to the northern shores. During the first half of the eighteenth century, many treaties were made by the English with these confederated tribes, and some valuable grants of land were obtained on the eastern slope of the Mississippi Valley. About the middle of that century, the British government began to recognize the wisdom of Governor Spotswood, and perceived that an empire was soon to be saved or lost.

In 1748 a company was organized by Thomas Lee, and Lawrence and Augustine Washington, under the name of the Ohio Company, and received a royal grant of half a million acres of land in the valley of the Ohio. In 1751 a British trading-post was established on the Big Miami; but in the following year it was destroyed by the French. Many similar efforts of the English colonists were resisted by the French, and during the years 1751-53 it became manifest that a great struggle was imminent between the French and the English for the possession of the West. The British ministers were too much absorbed in intrigues at home to appreciate the importance of this contest; and they did but little more than to permit the colonists to protect their rights in the valley of the Ohio.

In 1753 the Ohio Company had opened a road, by Will's Creek, into the Western valley, and were preparing to locate their colony. At the same time, the French had sent a force to occupy and hold the line of the Ohio. As the Ohio Company was under the especial protection of Virginia, the Governor of that Colony determined to send a messenger to the commander of the French forces, and demand the reason for invading the British dominions. For this purpose, he selected George Washington, then twenty-one years of age, who, with six companions, set out from Williamsburg, in the middle of November, for the waters of the Ohio and the Lakes. After a journey of nine days through sleet and snow, he reached the Ohio at the junction of the Alleghany and the Monongahela; and his quick eye seemed to foresee the destiny of the place. "I spent some time," said he, "in viewing the rivers. The land in the Fork has the absolute command of both." On this spot Fort Pitt was afterwards built, and still later the city of Pittsburg. As Bancroft has said, "After creating in imagination a fortress and a city, he and his party swam their horses across the Alleghany, and wrapped their blankets around them for the night on its northwest bank." Proceeding down the Ohio to Logstown, he held a council with the Shawnees and the Delawares, who promised to secure the aid of the Six Nations in resisting the French. He then proceeded to the French posts at Venango and Fort Le Bœuf (the latter fifteen miles from Lake Erie), and warned the commanders that the rights of Virginia must not be invaded. He received for his answer, that the French would seize every Englishman in the Ohio Valley. Returning to Virginia in January, 1754, he re-

ported to the Governor, and immediate preparations were made by the Colonists to maintain their rights in the West, and resist the incursions of the French. In this movement originated the first important military union among the English Colonists.

Although peace still existed between France and England, formidable preparations were made by the latter to repel encroachments on the frontier, from Ohio to the Gulf of St. Lawrence. Braddock was sent to America, and in 1755, at Alexandria, he planned four expeditions against the French. It is not necessary to speak in detail of the war that followed. After Braddock's defeat near the forks of the Ohio, which occurred on the 9th of July, 1755, England herself took active measures for prosecuting the war. On the 25th of November, 1758, Forbes captured Fort Duquesne, which thus passed into the possession of the English, and was named Fort Pitt, in honor of the great minister. In 1759 Quebec was captured by General Wolfe, and the same year Niagara fell into the hands of the English. In 1760 an English force under Major Rogers moved westward from Niagara, to occupy the French posts on the Upper Lakes. They coasted along the south shore of Erie, — the first considerable body of English-speaking people that sailed its waters. Near the mouth of the Grand River, they met in council the great warrior Pontiac and his chiefs. Three weeks later, they took possession of Detroit. "Thus," says Mr. Bancroft, "was Michigan won by Great Britain, yet not for itself. There were those who foresaw that the acquisition of Canada was the prelude of American independence." Late in December, Rogers returned to the Maumee, and, setting out from the point where Sandusky City now stands, crossed the Huron River to the northern branch of White Woman's River, and passing thence by the English village of Beaverstown, and up the Ohio, reached Fort Pitt on the 23d of January, 1761, just a month after he left Detroit.

Under the leadership of Pitt, England was finally triumphant in this great struggle; and by the treaty of Paris, of February 10, 1763, she acquired Canada and all the territory east of the Mississippi River and southward to the Spanish possessions, excepting New Orleans and the island on which it is situated.

During the twelve years which followed the treaty of Paris, the English Colonists were pushing their settlements into the newly acquired territory; but they encountered the opposition

of the Six Nations and their allies, who made fruitless efforts to capture the British posts of Detroit, Niagara, and Fort Pitt. At length, in 1768, Sir William Johnson concluded a treaty at Fort Stanwix with these tribes, by which all the lands south of the Ohio and the Alleghany were sold to the British, the Indians to remain in undisturbed possession of the territory north and west of those rivers. New companies were organized to occupy the territory thus obtained. "Among the foremost speculators in Western lands at that time," says the author of "Annals of the West,"<sup>1</sup> "was George Washington." In 1769 he was one of the signers of a petition to the King for a grant of two and a half millions of acres in the West. In 1770 he crossed the mountains and descended the Ohio to the mouth of the Great Kanawha, to locate the ten thousand acres to which he was entitled for services in the French war. Virginians now planted settlements in Kentucky, and pioneers from all the Colonies began to occupy the frontiers, from the Alleghany to the Tennessee.

Third. The war of the Revolution, and its relations to the West.

How came the thirteen Colonies to possess the valley of the Mississippi? The object of their struggle was independence, and yet, by the treaty of peace in 1783, not only was the independence of the thirteen Colonies conceded, but there was granted to the new republic a Western territory bounded by the Northern Lakes, the Mississippi, and the French and Spanish possessions. How did these hills and valleys become a part of the United States? It is true that, by virtue of royal charters, several of the Colonies set up claims extending to the "South Sea." The knowledge which the English possessed of the geography of this country, at that time, is illustrated by the fact that Captain John Smith was commissioned to sail up the Chickahominy, and find a passage to China! But the claims of the Colonies were too vague to be of any consequence in determining the boundaries of the two governments. Virginia had indeed extended her settlements into the region south of the Ohio River, and during the Revolution had annexed that country to the Old Dominion, calling it the county of Kentucky. But previous to the Revolution, the Colonies had taken no such action in reference to the territory northwest of the Ohio.

<sup>1</sup> J. H. Perkins. St. Louis, 1850.

The cession of that great territory, under the treaty of 1783, was due mainly to the foresight, the courage, and the endurance of one man, who never received from his country any adequate recognition for his great service. That man was George Rogers Clarke; and it is worth your while to consider the work that he accomplished. Born in Virginia, he was in early life a surveyor, and afterwards served in Lord Dunmore's war. In 1776, he settled in Kentucky, and was in fact the founder of that Commonwealth. As the war of the Revolution progressed, he saw that the pioneers west of the Alleghanies were threatened by two formidable dangers: first, by the Indians, many of whom had joined the standard of Great Britain; and second, by the success of the war itself; for, should the Colonies obtain their independence while the British held possession of the Mississippi Valley, the Alleghanies would be the western boundary of the new republic, and the pioneers of the West would remain subject to Great Britain.

Inspired by these views, he made two journeys to Virginia to represent the case to the authorities of that Colony. Failing to impress the House of Burgesses with the importance of warding off these dangers, he appealed to the Governor, Patrick Henry, and received from him authority to enlist seven companies to go to Kentucky subject to his orders, and to serve for three months after their arrival in the West. This was a public commission. Another document, bearing date Williamsburg, January 2, 1778, was a secret commission, which authorized him, in the name of Virginia, to capture the military posts held by the British in the Northwest. Armed with this authority, he proceeded to Pittsburg, where he obtained ammunition, and floated it down the river to Kentucky. He succeeded in enlisting seven companies of pioneers, and in the month of June, 1778, commenced his march through the untrodden wilderness to the region of the Illinois. With a daring that is scarcely equalled in the annals of war, he captured the garrisons of Kaskaskia, Cahokia, and Vincennes, sent his prisoners to the Governor of Virginia, and by his energy and skill won over the French inhabitants of that region to the American cause.

In October, 1778, the House of Burgesses passed an act declaring that "all the citizens of the Commonwealth of Virginia, who are already settled there, or shall hereafter be set-

tled on the west side of the Ohio, shall be included in the District of Kentucky, which shall be called Illinois County." In other words, George Rogers Clarke conquered the Northwest Territory in the name of Virginia, and the flag of the republic covered it at the close of the war.

In negotiating the treaty of peace at Paris, in 1783, the British commissioners insisted on the Ohio River as the northwestern boundary of the United States; and it was found that the only tenable ground on which the American commissioners could sustain our claim to the Lakes and the Mississippi as the boundary, was the fact that George Rogers Clarke had conquered the country, and Virginia was in undisputed possession of it at the cessation of hostilities. Judge Burnet says: "That fact [the capture of the British posts] was affirmed and admitted, and was the chief ground on which the British commissioners reluctantly abandoned their claim."<sup>1</sup>

It is a stain upon the honor of our country that such a man — the leader of pioneers who made the first lodgment on the site now occupied by Louisville, who was in fact the founder of the State of Kentucky, and who by his personal foresight and energy gave nine great States to the republic — was allowed to sink under a load of debt incurred for the honor and glory of his country.

In 1799, Judge Burnet rode some ten or twelve miles from Louisville into the country to visit this veteran hero. He says he was induced to make this visit by the veneration he entertained for Clarke's military talents and services. This is Burnet's description: —

"He had the appearance of a man born to command, and fitted by nature for his destiny. There was a gravity and solemnity in his demeanor, resembling that which so eminently distinguished the venerated father of his country. A person familiar with the lives and character of the military veterans of Rome, in the days of her greatest power, might readily have selected this remarkable man as a specimen of the model he had formed of them in his own mind; but he was rapidly falling a victim to his extreme sensibility, and to the ingratitude of his native State, under whose banner he had fought bravely and with great success.

"The time will certainly come when the enlightened and magnanimous citizens of Louisville will remember the debt of gratitude they owe

<sup>1</sup> Notes on the Early Settlement of the Northwestern Territory, p. 77.



the memory of that distinguished man. He was the leader of the pioneers who made the first lodgment on the site now covered by their rich and splendid city. He was its protector during the years of its infancy, and in the period of its greatest danger. Yet the traveller who had read of his achievements, admired his character, and visited the theatre of his brilliant deeds, discovers nothing indicating the place where his remains are deposited, and where he can go and pay a tribute of respect to the memory of the departed and gallant hero." <sup>1</sup>

This eulogy of Judge Burnet's is fully warranted by the facts of history. There is preserved in the War Department at Washington a portrait of Clarke, which gives unmistakable evidence of a character of rare grasp and power. No one can look upon that remarkable face without knowing that the original was a man of unusual force.

Fourth. Organization and settlement of the Western Reserve.

Soon after the close of the Revolution, our Western country was divided into three Territories: the Territory of the Mississippi, the Territory South of the Ohio, and the Territory Northwest of the Ohio. In this address, I shall consider only the organization and settlement of the latter.

It would be difficult to find any country so covered with conflicting claims of title as the Territory of the Northwest. Several States, still asserting the validity of their royal charters, set up claims more or less definite to portions of this Territory. First, by royal charter of 1662, confirming a Council charter of 1630, Connecticut claimed a strip of land bounded on the east by the Narragansett River, north by Massachusetts, south by Long Island Sound, and extending westward between the parallels of 41 degrees and 42 degrees 2 minutes north latitude, to the mythical "South Sea." Second, New York, by her charter of 1614, claimed a territory, marked by definite boundaries, lying across the boundaries of the Connecticut charter. Third, by the grant to William Penn, in 1664, Pennsylvania claimed a territory overlapping part of the territory of both these Colonies. Fourth, the charter of Massachusetts also conflicted with some of the claims above mentioned. Fifth, Virginia claimed the whole of the Northwest Territory by right of conquest, and in 1778, by an act of her Legislature, annexed it as a county. Sixth, several grants of special tracts had been made by the different States to incorporated companies. And, finally, the

<sup>1</sup> Notes on the Early Settlement of the Northwestern Territory, pp. 81, 82.

whole Territory of the Northwest was claimed by the Indians as their own.

The claims of New York, Massachusetts, and part of the claim of Pennsylvania, had been settled before the close of the war by royal commissioners; the others were still unadjusted. It became evident that no satisfactory settlement could be made, except by Congress. That body urged the several States to make a cession of the lands they claimed, and thus enable the general government to open the Northwest for settlement.

On the 1st of March, 1784, Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, delegates in Congress, executed a deed of cession in the name of Virginia, by which they transferred to the United States the title of Virginia to the Northwest Territory, but reserving to that State one hundred and fifty thousand acres of land, which Virginia had promised to George Rogers Clarke and the officers and soldiers who with him captured the British posts in the West. Also, another tract of land between the Scioto and Little Miami, to enable Virginia to pay her promised bounties to her officers and soldiers of the Revolutionary army.

On the 27th of October, 1784, a treaty was made at Fort Stanwix,<sup>1</sup> with the Six Nations, by which these tribes ceded to the United States their vague claims to the lands north and west of the Ohio. On the 31st of January, 1785, a treaty was made at Fort McIntosh,<sup>2</sup> with the four Western tribes, the Wyandottes, the Delawares, the Chippewas, and the Ottawas, by which all their lands in the Northwest Territory were ceded to the United States, except that portion bounded by a line drawn from the mouth of the Cuyahoga up that river to the portage between the Cuyahoga and Tuscarawas; thence down that river to the mouth of the Sandy; thence westwardly to the portage of the Big Miami, which runs into the Ohio; thence along the portage to the Great Miami, or Maumee, and down the southeast side of that river to its mouth; thence along the shore of Lake Erie to the mouth of the Cuyahoga. The territory thus described was to be forever the exclusive possession of these Indians.

In 1788, a settlement was made at Marietta, and soon after other settlements were begun. But the Indians were dissatisfied, and, by the intrigues of their late allies, the British, a sav-

<sup>1</sup> Now Rome, New York.

<sup>2</sup> Now Beaver, Pennsylvania.

age and bloody war ensued, which delayed for several years the settlement of the territory. The campaign of General Harmar in 1790 was only a partial success. In the following year a more formidable force was placed under the command of General St. Clair, who suffered a disastrous and overwhelming defeat on the 4th of November of that year, near the headwaters of the Wabash.

It was evident that nothing but a war so decisive as to break the power of the Western tribes could make the settlement of Ohio possible. There are but few things in the career of George Washington that so strikingly illustrate his sagacity and prudence as the policy he pursued in reference to this subject. He made preparations for organizing an army of five thousand men, appointed General Wayne to the command of a special force, and, early in 1792, drafted detailed instructions for giving it special discipline to fit it for Indian warfare. During that and the following year, he exhausted every means to secure the peace of the West by treaties with the tribes. But agents of England and Spain were busy in intrigues with the Indians in hopes of recovering a portion of the great empire they had lost by the treaty of 1783. So far were the efforts of England carried that a British force was sent to the rapids of the Maumee, where they built a fort, and inspired the Indians with the hope that the British would join them in fighting the forces of the United States. All efforts to make a peaceable settlement on any other basis than the abandonment on the part of the United States of all territory north of the Ohio having failed, General Wayne proceeded with that wonderful vigor which had made him famous on so many fields of the Revolution, and, on the 20th of August, 1794, defeated the Indians and their allies on the banks of the Maumee, and completely broke the power of their confederation. On the 3d of August, 1795, General Wayne concluded, at Greenville, a treaty of lasting peace with these tribes, and thus opened what is now Ohio to settlement. In this treaty, there was reserved to the Indians the district west of the Cuyahoga described in the treaty of Fort McIntosh of 1785.

Fifth. Settlement of the Western Reserve.

I have now noticed briefly the adjustment of the several claims to the Northwestern Territory, excepting that of Connecticut. It has already been seen that Connecticut claimed a

strip westward from the Narragansett River to the Mississippi, between the parallels of 41 degrees and 42 degrees 2 minutes; but that portion of her claim which crossed the territory of New York and Pennsylvania, had been extinguished by adjustment. Her claim to the territory west of Pennsylvania was unsettled until September 14, 1786, when she ceded it all to the United States, except that portion lying between the parallels above named, and a line one hundred and twenty miles west of the western line of Pennsylvania and parallel with it, and the western line of that State. This tract of country was about the size of the present State of Connecticut, and was called "New Connecticut"; also, the "Western Reserve."

In May, 1792, the Legislature of Connecticut granted to those of her citizens whose property had been burned or otherwise spoliated by the British during the war of the Revolution, half a million of acres from the west end of the Reserve, which were called "the Fire Lands."

On the 5th of September, 1795, Connecticut executed a deed to John Caldwell, Jonathan Brace, and John Morgan, trustees for the Connecticut Land Company, for three million acres of the Reserve, lying west of Pennsylvania, for \$1,200,000, or at the rate of forty cents per acre. The State gave only a quitclaim deed, transferring only such title as she possessed, and leaving all the remaining Indian titles to the Reserve to be extinguished by the purchasers themselves. With the exception of a few hundred acres previously sold, in the neighborhood of the Salt Spring Tract, on the Mahoning, all titles to lands east of the Fire Lands rest on this quitclaim deed of Connecticut to the three trustees, who were all living as late as 1836, and joined in making deeds to the lands on the Reserve.

On the same day that the trust deed was made, articles of association were signed by the proprietors, providing for the government of the company. The management of its affairs was intrusted to seven directors. They determined to extinguish the Indian title, and survey their land into townships five miles square. Moses Cleaveland, one of the Directors, was made General Agent; Augustus Porter, Principal Surveyor; and Seth Pease, Astronomer and Surveyor. To these were added four assistant surveyors, a commissary, a physician, and thirty-seven other employees. This party assembled at Schenectady, New York, in the spring of 1796, and prepared for their expedition.

It is interesting to follow them on their way to the Reserve. They ascended the Mohawk River in batteaux, passing through Little Falls, and from the present city of Rome took their boats and stores across into Wood Creek. Passing down the stream, they crossed Oneida Lake; thence down the Oswego to Lake Ontario, coasting along the lake to Niagara. After encountering innumerable hardships, the party reached Buffalo on the 17th of June, where they met Red Jacket and the principal chiefs of the Six Nations, and on the 23d of that month completed a contract with those chiefs by which they purchased all the rights of the Indians to the lands on the Reserve, for five hundred pounds, New York currency, to be paid in goods, two beef cattle, and one hundred gallons of whiskey, besides gifts and provisions. Setting out from Buffalo on the 27th of June, they coasted along the shore of the lake, some of the party in boats and others marching along the banks.

In the journal of Seth Pease, published in Whittlesey's History of Cleveland, I find the following:—

“Monday, July 4th, 1796. We that came by land arrived at the confines of New Connecticut and gave three cheers precisely at five o'clock, P. M. We then proceeded to Conneaut, at five hours thirty minutes; our boats got on an hour after; we pitched our tents on the east side.”<sup>1</sup>

In the journal of General Cleaveland is the following entry:—

“On this creek (Conneaut) in New Connecticut Land, July 4th, 1796, under General Moses Cleaveland, the surveyors, and men sent by the Connecticut Land Company to survey and settle the Connecticut Reserve, and were the first English people who took possession of it. . . . And, after many difficulties, perplexities, and hardships were surmounted, and we were on the good and promised land, felt that a just tribute of respect to the day ought to be paid. There were in all, including women and children, fifty in number. The men, under Captain Tinker, ranged themselves on the beach, and fired a Federal salute of fifteen rounds, and then the sixteenth in honor of New Connecticut. We gave three cheers, and christened the place Port Independence. Drank several toasts. . . . Closed with three cheers. Drank several pails of grog, supped, and retired in good order.”<sup>2</sup>

Three days afterward General Cleaveland held a council with Paqua, chief of the Massasagas, whose village was at Conneaut Creek. The friendship of these Indians was purchased with a few trinkets and twenty-five dollars' worth of whiskey. A cabin

<sup>1</sup> Early History of Cleveland, p. 180.

<sup>2</sup> Ibid., pp. 181, 182.

was erected on the bank of Conneaut Creek, and, in honor of the commissary of the expedition, was called "Stow Castle." At this time the white inhabitants west of the Genesee River, and along the coasts of the Lakes, were the garrison at Niagara, two families at Lewistown, one at Buffalo, one at Cleveland, and one at Sandusky. There were no other families east of Detroit, and, with the exception of a few adventurers at the Salt Springs of the Mahoning, the interior of New Connecticut was an unbroken wilderness.

The work of surveying was commenced at once. One party went southward on the Pennsylvania line to find the forty-first parallel, and began the survey; another, under General Cleveland, coasted along the lake to the mouth of the Cuyahoga, which they reached on the 22d of July, and there laid the foundation of the chief city of the Reserve. A large portion of the survey was made during that season, and the work was completed in the following year.

By the close of the year 1800 there were thirty-two settlements on the Reserve, though as yet no organization of government had been established. But the pioneers were a people who had been trained in the principles and practices of civil order; and these were transplanted to their new home. In New Connecticut there was but little of that lawlessness which so often characterizes the people of a new country. In many instances, a township organization was completed, and their minister chosen, before the pioneers left home. Thus they planted the institutions and opinions of Old Connecticut in their new wilderness homes.

There are townships on this Western Reserve which are more thoroughly New England in character and spirit than most of the towns of the New England of to-day. Cut off as they were from the metropolitan life that had gradually been moulding and changing the spirit of New England, they preserved here in the wilderness the characteristics of New England as it was when they left it at the beginning of the century. This has given to the people of the Western Reserve those strongly marked qualities which have always distinguished them.

For a long time it was difficult to ascertain the political and legal status of the settlers on the Reserve. The State of Connecticut did not assume jurisdiction over its people, because that State had parted with her claim to the soil. By a procla-

mation of Governor St. Clair, in 1788, Washington County had been organized, its limits extending westward to the Scioto, and northward to the mouth of the Cuyahoga, with Marietta as the county seat. These limits included a portion of the Western Reserve. But the Connecticut settlers did not consider this a practical government, and most of them doubted its legality.

By the end of the century, seven counties, Washington, Hamilton, Ross, Wayne, Adams, Jefferson, and Knox, had been created, but none of them were of any practical service to the settlers on the Reserve. No magistrate had been appointed for that portion of the country, no civil process was established, and no mode existed of making legal conveyances. But in the year 1800 the State of Connecticut, by an act of her Legislature, transferred to the national government all her claim to civil jurisdiction. Congress assumed the political control, and the President conveyed by patent the fee of the soil to the government of the State, for the use of the grantees and the parties claiming under them. Thereupon, in pursuance of this authority, on the 22d of September, 1800, Governor St. Clair issued a proclamation establishing the county of Trumbull, to include within its boundaries the Fire Lands and adjacent islands, and ordered an election to be held at Warren, its county seat, on the second Tuesday of October. At that election forty-two votes were cast, of which General Edward Payne received thirty-eight, and was thus elected a member of the Territorial Legislature. All the early deeds on the Reserve are preserved in the records of Trumbull County.

A treaty was held at Fort Industry on the 4th of July, 1805, between the commissioners of the Connecticut Land Company and the Indians, by which all the lands in the Reserve west of the Cuyahoga belonging to the Indians were ceded to the Connecticut Company.

Geauga was the second county of the Reserve. It was created by an act of the Legislature, December 31, 1805; and by a subsequent act its boundaries were made to include the present territory of Cuyahoga County as far west as the Fourteenth Range. Portage County was established on the 10th of February, 1807, and on the 16th of June, 1810, the act establishing Cuyahoga County went into operation. By that act all of Geauga west of the Ninth Range was made a part of Cuyahoga County. Ashtabula County was established on the 22d of January, 1811.

A considerable number of Indians remained on the Western Reserve until the breaking out of the war of 1812. Most of the Canadian tribes took up arms against the United States in that struggle, and a portion of the Indians of the Western Reserve joined their Canadian brethren. At the close of that war occasional bands of these Indians returned to their old haunts on the Cuyahoga and the Mahoning; but the inhabitants of the Reserve soon made them understand that they were unwelcome visitors, after the part they had taken against them. Thus the war of 1812 substantially cleared the Reserve of its Indian inhabitants.

In this brief survey, I have attempted to indicate the general character of the leading events connected with the discovery and settlement of our country. I cannot, on this occasion, further pursue the history of the settlement and building up of the counties and townships of the Western Reserve. I have already noticed the peculiar character of the people who converted this wilderness into the land of happy homes which we now behold on every hand. But I desire to call the attention of the young men and women who hear me to the duty they owe to themselves and their ancestors, to study carefully and reverently the history of the great work which has been accomplished in this New Connecticut.

The pioneers who first broke ground here accomplished a work unlike that which will fall to the lot of any succeeding generation. The hardships they endured, the obstacles they encountered, the life they led, the peculiar qualities they needed in their undertakings, and the traits of character developed by their works, stand alone in our history. The generation that knew these first pioneers is fast passing away. But there are sitting in this audience to-day a few men and women whose memories date back to the early settlement. Here sits a gentleman near me who is older than the Western Reserve. He remembers a time when the axe of the Connecticut pioneer had never awakened the echoes of the wilderness here. How strange and wonderful a transformation has taken place since he was a child! It is our sacred duty to rescue from oblivion the stirring recollections of such men, and to preserve them as memorials of the past, as lessons for our own inspiration, and for the instruction of those who shall come after us.



The materials for a history of this Reserve are rich and abundant. Its pioneers were not ignorant and thoughtless adventurers, but men of established character, whose opinions on civil and religious liberty had grown with their growth, and become the settled convictions of their maturer years. Both here and in Connecticut, the family records, journals, and letters which are preserved in hundreds of families, if brought out and arranged in order, would throw a flood of light on every page of our history. Even the brief notice which informed the citizens of this county that a meeting was to be held here to-day to organize a pioneer society, has called this great audience together; and they have brought with them many rich historical memorials. They have brought old Colonial commissions given to early Connecticut soldiers of the Revolution, who became pioneers of the Reserve, and whose children are here to-day. They have brought church and other records which date back to the beginning of these settlements. They have shown us implements of industry which the pioneers brought in with them, many of which have been superseded by the superior mechanical contrivances of our time. Some of these implements are symbols of the spirit and character of the pioneers of the Reserve. Here is a broad-axe brought from Connecticut by John Ford, father of the late Governor Ford; and we are told that the first work done with this axe by that sturdy old pioneer, after he had finished a few cabins for the families that came with him, was to hew out the timbers for an academy, — the Burton Academy, — to which so many of our older men owe the foundation of their education, and from which sprang Western Reserve College.

These pioneers knew well that the three great forces which constitute the strength and glory of a free government are the family, the school, and the church. These three they planted here, and they nourished and cherished them with an energy and devotion scarcely equalled in any other quarter of the world. On this height were planted in the wilderness the symbols of this trinity of powers; and here let us hope may be maintained forever the ancient faith of our fathers in the sanctity of the home, the intelligence of the school, and the faithfulness of the church. Where these three combine in prosperous union, the safety and prosperity of the nation are assured. The glory of our country can never be dimmed while these three lights are kept shining with an undimmed lustre.

## CHIEF JUSTICE CHASE AND PROFESSOR AGASSIZ.

REMARKS MADE IN THE BOARD OF REGENTS OF THE  
SMITHSONIAN INSTITUTION,

DECEMBER 19, 1873.

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At a meeting of the Regents of the Smithsonian Institution held at the above date, the Secretary, Professor Joseph Henry, announced the deaths, since the last meeting of the Board, of two of the most prominent members of the Board, Chief Justice Chase and Professor Agassiz. Mr. Hannibal Hamlin moved the appointment of a committee to prepare resolutions expressive of the sentiments of the Board in regard to the death of these Regents. Mr. Garfield seconded the motion in the following remarks.

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**M**R. CHANCELLOR,— I rise to second the motion for the appointment of a committee to draft resolutions in reference to the death of our distinguished brother Regents, Chief Justice Chase and Professor Agassiz.

Never before in a single year has the Board of Regents suffered so severe a loss. It would be difficult to find, in any organization, two men more eminent, and representing a wider range of culture, than the two Regents who have fallen since the last meeting of this Board. This is not the occasion to speak at length on the subject; but as my term of service will expire before the next meeting, I ask the indulgence of the Board while I refer briefly to some of the marked characteristics of our late distinguished associates.

Few Americans have filled so many high places of trust and honor as Salmon P. Chase; and few have brought to the discharge of the duties of their high stations such masterly ability and such rare and varied accomplishments. His career adds

another to the many illustrations of the truth, that he who loses his life for the truth's sake shall find it. In his early manhood, following his own convictions of duty, he committed himself without reserve to a cause which seemed, at the time, to shut him out from all hope of public preferment. He stood by his convictions, and lived, not only to see his doctrines prevail, but to be one of the honored leaders in the cause he had espoused.

Whether at the bar in the practice of his profession, in the executive chair of his own State, in the national Senate, as the great finance minister of the republic in the stormy days of war, or as Chief Justice of the United States, there ran through his whole life a depth of conviction, a clearness of comprehension, and a force of utterance, that made his power felt, and marked him as a man who filled and overfilled, honored and adorned, the great stations to which he was called. If in the course of his high career he felt the promptings of that ambition which has been called "the last infirmity of noble mind," it must be acknowledged that he aspired to no place beyond his capacity to honor.

Throughout his long and honored life the cares and demands of public place did not diminish his ardent love for the pursuits of science and the keen enjoyment of literature and art. The great masters of song were his daily companions. I was his guest for many weeks, during the stormy and troublous winter of 1862-63, when to the deep anxieties of the war were added the gravest financial problems that have ever confronted an American Secretary of the Treasury, and many a time, at the close of a weary day of anxious care and exhausting labor, I have seen him lay aside the heavy load, and, in the quiet of his study, read aloud, or repeat from memory, the rich verse of Tennyson, or of some other great master of song. It was this life of art and sentiment, within the stormy life of public duty, that fed and refreshed his spirit, and kept his heart young, while his outer life grew venerable with years and honors.

As the Chancellor of this Institution, we saw in happy and harmonious action his ample knowledge of our institutions, his wide experience of finance, his reverential love for science and art, and his unshaken faith in the future of his country as the grand theatre for the highest development of all that is best and greatest in human nature. No contribution to science offered to this Board escaped his attention. Nothing that was high or

worthy in human pursuits failed to elicit his appreciative and powerful support.

In Professor Agassiz we have lost a man of kindred powers, whose life was spent in a different, though hardly less conspicuous field of action. Few lives were ever so sincerely and entirely devoted to the highest and best aims of science. I was led to appreciate this by a remark which Professor Agassiz made to me several years ago, which is, I believe, the key to his own career, and deserves to be remembered by all who would follow in his footsteps. His remark was, that he had *made it the rule of his life to abandon any intellectual pursuit the moment it became commercially valuable.*

He knew that others would utilize what he discovered, — that when he brought down the great truths of science to the level of commercial values, a thousand hands would be ready to take them and make them valuable in the markets of the world. Since then I have thought of him as one of that small but elect company of men who dwell on the upper heights, above the plane of commercial values, and who love and seek truth for its own sake. Such men are indeed the prophets, the priests, the interpreters of nature. Few of their number have learned more, at first hand, than Professor Agassiz; and few, if any, have submitted their theories to severer tests.

It was a great risk for the astronomer Leverrier to announce that the perturbations of the planet Uranus could only be accounted for by a planet as yet unknown, and to predict its size and place in the solar system, trusting to the telescope to confirm or explode his theory. But perhaps Professor Agassiz took even a greater risk than this. Who does not remember the letter that he addressed to Professor Peirce of the Coast Survey, just before he set out on the Hassler expedition, predicting in detail what evidences of glacial action he expected to find on the continent of South America, and what species of marine animals he expected to discover in the deep-sea soundings along that coast? He risked his own reputation as a scientific man on the predictions then committed to writing. What member of this Board will forget the lecture he delivered here after his return, detailing the discoveries he had made, and showing how completely his predictions had been verified?

While he was the prince of scholars, and a recognized teacher of mankind, yet Agassiz always preserved that childlike spirit

which made him the most amiable of men. He studied nature with a reverence born of his undoubting faith. He believed that the universe was a cosmos, not a chaos; and that throughout all its vast domains there are indubitable evidences of creative power and supreme wisdom.

We have special cause for regret that his early death has deprived this community and the world of a series of lectures which were to have been delivered here this winter, on subjects of the deepest interest to science. His death will be deplored in whatever quarter of the globe genius is admired and science cherished. He has left behind him as a legacy to mankind a name and a fame which will abide as an everlasting possession.

# REVENUES AND EXPENDITURES.

SPEECH DELIVERED IN THE HOUSE OF REPRESENTATIVES,

MARCH 5, 1874.

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ON the 16th of February, 1874, Mr. Garfield, from the Committee on Appropriations, introduced the bill making appropriations for the legislative, executive, and judicial expenses of the government for the fiscal year ending June 30, 1875, and for other purposes. March 5, the House resolved itself into Committee of the Whole for the consideration of said bill, when he made the following speech.

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**M**R. CHAIRMAN, — I regret that I have to ask the attention of the Committee of the Whole at so late an hour of the day; but in the present condition of the public business I am unwilling longer to delay the consideration of the appropriation bills.

The bill now pending before the Committee of the Whole is the best gauge by which to measure the magnitude and cost of the national government. Its provisions extend to every leading function of the government in the three great departments, — legislative, executive, and judicial, — and include the civil functions of the military and naval establishments. It appropriates for all the salaries and contingent expenses of all the officers and employees of the civil service. If its provisions could be thrown upon canvas, they would form an outline map exhibiting the character and the magnitude of the government of the United States. This bill is the proper standpoint from which to study the public expenditures, to examine the relation of expenditures to taxation, and of both to the prosperity and well-being of the nation. What the House may do with this

bill will be the test of what they will do with the appropriation bills generally. Their action upon it will be the base line from which the scale of our expenditures for the coming fiscal year is to be measured; and it is for that reason, Mr. Chairman, that I ask the attention of the House, not only to the bill, but to the larger question of our expenditures and our revenues.

A government is an artificial giant, and the power that moves it is money,—money raised by taxation and distributed to the various parts of the body politic according to the discretion of the legislative power. We have frequently heard it remarked since the session began, that we should make our expenditures come within our revenues,—that we should “cut our garment according to our cloth.” This theory may be correct when applied to private affairs, but it is not applicable to the wants of nations. Our national expenditures should be measured by the real necessities and the proper needs of the government. We should cut our garment so as to fit the person to be clothed. If he be a giant, we must provide cloth sufficient for a fitting garment.

The Committee on Appropriations are seeking earnestly to reduce the expenditures of the government; but they reject the doctrine that they should at all hazards reduce the expenditures to the level of the revenues, however small those revenues may be. They have attempted rather to ascertain what are the real and vital necessities of the government,—to find what amount of money will suffice to meet all its honest obligations, to carry on all its necessary and essential functions, and to keep alive those public enterprises which the country desires its government to undertake and accomplish. When the amount of expenses necessary to meet these objects is ascertained, that amount should be appropriated; and ways and means for procuring that amount should be provided.

There are some advantages in the British system of managing their finances. In the annual budget reported to the House of Commons, expenditures and taxation are harnessed together. If appropriations are increased, taxes are correspondingly increased; if appropriations are reduced, a reduction of taxes accompanies the reduction. On some accounts, it is unfortunate that our work of appropriations is not connected directly with the work of taxation. If this were so, the ne-

cessity of taxation would be a constant check upon extravagance, and the practice of economy would promise, as its immediate result, the pleasure of reducing taxation.

Revenues and expenditures may be considered from two points of view; in relation to the people and their industries, and in relation to the government and the effective working of its machinery. So far as the people are concerned, they willingly bear the burdens of taxation, when they see that their contributions are honestly and wisely expended to maintain the government of their choice, and to accomplish those objects which they consider necessary for the general welfare. So far as the government is concerned, the soundness of its financial affairs depends upon the annual surplus of its revenues over expenditures. A steady and constant revenue drawn from sources that represent the prosperity of the nation,—a revenue that grows with the growth of national wealth, and is so adjusted to the expenditures that a constant and considerable surplus is annually left in the Treasury,—a surplus that keeps the Treasury strong, that holds it above the fear of sudden panic, that makes it impregnable against all private combinations, that makes it a terror to all stockjobbing and gold-gambling,—this is financial health. This is the situation that wise statesmanship should endeavor to support and maintain. Of course in this discussion I leave out the collateral though important subject of banking and currency. The surplus, then, is the key to our financial situation. Every act of legislation should be studied in view of its effects upon the surplus, upon which two sets of forces are constantly acting. It is increased by the growth of the revenue and by the decrease of expenditure. It is decreased by the repeal or reduction of taxation, and by the increase of expenditures. When both forces conspire against it, when taxes are diminished and expenditures are increased, the surplus disappears. With the disappearance of the surplus comes disaster,—disaster to the Treasury, disaster to the public credit, disaster to all the public interests. In times of peace, when no sudden emergency has made a great and imperious demand upon the Treasury, a deficit cannot occur except as the result of unwise legislation or reckless and unwarranted administration. That legislation may consist in too great an increase of appropriations, or in too great a reduction of taxation, or in both combined.



Twice in the history of this nation a deficit has occurred in time of peace. In both instances it has occurred because Congress went too far in the reduction of taxation,—so far as to cripple the revenues and deplete the Treasury. It may be worth our while to study those periods of our history in which deficits have thus occurred. I do not speak of periods of war, for then the surplus is always maintained by the aid of loans; but I speak of deficits occurring in times of peace.

From the close of the last war with England, in 1815, our revenues maintained a healthy and steady growth, interrupted only by years of financial crisis. A constant surplus was maintained, sufficient to keep the Treasury steady and diminish the public debt, and finally complete its payment. But in 1833 the great financial discussion, which at one time threatened to dissolve the Union, was ended by the passage of the Compromise Tariff,—a law that provided for the scaling down of the rates of taxation on imports in each alternate year until 1842, when all should be reduced to the uniform rate of twenty per cent *ad valorem*. By this measure the revenues were steadily decreased, and in 1840 the Treasury was empty. During the nine preceding years the receipts had averaged \$32,000,000 a year; but in 1840 they had fallen to \$19,500,000, and in 1841 to less than \$17,000,000. True, the expenditures had grown with the growth of the country; but no large or sudden expenditure appeared in any of those years. The deficit appeared, and it was unquestionably due to too great a reduction of taxation. This deficit brought political and financial disaster. To meet it, a special session of Congress was convened in June, 1841, and President Tyler sent in a message, in which he declared that by March 4, 1842, there would be a deficit of \$11,406,132.98, and a further deficit by September, 1842, of \$4,845,000. In his message of December 7, 1841, he reported a still further deficit, and declared that these accumulated deficits were the results of the too great reduction of taxation by the legislation of 1833. These accumulated deficits amounted to more than all the receipts for that year. They were to that time what a deficit of \$300,000,000 would be to us to-day.

I understood the gentleman from Massachusetts<sup>1</sup> to declare that Congress had never increased taxation in time of peace. Our history does not bear him out in this assertion. The Con-

<sup>1</sup> Mr. Dawes.

gress of 1841-42 was called upon to repair the wasted revenues by an increase of taxation. The debates of that body show that the bill which they passed was treated wholly as a necessity of the revenue. The bill itself was entitled "An Act to provide Revenue for the Government." It became a law in 1842, and under its influence the revenues revived. In 1843 the surplus reappeared, and again the revenues continued to grow with the growth of the country.

Excepting the period of the Mexican war, which, like all other modern wars, was carried on by the aid of loans, the surplus continued down to and including the first year of Buchanan's administration. In the four years of Pierce's administration, the revenues had exceeded \$70,000,000 a year; but the first year of Buchanan's term, an act was passed so largely reducing the duties on imports that the revenues dropped to \$46,500,000 in 1858, and a deficit appeared which continued and accumulated until the coming in of Lincoln's administration in 1861.

Let us notice the growth of that deficit. On July 1, 1857, the public debt, less cash in the Treasury, was \$11,350,270.63; on July 1, 1860, the account stood, total debt, less cash in the Treasury, \$61,140,497, showing a deficit of \$50,000,000 in the space of three years. When Mr. Lincoln was inaugurated the debt had increased to nearly \$90,000,000, and there had accumulated a deficit of more than \$70,000,000. And those four years of Buchanan's administration were not years of extraordinary expenditures. Indeed, the average for the four years had not been so high as in the last year of the administration of Mr. Pierce. The deficit then did not arise from an increase of expenditure, but from a decrease of revenue. For four years the government had been paying its ordinary expenses by the aid of loans at ruinous rates, and by forced loans in the form of Treasury notes. Here, as in the former case, the final remedy for the deficit was taxation.

The first act of the last session of Congress in Buchanan's term was an act to authorize the issue of Treasury notes to meet the expenditures of the government; and almost the last act of that session was the act of March 2, 1861, to provide for the payment of outstanding Treasury notes, and to meet the expenditures of the government by increasing the duties on imports. This act was passed by a Republican Congress, and was reluctantly approved by a President whose policy and

whose party had produced the deficit, and brought financial distress upon the country by cutting too deeply and too recklessly into the public revenues.

MR. NIBLACK. I want to inquire simply whether that deficit did not arise mainly from the timidity which Congress felt about increasing taxes in time of peace, and which we now feel about assessing additional taxes?

Quite likely there was timidity about putting on taxes. But the deficit was caused by taking too many of them off, and the surplus was restored by putting them on again.

MR. NIBLACK. Is it not the old story over again, an unwillingness to tax unless some emergency like a great war compels us to do so?

I am merely stating the history of these two deficits. Before I close I will discuss the question whether we are to have another or not.

MR. NIBLACK. I only want to make a note as we go along, for, as the gentleman will remember, I happened to be here in Congress at that time, and I know that to have been the case.

I have been appealing to the past to learn how deficits occur. In view of their history, I am warranted in the declaration that our deficits in time of peace have resulted from legislation that has crippled the revenues, and that such deficits have been overcome only by replacing taxes too recklessly repealed.

Mr. Chairman, when this House convened in December last, we were startled by the declaration that another deficit was about to appear. We were informed that we might look for a deficit of \$42,000,000 by the end of the current fiscal year. This announcement was indeed the signal for alarm throughout the country; and it became the imperative duty of Congress to inquire whether there would be a deficit, and, if so, to ascertain its cause and provide the remedy.

In this instance, to the ordinary causes that produce a deficit, there had been superadded the disastrous financial calamity which visited a portion of the business interests of this country in September last; a panic that fell with unparalleled weight and suddenness, and swept like a tornado, leaving destruction in its track. We have not yet sufficiently recovered from the shock to be able to measure with accuracy the magnitude of its effects. We cannot yet tell how soon and how completely the revenues of the country will recover from the shock. But we

have sufficient data to ascertain, with some degree of accuracy, the part that the legislation of Congress has played in producing the situation in which we now find ourselves. That we may more clearly trace the legislative steps by which we have reached our present position, I invite your attention to the condition of our finances at the close of the war.

Leaving out of view the fiscal year ending June 30, 1865, in which there was paid over the counter of the Treasury the enormous sum of \$1,290,000,000, the accumulated product of taxation and of loans, we begin our examination with the year that followed the close of the war, the fiscal year ending June 30, 1866. In that year, our aggregate revenues, from all sources, exclusive of loans, amounted to \$558,000,000, and our expenditures to nearly \$521,000,000, leaving us a clear surplus of \$37,000,000. These were the gigantic proportions of our income and our payments. From these as a base line we measure the subsequent history of our finances. With these vast totals the work of triple reduction began;—reduction of the revenue by the repeal of taxes; reduction of ordinary payments by the decrease of expenditures; reduction of the public debt by applying to it the annual surplus.

I present a table which exhibits in parallel columns the annual receipts and expenditures from 1866 to 1873. These columns represent the converging lines that mark the reduction of taxes and the reduction of expenditures. As these lines approach each other, the surplus diminishes; whenever they touch and cross each other, the surplus is gone and a deficit will appear.

*Receipts and Expenditures of the Government.*

For the Fiscal Year ending	Secretary's Annual Report.	Receipts exclusive of Loans.	Expenditures exclusive of Principal of Public Debt.
June 30, 1866	Page 2	\$558,032,620.06	\$520,750,940.48
June 30, 1867	33, 34	490,634,010.27	346,729,129.33
June 30, 1868	24, 25	405,638,083.32	377,340,284.86
June 30, 1869	20	370,943,747.21	321,490,597.75
June 30, 1870	3	411,255,477.63	309,653,560.75
June 30, 1871	5	383,323,944.89	292,177,188.25
June 30, 1872	5	374,106,967.56	277,517,962.67
June 30, 1873	4, 5	333,738,204.67	290,345,245.33

From this table it will be seen that every year since the war save one the revenues have been decreased by the reduction of taxes; and every year save two the expenditures have decreased.

Two forces have been constantly at work, the one reducing expenditures, the other repealing taxes. And yet, by the aid of one and in spite of the other, a handsome surplus has been maintained in each of these years. By comparing the two columns given in the table, it will be seen that, notwithstanding the diminution of taxes, the surplus increased, until in 1870 it reached \$100,000,000.

Keeping in view the column of receipts into the Treasury, let us call to mind the various acts and amounts by which the burdens of taxation have been lessened. The echoes of the last battle had hardly died away when Congress began the grateful work of reducing taxation. This is shown by the following table.

*Reduction of Taxes since the War.*

By the act of July 13, 1866, internal duties were repealed to the amount of . . . . .	\$65,000,000	
By the act of March 2, 1867, internal duties were further reduced by the sum of . . . . .	40,000,000	
By the acts of February, March, and July, 1868, internal duties were still further reduced by the sum of . . . . .	68,000,000	
By the act of July 14, 1870, the reduction was:—		
On customs . . . . .	\$29,526,410	
On internal revenue . . . . .	<u>55,000,000</u>	
		84,526,410
By the acts of May 1, and June 6, 1872, the reduction, as stated by the chairman of the Committee of Ways and Means, was, for eleven months of last year:—		
On customs . . . . .	\$44,365,364	
On internal revenue . . . . .	<u>17,695,456</u>	
		62,060,820
Making a total reduction, since the close of the fiscal year 1866, of . . . . .		<u>\$319,587,230</u>

I have here stated, not the amounts that these taxes would have produced if allowed to remain on the statute-book, but the amounts they were producing at the dates of their repeal.

I have now examined the course of revenue and expenditure to the close of the last fiscal year. On the 1st of July, 1873, the Treasury closed with a surplus of \$43,392,959, of which amount, however, more than \$29,000,000 was due to the sinking fund. If this year is to show a deficit, it will be because

the expenditures have increased, or the revenues diminished, from those of last year.

What are the facts? I give the figures for the two years, omitting the sinking fund from each; those for 1873 as they stand on the books of the Treasury, those for 1874 as estimated by the chairman of the Committee of Ways and Means in his speech of February 12, as follows: —

1873, — Receipts . . . . .	\$333,738,204.67
1874, — Receipts . . . . .	<u>281,777,972.99</u>
Decrease . . . . .	\$51,960,231.68

I do not admit the correctness of these estimates for the current year. The condition of the Treasury has improved since the gentleman from Massachusetts<sup>1</sup> made his speech. But taking the estimate as he gave it, and considering the situation in its worst aspect, the figures of the gentleman from Massachusetts show this: that, comparing this fiscal year with the last, our revenues have fallen off more than \$52,000,000; and therefore it is undeniably true that, if we are about to meet a deficit, that deficit will occur not because increased expenditures have cut away the surplus, but because the revenues have suffered a loss of \$52,000,000 during the current fiscal year, — a loss \$9,000,000 greater than the surplus of last year. Now, Mr. Chairman, how came we to lose this large amount of revenue, if, indeed, it is lost? The explanation of that loss can be found by examining our legislation that has reduced the revenues. Let us, then, go back to the month of July, 1870.

The fiscal year had just closed with a surplus of \$100,000,000. It was an opportunity to afford relief from the burdens of taxation. Congress determined, by the act of July 14, 1870, to establish the sinking fund on a firm basis, by making a permanent appropriation for its annual support; and, having done that, repealed and reduced taxes to the amount of \$84,500,000. That was the repeal which swept away the income tax, although it was to be collected for the following year. The Treasury did not at once feel the whole effect of so sweeping a repeal. In fact, the income tax, repealed at that date, has been paying revenue into the Treasury ever since. During the last year even, we received more than \$5,000,000 of revenues from back taxes on incomes. But, notwithstanding this heavy reduc-

<sup>1</sup> Mr. Dawes.

tion, others were made in the months of May and June, 1872, which more particularly concern the question of deficit we are now discussing.

In spite of the reduction of 1870, an unexpected amount of revenue came pouring into the Treasury during the year 1872, — an amount sufficient, by the aid of reduced expenditures, to leave a surplus of more than \$90,000,000. Was that a stable surplus? Could it be relied on to continue and increase, even if no further reduction of taxes were made? Manifestly not. The Treasury had not yet felt the full effect of the reduction of 1870. There was paid into the Treasury in 1872 more than \$19,000,000 of back taxes on articles and occupations from which the tax had been removed by the act of 1870. But there was another consideration which should have been borne in mind by Congress in its legislation of 1872. We were that year receiving an amount of revenue from customs far in excess of any other year. From commercial and other causes, which I will not pause to discuss, there had been an unusual and abnormal increase in the amount of foreign importations, an increase that we could not expect to continue. The revenues from customs that year were \$30,000,000 above the average for the four preceding years, and \$10,000,000 more than in any other year of our history. It was not safe for Congress to calculate upon the continuance of that unusual revenue from customs.

For all these reasons it was inevitable that, with any further repeal of taxes, the years 1873 and 1874 would show a falling off in revenues, resulting from former legislation, from the natural decrease of revenues from miscellaneous sources, and from the necessary falling off of importations from the unusual amount of the preceding year. These facts should have been taken into consideration in the spring of 1872, when it was proposed to make further reduction of taxes. No doubt a considerable reduction was possible and safe. The best estimate that could be made at that time fixed the limit of safe reduction at \$50,000,000. On the 3d of May, 1872, the chairman of the Committee of Ways and Means, in introducing his bill for further reduction of taxes, said: "Fifty millions of reduction of taxes, including the reduction on tea and coffee [which had been made just two days before], was the utmost limit of reduction admitted possible by any one who has the slightest responsibility for the administration of affairs for the financial credit

of the nation." Let it be remembered as a part of the current history of our legislation, that the chairman of the Committee of Ways and Means, speaking not only by the authority of his own position, but by the authority of the Treasury Department, declared that \$50,000,000 was the utmost limit to which it was safe to go in the reduction of taxes; and yet, by the two acts of May 1 and June 6, 1872, Congress cut off from the vital revenues of the government more than \$62,000,000, nearly \$45,000,000 of which was in gold. We have the testimony of the chairman of the Committee of Ways and Means, that the committee of conference, in the final adjustment of the bill, would have cut down still \$5,000,000 deeper but for the earnest protest of the Treasury Department. In his speech on the 4th of June, when the chairman presented the conference report to the House, he said that, when the amount of proposed reduction "came to the ears of the Treasury officials, they brought down upon the committee official statements to show that, if they reduced the revenues \$58,000,000, those who were responsible for the administration of the government were of the opinion that we should not have enough to pay the sinking fund." But for that protest the reduction would have been \$5,000,000 greater; it would have been \$67,000,000 in all.

Now, Mr. Chairman, if the whole amount of this reduction had afforded relief to the people from the burdens of taxation, and had been safe for the Treasury, it would have been a cause for public rejoicing. But we have the authority of the chairman of the Committee of Ways and Means for the declaration that, while the act of May 1, 1872, deprived the Treasury of more than \$25,000,000 in gold, it did not relieve the burdens of the people by a single dollar; that the whole of this vast sum was divided between the foreign producer and the wholesale dealer. I quote from his speech of February 12: "When we took off the \$25,000,000 from tea and coffee, it did not reduce the price to the consumer of either article one half-penny. I have the prices current of the country to bear me out that I am substantially, if not mathematically, accurate in the statement that the whole of the duty taken off was divided between the producer at the one end, and the wholesale dealer at the other." If this revenue, thus uselessly thrown away, were to-day coming into our Treasury, we should have no fear of a deficit.



Mr. Chairman, it is a grateful task to remove burdens from the industries and the earnings of the American people. No more grateful work can an American Congress be called upon to perform. But while we are relieving the people from the burdens of taxation, it should always be borne in mind that we are in danger of so crippling the revenues as to embarrass the government and endanger the public credit. It is a great thing to remove all burdensome taxes; but there is danger that, — while Congress may imitate Tennyson's Godiva, who

"Took the tax away,  
And built herself an everlasting name," —

yet in so doing it may cause the public credit to go forth from a despoiled Treasury, and, like the Lady Godiva, to ride naked in the streets of the world. We have had abounding faith in the elasticity of our revenues. We have found that even reduction of rates frequently brings us increased revenues; that the buoyant and almost immortal life of our industries will make the tree of our revenues bloom again, how often so ever we may pluck its flowers and its fruits. We think of it as the fabled tree which Virgil's hero found in the grove of Avernus. Whenever the bough of gold was plucked away, another sprang out in its place, —

"Primo avulso non deficit alter  
Aureus, et simili frondescit virga metallo."

But, sir, we may pluck the golden bough once too often. We may pluck away with it the living forces of the tree itself. Just that mistake has been made twice before in our political history, — a mistake which has always been atoned for only by planting new shoots on which new revenues might grow.

Mr. Cox. My friend from Ohio, in 1872, I think, endeavored to cut down the taxes, along with other gentlemen on both sides of the House. I would like to know from him what part of that action he objects to now, — whether it was the removal of the duty on tea, or on coffee, or on what particular article. He reproaches us for our work. Will the gentleman, then, tell us wherein we were wrong?

My worthy and learned friend will perhaps be relieved and pleased to learn that I was one of that small but unpopular company of twenty-five who voted against the repeal of the duty on tea and coffee in 1872, because they thought it unwise legislation.

Now, Mr. Chairman, is it wonderful, in view of these facts, that our estimated revenues for the current year should be \$102,000,000 less than the revenues for 1871? What more is needed to explain this falling off than the admitted fact that, since the beginning of the fiscal year 1871, we have repealed and reduced taxes to the amount of \$146,500,000? And yet, with that enormous reduction, no man would question the soundness of the Treasury; no man would doubt but that to-day, in spite of the commercial crisis and all its effects, we should have a strong surplus in the Treasury but for the useless repeal of the duty on tea and coffee. I do not say that it is necessary to restore that duty. I am pointing out the effect of its repeal. With the single exception of the reduction on tea and coffee, I have heartily joined in all our legislation to reduce taxation.

On the 12th of December last, the Secretary of the Treasury addressed a letter to the Committee of Ways and Means suggesting higher taxes on spirits, tobacco, and gas, and on several classes of corporations. In writing this letter, the Secretary surveyed the situation as it appeared when the worst effects of the crisis were felt by the Treasury. It was at that date that a deficit seemed imminent; and it was the duty of the Secretary of the Treasury and of the chairman of the Committee of Ways and Means to give Congress the facts.

If there be a deficit, the duty of Congress is plain. First, to ascertain the smallest amount by which the necessary expenditures of the government may be met; and, if there still be a deficit, to meet it by restoring some of the revenues which we have crippled by too great a reduction of taxes. Retrenchment of expenses is the first duty, and the performance of that duty may be a perfect and complete remedy; but I do not indorse the doctrine that the expenditures must be cut down, at all hazards, to the level of the revenues. If necessary, there must be help on both sides of the ledger. If there be a chasm to be bridged, it must be bridged by building from both shores; by decreasing the expenditures on one side, and increasing the revenues on the other.

But, Mr. Chairman, the study which I have given to this subject leads me to believe that the revival of business from the disastrous effects of the crisis will so increase our revenues that, by the aid of such reduction as may be made in the expendi-

tures of the next fiscal year, no deficit will occur; that the Treasury will not go to protest; that the public credit will not be impaired. Even the gentleman from Massachusetts,<sup>1</sup> who, to say the least, does not paint the situation with the color of the rose, tells us that we shall have at the end of the present fiscal year, after all our deficiency appropriations are made, a surplus of \$10,000,000. I think we shall have a larger sum. The receipts for the last month show a marked improvement. The official statement, published four days ago, shows that the debt was decreased during the month of February by the sum of \$2,590,047.45; and at the close of the month the Secretary estimated that the receipts for the current year will be \$8,000,000 more than the estimate which he sent to the Committee of Ways and Means at the beginning of that month.

Mr. Chairman, if I have been successful in this presentation of facts, I have made it apparent that, whatever danger of a deficit may have threatened the Treasury, that danger has been produced by two causes,—too great a reduction of taxes, and the temporary crippling of the revenues by the commercial crisis. The last of these causes was beyond the control of legislation; but, in spite of the storm, no question of the soundness of the Treasury would have been raised if it had been kept strong by a sufficient surplus.

I come now to speak more particularly of our recent expenditures. We have seen how taxation has been reduced since the war; it is now necessary to inquire what has been done on the other side of the ledger. We have thus far been considering the revenues. What have been our expenditures? And here, Mr. Chairman, I am sorry to turn aside from the main line of discussion to notice the fact that frequent attempts have been made during the last three months to impress the public mind with the belief that the estimates, the appropriations, and the expenditures have not only been extravagant, but increasing, in recent years. If this is so, it brings to the door of Congress, and to all those whom Congress has intrusted with any share of the responsibility on this subject, an imperative obligation to show cause for what they have done. I should not speak of this but for the fact that it has several times been referred to on this floor. That we may know just what the allegations are, I will quote three paragraphs

<sup>1</sup> Mr. Dawes.

from the Congressional Record. On the 15th of December, 1873, in the debate on revising the estimates, the gentleman from Massachusetts said: —

“Could I have my own way about it, the knife would go into that Book of Estimates . . . until the difference between current receipts and current expenditures should no longer exist. Sir, the Book of Estimates is a marvel to me. When I take up that broad book, so unlike that I used to carry under my arm, it is most unintelligible to me. The only thing about it I can realize and understand is, that year after year the estimates are going on increasing, until this year, in the face of these exigencies, the grand total of estimates is about twelve millions more than it was the last year, and about fourteen millions more than the actual appropriations of last year.”<sup>1</sup>

In the next place, I call attention to a paragraph in a speech made by the gentleman from Kentucky<sup>2</sup> on the 12th of January, 1874. In the debate on the naval appropriation bill he said: —

“At the last session of the last Congress, after the last Presidential election was over, and when members were not soon to be called to answer to the people, then, for the first time since I have been in Congress, for the first time in the history of the country as I believe, Congress appropriated \$15,329,000 more than all the estimates of all the Departments. Three hundred and eight million dollars was the amount the Departments asked: Congress gave them \$319,600,000, and \$4,000,000 more the other day, making \$323,000,000, an excess of \$15,000,000, the highest amount ever given in time of peace, and that, too, immediately after the last Presidential election.”<sup>3</sup>

And that we may have the whole chapter before us, I call attention to the following paragraph in the speech of the gentleman from Massachusetts, made on the 12th of February: —

“In 1873 the expenditures ran up to \$290,345,245.33, and we paid but \$43,667,630.05 of the public debt. This year our appropriations have gone up from \$290,000,000, our expenses for the last year, to \$319,000,000, without paying one dollar of the public debt.”<sup>4</sup>

To these three points, as they represent the three ideas of estimates, appropriations, and expenditures, I desire now to respond briefly. I did respond to two of them at the time. I will not pause to notice the rather singular criticism made by the

<sup>1</sup> Congressional Record, December 15, 1873, pp. 212, 213.

<sup>2</sup> Mr. Beck.

<sup>3</sup> Congressional Record, January 12, 1874, p. 597.

<sup>4</sup> *Ibid.*, February 12, 1874, p. 1449.

gentleman from Massachusetts<sup>1</sup> in reference to the bulk of the Book of Estimates, except to say that two years ago the Committee on Appropriations found this fault with the book, — that it was too condensed in its statements, — that the estimates and the reasons therefor were not given with sufficient detail; and at the suggestion of the committee, the Secretary of the Treasury ordered a fuller statement, and gave us a quarto instead of a duodecimo. Now, while the quarto is somewhat too large for a pocket companion, yet it happens that the bulk of the book is not a measure of the appropriations asked for, and that the modest duodecimo that former chairmen of the Committee on Appropriations carried under their arms estimated a great many millions more of appropriations than the swollen quarto which I have had the honor to carry the last two years.

Referring to the statement of the gentleman from Kentucky,<sup>2</sup> it would indeed be a grave matter, and one requiring explanation, if Congress had appropriated \$15,000,000 above the amount estimated as necessary for the public service. I answered at the time, that what the gentleman called the estimates of last session were only the aggregate given in the regular Book of Estimates sent in on the first day of the session. I also showed that, from the day that book was sent in until the last day of the session, additional estimates were constantly coming in. For instance, a whole book of estimates of deficiencies, amounting to more than \$6,000,000, came in after the regular Book of Estimates was printed. I have here compiled from the records of the Committee on Appropriations a list of those estimates that came to the House or to the committee from the several Departments after the Book of Estimates came in, and the total amounts to the sum of \$23,392,540.36. These were just as really estimates as though they had been printed in the Book of Estimates; and when the appropriations of Congress are compared with the estimates, we must compare them with the whole, and not with a part. The gentleman was wholly wrong in his allegation. The appropriations made by Congress at the last session were far below the estimates.

MR. BECK. Is it not a fact that the Secretary of the Treasury, on the 1st of December last, — December, 1873, — in his Book of Estimates, page 175, states that all the estimates for the year 1874 were \$308,323,256, while the gentleman himself has stated on this floor that the appropriations were \$319,000,000?

<sup>1</sup> Mr. Dawes.

<sup>2</sup> Mr. Beck.

The sum of \$308,000,000, of which the gentleman speaks, is what is found in the Book of Estimates only, and does not include the additional estimates to which I have just referred.

MR. BECK. Ah! but this is the question: After all these deficiency bills were passed, on the 1st of December, 1873, did not the Secretary of the Treasury in his Book of Estimates again repeat that all the estimates for the year 1874 were \$308,000,000?

He did not. In this year's Book of Estimates he states what his estimates were for 1874. But that statement is taken bodily, from millions down to cents, from the Book of Estimates of the previous year, which book was in print and on our tables on the first day of the session, in December, 1872. All this I pointed out to the gentleman in the debate some weeks ago.

MR. BECK. I will say this, and then I will not interrupt the gentleman further. I will make good, when I come to reply to him, not only the statement that we appropriated \$319,000,000, when the estimates merely called for \$308,000,000, but I will make good also that the gentleman misled the chairman of the Committee of Ways and Means,<sup>1</sup> by making him admit that the sinking fund was included in this year's appropriations, and not in other years', when he ought to have known that the sinking fund was included in them all, and I will demonstrate that fact.

When the gentleman attempts that demonstration I shall be ready to try the question of arithmetic with him. I come now to the last of the three paragraphs which I have quoted from the Record, and that is the statement of the gentleman from Massachusetts.<sup>1</sup> I would not refer to that statement now, particularly in the absence of the distinguished gentleman, but for the fact that the answer which I made at the moment, and which the gentleman very frankly acknowledged before the House was correct, does not seem to have reached the country at all. Accusation rides on horseback, while refutation travels very slowly on foot. The gentleman from Massachusetts startled the House, at least for a moment, and startled the country, by the statement which has been read at the Clerk's desk, that during the current fiscal year the appropriations had swollen from \$290,000,000, the figures of last year, to \$319,000,000, the figures of this year; in other words, that the extravagance of Congress had swollen the expenditures by the enormous sum of \$29,000,000. That was indeed a startling statement, but the only

<sup>1</sup> Mr. Dawes.

thing startling about it was the \$29,000,000; and when the correction was made by which the \$29,000,000 was taken bodily out of his statement, the cause of the alarm was gone, and the alarm itself ought also to have disappeared with it. But, sir, though the correction was made in open House, I desire to show the committee how little the country understands what the correction was. The daily papers the next morning contained about two columns of the Associated Press report of the speech of the gentleman from Massachusetts, and I will read the only portion of that report which relates to the correction: "Mr. Garfield criticised some of Mr. Dawes's figures, especially those relating to the sinking fund." I will add that the special despatches contained a much fuller report. But most of the public journals received only the despatches of the Associated Press. I have no doubt that the reading public generally understand to this day that the first statement of the gentleman from Massachusetts remains uncontradicted, and that we have spent during the current fiscal year nearly \$30,000,000 more than during the preceding year.

But, Mr. Chairman, it is not just to compare the appropriations of one fiscal year with the expenditures of another, for the plain reason that expenditures do not equal appropriations. Appropriations are intended to be made large enough to cover and more than cover the expenditures. Although there may be deficiencies on some items, yet there are always still large sums of unexpended balances to be covered into the Treasury each year. It is because of that very difference between appropriations and expenditures that the gentleman from Massachusetts could point to the fact that there were \$72,000,000 of unexpended balances of former years ready to be covered into the Treasury at the end of the present fiscal year.

I have compiled from the annual and permanent appropriations a statement of the amounts appropriated for each fiscal year since 1869, not including the sinking fund. Stating it in round millions the account stands thus: —

	Total Appropria- tions.	Deficiency Appropriations for former Years.
For fiscal year ending June 30, 1870 . . .	\$317,000,000 . . .	\$23,000,000
For fiscal year ending June 30, 1871 . . .	315,000,000 . . .	22,000,000
For fiscal year ending June 30, 1872 . . .	295,000,000 . . .	14,000,000
For fiscal year ending June 30, 1873 . . .	291,000,000 . . .	6,500,000
For fiscal year ending June 30, 1874 . . .	290,000,000 . . .	11,000,000

From this table it will be seen that in every year the appropriations, including those for deficiencies, exceed the expenditures; and that there has been a decrease in the amount of appropriations for each of those years.

In answer to all that has been said on the subject, I point to the fact that the appropriations made at the last session of Congress, for the current year, were less than the appropriations for any year since the war.

Mr. Chairman, as I have already said, there have been two years since the war in which the expenditures were greater than during the preceding years. One was the year 1868, when the expenditures appeared greater by \$30,000,000 than those of 1867. The other was in 1873, when the expenditures appeared \$12,000,000 greater than in 1872. This latter year of increase was the first year of my service as chairman of the Committee on Appropriations. Whatever share of responsibility belongs to me for that increase I cheerfully bear. Not the least difficult part of my task was to follow in the footsteps of the distinguished gentleman from Massachusetts,<sup>1</sup> whose committee had largely reduced expenditures the preceding year, and thus made it all the more difficult to continue the reduction.

It ought also to be borne in mind, that reduction of our expenditures cannot be carried on indefinitely. The reductions we have made since 1866 were possible only because we have been coming down from the high level of war expenditures to the low level of peace. It is apparent that we must soon reach the limit of reduction, must soon reach a point where the constant and rapid growth of the country, its increase of population and of settled territory, will bring us under the control of the normal law of increase; and that thenceforward our expenses must grow with the growth and the development of the country. Expenditures thus adjusted are not only necessary and defensible, but they are the real index by which we measure the health and prosperity of a nation. Have we reached that limit of reduction? In a speech which I delivered on the legislative appropriation bill of two years ago, I ventured to predict that, if peace continued undisturbed, we should reach the limit of possible reduction in 1876,—that by that time the interest on the public debt would be reduced to \$95,000,000, and that the total annual expenditures, including this interest, would not

<sup>1</sup> Mr. Dawes.



exceed \$230,000,000. Perhaps that was too hopeful a view. The heavy reduction of revenues makes it doubtful whether we can reduce the interest to the figure suggested; and then there seems to be a sort of immortality in war bills.

For the information of the House, I have made a careful analysis of the actual expenditures of the fiscal year which ended on the 30th of June, 1873. I have grouped these expenditures into three classes: first, those which were made directly on account of the war; secondly, the expenses of the army and navy; thirdly, all other expenditures, including the civil establishment and public works.

*I. Amounts paid during the fiscal Year 1873, on Account of Expenses growing directly out of the late War.*

Joint Select Committee on Alleged Outrages in Southern States . . . . .	\$1,087.20
Investigations in relation to elections in Louisiana and Arkansas . . . . .	20,000.00
Payment of judgments of Court of Claims . . . . .	489,034.70
Southern Claims Commission . . . . .	52,800.04
Tribunal of arbitration at Geneva . . . . .	62,210.22
Expenses of national currency . . . . .	181,654.84
Expenses of national loan . . . . .	2,806,863.94
Refunding national debt . . . . .	54,726.83
Cost of assessing and collecting internal revenue, including pay- ments of drawbacks and amounts illegally collected . . . . .	6,687,039.49
Defending claims for cotton seized . . . . .	52.95
Salaries of direct tax commissioners . . . . .	540.55
Expenses of collecting direct tax in Delaware . . . . .	22.46
Repayment for lands sold for direct taxes . . . . .	9,075.00
Return of proceeds of captured and abandoned property . . . . .	1,960,679.26
Collection of captured and abandoned property, records and evi- dence respecting same . . . . .	84,459.50
Refunding internal taxes illegally collected . . . . .	1,507.44
Refunding proceeds of cotton seized . . . . .	3,282.00
Premium on bonds purchased in currency . . . . .	5,105,919.99
Payment of interest on the public debt . . . . .	104,750,688.44
Bounties . . . . .	465,049.14
Keeping, transporting, and supplying prisoners of war . . . . .	258,080.11
Military telegraph . . . . .	17,220.36
National cemeteries . . . . .	431,219.22
Maintenance of steam-rams . . . . .	14,548.93
Gunboats on Western rivers . . . . .	33,408.28
Providing for comfort of sick and discharged soldiers . . . . .	1,305.79
Payment of stoppages or fines due National Asylum for Disabled Volunteer Soldiers . . . . .	193,750.59
Travelling expenses of California and Nevada volunteers . . . . .	28,000.00
Travelling expenses of First Michigan Cavalry . . . . .	500.00
Commutation of rations to prisoners of war in Rebel States . . . . .	2,000.00
Draft and substitute fund . . . . .	42,792.84
<b>Amount carried forward . . . . .</b>	<b>\$123,759,520.11</b>

Amount brought forward . . . . .	\$123,759,520.11
Appliances for disabled soldiers . . . . .	8,000.00
Transportation of insane volunteer soldiers . . . . .	1,000.00
Support of Freedmen's Hospital and Asylum, Washington, D. C. . . . .	72,000.00
Support of Bureau of Refugees, Freedmen, and Abandoned Lands (regular) . . . . .	93,924.79
Support of Bureau of Refugees, Freedmen, and Abandoned Lands (transfer) . . . . .	12,871.95
Horses and other property lost in the military service . . . . .	99,975.85
Reimbursing State of Kansas for military expenses . . . . .	336,817.37
Reimbursing State of Kentucky for military expenses . . . . .	525,258.72
Refunding to States expenses incurred in raising volunteers . . . . .	758,110.31
Defraying expenses of minute-men and volunteers in Pennsylvania, Maryland, Ohio, Indiana, and Kentucky . . . . .	28,762.32
Supplying arms and munitions of war to loyal citizens in revolted States . . . . .	945.38
Capture of Jefferson Davis . . . . .	2,051.00
Claims of loyal citizens for supplies furnished during the rebellion, Bounty for destruction of enemy's vessels . . . . .	927,910.19
Payment to captors of the Rebel ram Albemarle . . . . .	133,802.28
Payment to captors of the Rebel ram Albemarle . . . . .	202,912.90
Payment to officers and crew of the United States steamer Kearsarge . . . . .	141,377.00
Pensions <sup>1</sup> . . . . .	29,359,426.86
Relief acts (various) . . . . .	797,748.78
Total . . . . .	\$157,262,415.81

## II. Expenses of Military and Naval Establishments.

For the Army, after deducting payments for the late war, already mentioned in the first group, and for improvements of rivers and harbors, and other public works . . . . .	\$32,524,548.64
For the Navy . . . . .	21,474,433.61
	\$53,998,982.25

## III. Civil Service proper, being all the Expenditures not named in the First and Second Groups.

1. The civil list, including expenses of legislative, judicial, and executive officers of the government, not including Internal Revenue and Customs Departments . . . . .	\$16,026,321.32
Increase of salaries by act of March 3, 1873 . . . . .	1,948,210.04
Foreign intercourse . . . . .	1,292,008.49
Indians . . . . .	7,946,809.53
Expenses of mints, coast survey, light-house service, revenue-cutter service, and marine hospitals . . . . .	4,812,183.58
Cost of collecting customs duties, exclusive of revenue-cutter service, and building and repairing custom-houses, including the refunding of excess of deposits and amounts illegally collected . . . . .	12,586,045.93
Amounts carried forward . . . . .	\$44,611,578.89
	\$211,261,398.06

<sup>1</sup> A portion of this amount is for pensions to soldiers of the war of 1812.

Amounts brought forward . . . . .	\$44,611,578.89	\$211,261,398.06
Deficiencies in the revenues of the Post-Office Department . . . . .	4,765,475.00	
Mail-steamship service . . . . .	725,000.00	
Expenses of eighth and ninth census . . . . .	105,762.44	
Survey of public lands, and land funds to States . . . . .	1,401,971.27	
Government of Territories . . . . .	271,985.36	
Steamboat inspection service . . . . .	221,917.50	

2. Extraordinary expenses :—

Investigation of Senatorial election in Kansas . . . . .	20,000 00	
Survey of boundary between United States and British possessions . . . . .	2,304.63	
Commissioners to International Penitentiary Congress at London . . . . .	5,000.00	
Copies of proceedings of same . . . . .	1,362.65	
International Exposition at Vienna . . . . .	111,146.26	
Payments for coin, nickels, &c., destroyed by fire at Chicago . . . . .	370,813.24	
Miscellaneous . . . . .	1,662,634.86	
		\$54,277,052.10

3. Public works :—

Custom-houses and post-offices, and repairs and preservation of same . . . . .	\$3,270,329 90	
Marine hospitals . . . . .	61,928.73	
Light-houses and repairs . . . . .	1,408,851.49	
Court-houses, post-offices, and building for State, War, and Navy Departments . . . . .	5,352,452.34	
Arsenals and armories, and Military Academy buildings . . . . .	916,476.33	
Forts and fortifications . . . . .	1,801,766.92	
Rivers and harbors . . . . .	6,371,687.32	
Navy yards . . . . .	1,370,587.06	
Interior Department building . . . . .	10,000.00	
Buildings, Government Hospital for Insane, Columbia Hospital, and Columbia Institution for Deaf and Dumb . . . . .	179,800.00	
Improvements of public grounds, streets, and avenues in the city of Washington, including Washington Aqueduct and bridges across the Potomac River, extension of Capitol grounds and Capitol building . . . . .	4,062,915.08	
		\$24,806,795.17
Grand total . . . . .		\$290,345,245.33

It will be seen by an examination of this analysis that every expenditure enumerated in the first group is a direct charge of the late war. Now, that group amounts in the total to \$157,262,416.81; that is, 54 per cent of all the expenditures of the government for the last fiscal year, excluding the sinking fund. In examining those items one by one, I find but

a single place where it seems to me there has been any extravagance whatever; and that is the expenses of the national loan, to which I will refer before I am done. I ask gentlemen to go over those items, and say what portion of the \$157,000,000 expended in paying the charges of the war could possibly have been left out with justice.

In the second group I have placed the army and the navy,—not counting in the public works for rivers and harbors, navy yards, arsenals, and the like, that have been built in connection with the navy and the army, but the net charges of the army and the navy themselves. These make the second group; and they amount to \$53,998,982.25; that is, just 19 per cent of the whole expense of the year.

The third group embraces all other expenditures, and I have sub-grouped them for convenience into three heads: first, the civil service proper, the civil establishment represented by this bill and other kindred appropriations; secondly, extraordinary civil expenses that came in during the year; thirdly, public works of all kinds grouped together. Now this third group and its sub-groups amount in the total to \$79,083,847.27, or 27 per cent of the entire expenses of the government.

Now, Mr. Chairman, take the results: \$290,000,000,—54 per cent directly for the war; 19 per cent for our military and naval establishments; and 27 per cent for all other expenses put together. When gentlemen attack the expenditures of the government, they ought to go carefully through the items one by one, and specify those that are extravagant; they should specify the item that is wrongfully there. It will not do to declaim against extravagance in general, and not specify where it is. I have endeavored, in this statement, to spread out as on an open scroll the expenditures of the government; and I ask the help of every man in this House to point out the places where real, effective, wise retrenchment can be made.

It will be observed that in the first group I have placed only those items of expenditure which grew directly out of the war; yet it will not be denied that a very considerable portion of the expenses in the other two groups were made necessary in consequence of the war. But as they all belong to the annual expenditures of our civil and military establishments, it is difficult to say just what portion is fairly chargeable to that cause.

It will not be denied that the vast masses of accounts for bounty, for back pay, for materials furnished, for war claims in all their innumerable forms, that came to the Treasury for settlement, have required a very great increase of clerical force in all the auditing and accounting departments of the government; and the numerous payments which have been made on account of the war fund up to the current year show that a large portion of the force in all these departments is still employed on this business. Again, the destruction of our light-houses along the Southern coast, the neglect of our rivers and harbors, and of public buildings, in all the States lately in the rebellion, has brought upon the country the necessity for restoration, repair, and rebuilding, which has greatly increased that class of our expenditures. We are still maintaining an increased civil establishment because of the war. And it is in this part of our civil administration where we shall find most opportunity for retrenchment, where we shall find it possible to muster out employees and abolish expenditures, which, though they have been needed, can be dispensed with in the future without crippling the ordinary service of the government. In the pending bill, the Committee on Appropriations have indicated by legislative provisions such measures of retrenchment as they believe the service will bear without injury. And they invite the House to examine, with the closest scrutiny, the items of expenditure exhibited in the table I have given, and to aid the committee in pointing out places where further reduction can possibly be made. Let our criticisms be accompanied by legislative provisions that will rectify the errors of which we complain.

Now, Mr. Chairman, I have drawn, from my own study of these groups, a few conclusions as to what can be done. I speak for the Committee on Appropriations when I say that we have agreed upon this principle, that we will not undertake to cut the appropriations down at all hazards to the level of revenues, however low that level may be. We do not believe in that. We believe that if a cutting down, such as ought to be made for its own sake, does not carry the Treasury through, then it is the business of Congress to provide ways and means; it is the business of Congress to tax whenever taxation is needed to prevent a deficit.

But the Committee on Appropriations propose two things: first, that wherever an unnecessary expenditure has grown out

of the war, or grown up in any other way, or an abuse has crept in, that expenditure and that abuse should be lopped off,—in other words, if any expense can be mustered out, we propose to muster it out for all future time. Having done that, there is just one other thing that we think can be done. Going over the proper and fitting expenditures of the government, if we come to any that can be postponed for a year without seriously impairing any great national interest, we say postpone it. When we have done those two things, we do not propose to cut down another dollar anywhere. And if in this bill gentlemen can show us that we have anywhere cut into the life of the government or its necessary functions, we desire to restore what has been taken away. If in any place we ought to have increased expenditures or appropriations, and have not done so, point it out and we will move an increase.

Guided by these two principles, the Committee on Appropriations desire to suggest in what ways retrenchment can be made; and to that end I submit the estimates for the next year as we find them. It should be understood that the estimates set down in the Book of Estimates are not all that we must pass upon. Others come which are not written in that book. On the eighth page of his annual report, the Secretary of the Treasury states that the estimates of appropriations for the fiscal year ending June 30, 1875, will be \$319,198,736.82. This amount is given in full detail in the Book of Estimates. It is a large sum. It includes all the estimates coming under the head of permanent appropriations; it includes the interest and the premium on the public debt; it includes the sinking fund; it includes almost all the public works; but there are some things which it does not include. It does not include the estimates for continuing the work on the State, War, and Navy Department building. That building, for some reason, has never been reported in any of the regular Books of Estimates. The reason is, I suppose, that it has thus far been under the charge of the Secretary of State, and he sends in his estimate directly. It has not yet come in; but I understand that his estimate is \$1,000,000 for the next fiscal year. Again, it does not include the deficiency estimates of nearly \$3,000,000, which were sent in a few days since. In the next place it includes no estimate for the Centennial Exposition. That estimate seems to have sprung up in the two houses themselves, or perhaps it has

come to us from the country. Whatever that estimate is, it is to be added to make up the total. It has not yet assumed a very definite shape. In the next place, the estimates of the Board of Public Works are not in the Book of Estimates, but come to us from the President, and amount to about \$4,000,000. And, finally, there has been appropriated, on an average, for the last two years, \$3,500,000 in the form of relief acts, pension bills, and bills sent to us from the Southern Claims Commission, which do not appear in any Book of Estimates.

I believe I have now enumerated all the estimates which are likely to come to us; and the grand total is a little over \$330,000,000. Large as the amount is, it is more than a million less than the corresponding estimates of last year. It includes of course the sinking fund; it includes all estimates that I can hear of from all sources. Of course a large number of these items we shall not appropriate for; but taking \$330,000,000 as the total of all possible, or at least probable estimates, what reduction can we make? The Committee on Appropriations have gone over all the bills except one with some care, at least far enough to find out what they think will be needed. We have made no estimate as to how much reduction can be made in the postal service, and for the reason that when the new lettings come in they may change the entire gauge and basis of the estimates. I therefore leave out of the calculation the Post-Office appropriation bill altogether. Leaving that out, I give the following as the facts thus far elicited: we have passed the Army, Navy, and Fortification appropriation bills; and these three bills, as they passed the House, appropriate a total of \$11,663,287 less than the original estimates. The gentleman from New York made the statement correctly as to the bills themselves; but one item was not given in his statement, the item estimated at a million and a quarter for arming the fortifications, which did not go into either bill, which the committee agreed to drop, and which was therefore never reported to the House in any form.

So the three bills which have passed the House have appropriated \$11,500,000, in round numbers, below the original estimates. In the bill now under discussion, the reduction below the estimates is four and a half millions. One million of this reduction results from the repeal of the law of a year ago enacting an increase of salaries. One half-million more results from

the reduction of the number of clerks and other employees in the departments, as proposed by the Committee on Appropriations in the pending bill. In the Indian Appropriation Bill, reported yesterday, the reduction below the estimates is \$1,700,000, in round numbers.

There now remains to be considered the great Miscellaneous Appropriation Bill. We believe it will be possible to reduce on light-houses \$1,000,000; on navy yards, \$400,000; on arsenals, \$300,000; on the public buildings and grounds in the District of Columbia, which are under the charge of the Supervising Architect of the Capitol and of the Commissioner of Public Buildings and Grounds, \$900,000; and on appropriations for buildings under the charge of the Supervising Architect of the Treasury, \$2,500,000; making a total reduction in the miscellaneous appropriation bill of \$5,100,000.

The committee are of opinion that the very large estimates for rivers and harbors ought to be reduced \$11,500,000. The estimates are nearly \$16,000,000, and we have rarely given \$5,000,000 in any one year. If \$4,000,000 were given, it would be about the average for several years, and would enable us to make a reduction of \$11,500,000 on that bill.

The pensions will remain nearly stationary. Although the gentleman in charge of that bill authorized me to say to the House that he thinks we can reduce half a million, I do not reckon that in, thinking we shall probably not be able to make a reduction there. If there be a reduction, it will be simply because the pensions are expiring.

The Military Academy Bill will remain almost precisely at the figures of last year. The gentleman in charge of that bill informs me that he does not see now that he can make a reduction of more than \$10,000 below the figures of last year, for the reason that the number of cadets in the Military Academy is increased by forty-nine, in consequence of the increase of Congressional districts. Last year the Committee on Appropriations reported in favor of extending the term of study to six years. But that proposition was not adopted. We cannot therefore more than maintain the old level as regards the Military Academy.

The Consular and Diplomatic Bill remains about the same. It represents the steady and even growth of our foreign relations.

Putting all these items of decrease together, I am enabled to



figure up a reduction of \$34,300,000 below the gross estimates which I have already presented. A large portion of this reduction was proposed by the heads of the departments in their revised estimates. The reduction here proposed is a reduction of items set down in the Book of Estimates. That is, it is a reduction from the three hundred and nineteen millions. It remains to be considered how much we shall be able to reduce the estimates which come to us in addition to those found in the Book of Estimates. Probably we shall not be able to make a large reduction on the deficiencies asked for, for as they now stand they are much smaller than the average deficiencies granted within the last eight years. What Congress will do in reference to the Centennial Exposition and in reference to the estimates for the Board of Public Works, and how much will be appropriated in the form of relief bills, claim bills, and pension bills, members of the House can estimate as well as I. These things ought to be fairly considered by the House, and determined on their merits. It is therefore impossible to say what figure will represent the ultimate amount of reduction. But I believe I am reasonably safe in saying that we can reduce the expenditures, exclusive of the sinking fund, to \$270,000,000 for next year, provided the House sustain the Committee on Appropriations as they have done in the bills already reported.

It will be observed, Mr. Chairman, that I have everywhere counted in the sinking fund as one of the expenditures which we are bound by every obligation of good faith and wise policy to meet. It is unfortunate that no separate account of the sinking fund was kept until 1869-70, although large amounts of the principal of the public debt had been paid off before that time. For the last four years we have kept that account separate, and now it is included in the regular estimates. The sinking fund is the sacred symbol and shield of the public faith. It is a perpetual memorial to the world that we are paying our public debt. I would far sooner levy additional taxes than see the sinking fund neglected. When, therefore, I say I believe it possible to reduce expenditures for the next year to \$270,000,000, exclusive of the sinking fund, I mean to say that I regard it as the unquestioned duty of Congress to provide for \$300,000,000 to meet our aggregate expenditures, including the sinking fund and the interest on the public debt.

Now, Mr. Chairman, I desire, in concluding my remarks upon this bill, to call attention to two or three points. I cordially concur with the gentleman from Massachusetts<sup>1</sup> in all his aspirations for retrenchment. But it is important that propositions for retrenchment be put into the form of legislation.

There were several leading points in which the gentleman recommended retrenchment and reform. In the first place, he alluded to the necessity of doing away with our permanent appropriations as far as possible. In that he has the cordial support of the Committee on Appropriations; for on the 26th of January, in obedience to the directions of the Committee on Appropriations, I introduced into the House two resolutions, of which one was an order to report in this bill now pending a proposition to repeal the law which makes permanent appropriations for the expenses of the national loan, and to make it a subject of annual appropriation. And the other empowered and directed the Committee of Ways and Means to undertake a like work in reference to the laws for collecting customs. The system by which we provide for the expense of collecting customs is an old one, born with the government, and has been subject to constant abuses. It needs, as it has needed for many years, thorough revision; and no committee is so well qualified to make that revision as the Committee of Ways and Means. They are familiar with our customs laws, and can best determine how the needed reform can be accomplished.

The Committee on Appropriations have given at least two full weeks of work to the subject of the expenses of national loans, and have provided in this bill for repealing all laws that make permanent appropriations for those expenses. If the committee will indulge me, I will state what was the peculiar difficulty in that case.

During the war, when a great loan was issued, there was added to the act authorizing it a clause that a certain sum or a certain per cent of this particular loan should be used to pay for the expenses of negotiating it and printing the bonds. But in 1872 the Committee of Ways and Means brought in a bill, which passed without debate, making a permanent appropriation of one per cent of all notes, bonds, and fractional currency issued or reissued in any one year as the expense of

<sup>1</sup> Mr. Dawes.

the national loan. And during the past year there was nearly five hundred millions of such paper printed and issued at the Treasury Department, making thus an annual appropriation, without the revision of Congress, of nearly \$5,000,000, which the Secretary could use at his discretion. Out of the appropriations for the expenses of the national loan has grown up the Bureau of Engraving and Printing, with its twelve hundred employees. There are to-day twelve hundred persons employed in that Bureau, and not only the number of employees, but their salaries, are regulated by the Secretary of the Treasury. And besides that, in four of the offices of the Treasury Department there are five hundred extra clerks and employees whose salaries are not provided for in our annual bills, but are paid out of this permanent appropriation for the national loan, according to the discretion of the Secretary. What is more, the number of these clerks is also subject to his discretion. We have undertaken to sweep this law away, and fix the number of clerks and employees, and make an annual appropriation based on the annual estimates. We have largely reduced the appropriation. Last year the cost of collecting the customs was unusually large, and it was paid under a permanent appropriation. It ought not to be so, and we hope that before this bill is through the House the Committee of Ways and Means may devise a scheme by which we may regulate the cost of collecting our revenues from customs, as we have done for the loans.

The most difficult thing we have encountered is the very great expense of public works; and here, Mr. Chairman, I may say that I am not hostile to our public works, but rather am proud of them, as far as they are necessary to the public service. They belong to that class of our expenditures that should be called investments for the comfort, convenience, and growth of the nation. The greatest of these expenditures is on our rivers and harbors, and I call attention to the fact that in fifteen of the last thirty-four years not a dollar was appropriated for rivers and harbors in the United States. Our friends on the other side of the House, when they were in power, believed the doctrine that Congress has no right to make internal improvements; and for fifteen of their years of power, our docks and piers were rotting, and our harbors were filling up, because the theory of no-improvements left them to perish. More than

seventy-five per cent of all that has ever been appropriated to open our rivers, and clear out our harbors, and make a highway for commerce on our coasts and upon our inland lakes and rivers, has been appropriated since the war by the party now in power. I name these works only to praise them. They are carried on under the War Department, and no man, I believe, has charged corruption in the expenditure of the money. But it is one of that class of expenditures that can in part be postponed, that need not be done in a year. It is well that enough has been done to make it possible for us to open our internal avenues of commerce as the growth of trade requires.

Another branch of our public service, which no man can think of without being proud of it, is our light-house system. I look upon it as one of the wonders of our early history, that, in the first three months of the life of the First Congress, our fathers struck out a new line, unknown in the history of legislation, when they declared in one simple act that the light which gleamed from every Pharos on our shores should be free to the ships and sailors of all nations. Until recently, the United States has stood absolutely alone among nations in allowing the whole world to have the benefit of its lights without charge. I always feel a keen sense of satisfaction when I am permitted to aid in making appropriations to keep these lights burning on our shores. The life-saving stations which have been added are expenses of the same character. I would do nothing to cripple these great interests.

One branch of our public works I think we have overdone,— at least we have been going faster in it than we ought to go; and that is our public buildings,— our post-offices, court-houses, and official buildings of that sort. But there has been a demand all over the country for their increase,— a demand which sometimes the committees of this House have not been able to resist. I remember how greatly the distinguished chairman of the Committee on Appropriations in 1871<sup>1</sup> was pressed with these demands. I remember that, on the 27th of February of that year, he brought in his Sundry Civil Appropriation Bill, and himself, by direction of his committee, moved to suspend the rules to make it in order to put into the bill fifteen buildings never before authorized. I remember that they were put into the bill under a suspension of the rules.

<sup>1</sup> Mr. Dawes.

But amendments for still other buildings were added in the House, until the bill sank under their weight, and was laid on the table on the motion of the distinguished gentleman from Indiana.<sup>1</sup> Although that bill was once defeated, it was afterwards reconsidered and passed, with several of the new buildings stricken out. Yet they were left as a legacy to subsequent years. I allude to this to show what a pressure there has been on all committees on appropriations for increasing the expenditures on the public works.

The Forty-first Congress authorized sixteen new buildings in addition to those then in progress, and it was mainly because of that large increase in the buildings authorized that the expenditures for 1873 were increased over those of 1872. During the Forty-second Congress fourteen new buildings were authorized, most of them the buildings that had been inserted in the Miscellaneous Bill of 1871, and then thrown out before that bill became a law. I know how strong the pressure is to increase the number and size of public buildings, but I hope the House will not appropriate any more money the coming year for works not already begun. This is good economy; first, because our whole force in the architect's office are engaged to the top of their ability on works now in progress; and, second, because we really cannot afford to do all the work on buildings which are fairly begun. Let the seventeen untouched buildings wait for a year, and then come in one by one, as the old ones are finished. We will go on with the work already in progress. We are erecting buildings which are worthy of the country. By these, and by our other internal improvements, we will make for this great nation a beautiful body, in which its great soul may dwell. But let us make it slowly; let us make it carefully; let us make it wisely.

And now, Mr. Chairman, from this review of the facts in the case, I am warranted in the assertion that, if the House will pursue the course which I have indicated, we shall pass through the present and the coming fiscal year without crippling any of the necessary expenditures of the government, without abandoning any great and important public work already begun, and neither encounter a deficit nor bring the Treasury to protest or the public credit to shame. I believe that with the revival of business, — which the gentleman from New York<sup>2</sup>

<sup>1</sup> Mr. Holman.

<sup>2</sup> Mr. Roberts.

shows has increased the revenues \$8,000,000 more than was estimated up to the beginning of this month, — and with the restoration of public confidence, we shall be enabled to get through this year and the next without additional taxation; but if, at the end of our efforts to limit expenditures on the basis indicated, we find it necessary to impose a new tax, I have no doubt that Congress will stand up to its duty, and restore where it has cut too deeply into the revenues. I do not believe it will be necessary to increase the taxes. I believe we shall come through with no deficit, but with a reasonable surplus for the future.

Thanking the committee for the very kind attention with which they have honored me, I will relieve their patience.

# APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE 30, 1875.

SPEECH DELIVERED IN THE HOUSE OF REPRESENTATIVES,  
JUNE 23, 1874.

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ON the last day of the session of 1873-74, Mr. Garfield reviewed the legislation of the session from the standpoint of his position, that of chairman of the House Committee on Appropriations, in the following speech.

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MR. SPEAKER, — I was entitled to an hour this morning, if I had chosen to use it, pending the conference report on the Sundry Civil Appropriation Bill. But it was so important that the bill should go at once to the engrossing clerks that I occupied no time in general debate, but said I should ask the indulgence of the House later in the day, for no political speech, as my friends across the way seem to apprehend, but simply for the purpose of making, as far as I can and as accurately as possible, a summary of what has been done this session in regard to public expenditures. I therefore avail myself of the courtesy of the gentleman from Kansas,<sup>1</sup> to state what has been done in the way of appropriations.

Gentlemen will remember that when the Legislative Appropriation Bill was called up for action on the 5th of March, I spoke somewhat at length upon the general subject of revenues and expenditures, and indicated the leading features of the bills which the Committee on Appropriations would recommend to

<sup>1</sup> Mr. Cobb, who had moved a reconsideration of the vote by which the conference report on the Tariff Bill was rejected, and then yielded the floor to Mr. Garfield.

the House, and what we believed would be possible in the way of reducing the expenditures for the next fiscal year. The reductions then suggested were of two kinds: first, the actual mustering out of expenditures by the repeal or scaling down of laws authorizing and requiring payments from the Treasury; and second, the postponement of items of expenditure which, though ultimately necessary, could, without serious detriment to the public service, be deferred until the pressure on the Treasury had passed. It was of great importance that we should be able to tide over the present and the next fiscal years without additional taxation, and for the time being the postponement of an expense was almost as important as a permanent reduction. In that speech I expressed the belief that by postponing some expenses and abolishing others we could reduce the appropriations for the next fiscal year about \$34,000,000 below the estimates of the several departments, and that we could thus reduce the expenditures to an aggregate of \$270,000,000, exclusive of the sinking fund. We have now reached the end of the session, and it is worth while to see how far the expectations of four months ago have been realized.

I presume that not all gentlemen have thought sufficiently upon this subject to appreciate the difficulty of scaling down without injuring the efficiency of so vast and complicated a machine as the government of the United States. It is a vast Colossus, whose every motion depends upon the expenditure of money, — a vast machine, the motive power of which is money; and the appropriations made by Congress determine and limit the activity of every function from the highest to the lowest. I say that few people have considered how difficult it is to take such an organization and scale it down about ten per cent, and still preserve its necessary working force unimpaired. We might by an unwise reduction cripple some one function, and thus block the operations of a whole department, but I believe that this Congress has made its reductions so carefully that no serious injury will follow.

Before stating the amounts appropriated by the several bills I will point out some of the measures of legislation that have been incorporated into these bills for the purpose of reforming the laws which regulate the expenditures of public money.

In the first place, we have endeavored to take a further step in the direction in which Congress has been moving for several



years past, — I mean the effort to bring all expenditures, as far as possible, directly under the eye of Congress. We have transferred several important items of expenditure from the permanent appropriations, over which Congress has no immediate supervision, to the annual appropriation bills. This has necessarily swollen the annual bills, but it has brought those expenditures, where they ought to have been brought long ago, under the immediate eye of the people through their representatives in Congress.

There is no hope of insuring careful economy in expenditures without specific provision, declaring the object of an appropriation and limiting the amount to be expended. In the present session the Committee on Appropriations have proposed several improvements which have been cordially indorsed by the House, and which I think will prove to be of very considerable service to the government. As an instance of this I refer to the expenses of the national loan, which amounted to \$3,806,000 last year. That amount was expended in maintaining the Bureau of Engraving and Printing, and in the employment of several hundred clerks and other employees, and both their number and pay were left wholly to the discretion of the Secretary of the Treasury. It is too great a discretion to put in the hands of any one man in the ordinary work of the government. It enabled him to employ, and he had in his employment when this session commenced, not less than eighteen hundred people, paying them from \$5,000 a year down to seventy-five cents a day at his discretion. I think that upon the whole the work was reasonably well done; I do not think there was corruption or misuse of government funds; but it was an extravagant method of conducting the public business. All that has been swept away by an amendment to the legislative bill. All the money now appropriated for this service is in specific sums, and in every case, except as to the number of employees in the Printing Bureau of the Treasury, a definite number of persons are to be employed and their salaries are fixed. In doing this we have made a reduction of \$500,000 in that one item alone; but of course the effect of this change is to swell the annual appropriation bills about \$3,250,000 above what they would have been but for the adoption of this reform, though it correspondingly reduces the amount to be expended under the head of permanent appropriations.

A similar reform has been made by the aid of the Committee on Military Affairs and the Committee on Civil Service Reform in regard to the employment of soldiers as clerks in the War Department. • By the provisions of laws passed during the war and soon after its close many hundreds of enlisted men were detailed for duty as clerks and messengers in that department, receiving extra compensation for rations and quarters, which raised their pay to about \$1,000 a year, while they were in fact soldiers of the army at the rate of thirteen dollars per month. All that has been swept away. We have made appropriations for the employment of these persons at a fixed salary, and have limited the number to be employed. The effect of this is to swell the amount appropriated by that bill nearly half a million dollars; but it reduces the permanent appropriation by considerably more than that amount, and it has mustered out a large number of persons who were thus employed, and has made the force of civil employees a fixed and definite number.

In this connection, also, I will mention another feature of the appropriation bills of this session, which I think will everywhere be recognized as an improvement on the old method. Hitherto it has been the custom to appropriate contingent funds in the lump for the several departments. But this year the Committee on Appropriations have brought all the contingent funds down to items. For example, instead of appropriating \$350,000 for contingencies in the Treasury Department, we have separated it into all the various items; they cover several closely printed pages of the law as it now stands, and state definitely so much for rent, so much for fuel, so much for lights, so much for the other items, leaving an actual contingent fund of only some \$25,000 to meet expenses that could not be enumerated. That plan has been carried through all the appropriation bills, and I believe in so doing we have done a good service in limiting the expenses of the government.

When I addressed the House in March last, I presented a detailed statement of expenditures of the last fiscal year, so grouped and exhibited as to show what portion of the expenditures were directly in consequence of the war, and what were employed in carrying on the ordinary functions of the government. With the leave of the House I will here restate that analysis, because it forms the basis of all the reduction we have attempted to make for the next fiscal year.

[This analysis, with the comments upon it, is found in the Speech on "Revenues and Expenditures," delivered March 5, 1874.<sup>1</sup>]

I then suggested the different items on which reduction could safely be made, and expressed the belief that the appropriations for the next fiscal year could be reduced by the sum of \$34,000,000 below the estimates made by the several departments, and from \$20,000,000 to \$25,000,000 below the actual appropriations of last year. An examination of the situation as it then existed, March 5, led to the following conclusion: —

"And now, Mr. Chairman, from this review of the facts in the case, I am warranted in the assertion that, if the House will pursue the course which I have indicated, we shall pass through the present and the coming fiscal year without crippling any of the necessary expenditures of the government, without abandoning any great and important public work already begun, and neither encounter a deficit nor bring the Treasury to protest or the public credit to shame. I believe that with the revival of business . . . and with the restoration of public confidence we shall be enabled to get through this year and the next without additional taxation."

In this connection I call the attention of the House to one element that all will admit enters largely into the problem of public expenditures.

Gentlemen sometimes say that the aggregate expenditures of the government during its first fifty years were no more than they are now for one year. That is a striking, and to some a startling statement. But I call the attention of the House to the growth of the country, to the area of square miles at four or five different periods of our history. When the Constitution was adopted, we had, under the treaty of peace of 1783 with Great Britain, an area of 827,844 square miles. In 1803, by the acquisition of Louisiana, we more than doubled the amount of our territory by enlarging it to the amount of 1,999,775 square miles. Forty-five years later, in 1848, by the annexation of Texas and our acquisitions from Mexico, we reached 2,980,959 square miles. To-day we have 3,603,884 square miles of territory, being more than five times the area of the territory we had when the Constitution went into operation. Now these increments of growth have not been mere additions of territory; they have been accompanied by the creation of new States and Territories, at a rate even more

<sup>1</sup> See *ante*, pp. 115-118.

rapid than the growth of our area in square miles. Of course every new State and Territory has added to the expenditure of the government.

I will detain the House no longer except to call attention to the appropriations made at the present session. Making a comparison between law and law, not between estimates and appropriations, I present a table which exhibits the appropriations of the fiscal year now closing, and the corresponding appropriations for the one to come: —

*Twelve regular Appropriation Bills for the Years 1874 and 1875.*

Title of Bill.	For fiscal year ending June 30, 1874.	For fiscal year ending June 30, 1875.	Increase.	Decrease.
Navy . . . . .	\$22,276,257.65	\$16,818,946.20	.....	\$5,457,311.45
Army . . . . .	31,796,008.81	27,788,500.00	.....	4,007,508.81
Fortification . . . . .	1,899,000.00	904,000.00	.....	995,000.00
Legislative, Executive, and Judicial . . . . .	23,753,633.86	20,613,880.80	.....	3,139,753.06
Indian . . . . .	5,541,418.90	5,656,171.00	\$114,752.10	.....
Military Academy . . . . .	344,317.56	339,835.00	.....	4,482.56
Deficiency . . . . .	12,978,418.60	4,083,914.26	.....	8,894,504.34
Post-Office . . . . .	5,396,602.00	5,497,842.00	101,240.00	.....
Consular and Diplomatic . . . . .	1,311,359.00	3,405,404.00	2,114,045.00	.....
Pension . . . . .	30,480,000.00	29,980,000.00	.....	500,000.00
Sundry Civil . . . . .	32,186,129.09	26,895,545.25	.....	5,290,583.84
River and Harbor . . . . .	6,102,900.00	5,218,000.00	.....	884,900.00
Total decrease . . . . .	.....	.....	.....	26,844,006.96

By glancing over this table, gentlemen will see in what bills the reductions of appropriations have been made.

In the Naval Bill the reduction amounts to nearly \$5,500,000; part of this reduction arises from the fact that we have reduced the rank and file of the navy, and also reduced the enlisted force of the Marine Corps twenty per cent; and part of it arises from the fact that last year we made a large appropriation — a little more than \$3,000,000 — for building new sloops of war, which does not reappear in the bill for this year. The appropriations for the army are reduced a little more than \$4,000,000. This was made possible mainly by the fact that we provided for the reduction of the enlisted men of the army by the number of five thousand. The Fortification Bill shows a reduction of very nearly \$1,000,000, and is an example of a public expenditure that can be postponed without detriment to the public service. The Legislative Appropriation Bill shows a reduction of a little more than \$3,000,000 from the corresponding ap-

proportions of last year. The reduction would have been \$6,000,000 but for the fact that there has been placed in this bill more than \$3,000,000 which formerly was expended under the head of Permanent Appropriations for the National Loan. The reduction has been effected mainly by the repeal of the Salary Bill, which alone made a reduction of \$1,000,000, by reducing the force in the various departments of the civil service, and by reducing contingent expenses. The Indian Appropriation Bill shows a small increase over that of last year; but it should be remarked that a large portion of our deficiencies have been for the Indian service of the current year. The appropriations for the Military Academy are nearly the same as those of the current year, although the number of cadets has been increased forty-nine. The Deficiency Bill of this year appropriates nearly \$9,000,000 less than the deficiency bills of last year. The appropriations from the Treasury for postal service are about \$100,000 greater than the amount for last year. It will be noticed that I have set down only the amount appropriated out of the Treasury. The revenues of that Department are not covered into the Treasury, but are expended directly for the service by the Department itself. The total expenditures of that Department will be over \$2,000,000 greater for the next fiscal year than for the current year. But the increase of the rates of postage provided for in the bill will, it is estimated, produce about \$2,000,000 of additional revenue. The Consular and Diplomatic Bill appropriates about the ordinary amount for consular and diplomatic service; but there has been added this year nearly \$2,000,000 to that bill as the amount required to pay the award of the mixed British and American commission under the treaty of Washington. The Pension Bill this year is half a million dollars less than the Pension Bill of last year. But the legislation of the session in regard to pension laws leads me to believe that we shall have to appropriate next year for a deficiency large enough to bring up the appropriation to what it was last year. Had I known when the Pension Bill was under consideration what I know now about the expenses of the Pension Bureau, I should have insisted upon keeping the amount the same as last year. You may therefore expect next year half a million for deficiencies in the Pension Bureau. The Sundry Civil Bill shows a reduction of \$5,290,000 from that of the corresponding bill of last year.

This arises in the main from a reduction in the amounts appropriated for public buildings; but the bill of this year has been increased by an appropriation of \$400,000 to aid the sufferers by the overflow of Southern rivers. The River and Harbor Bill of this year shows a decrease of \$885,000 below that of last year, and this although about \$200,000 is added for general surveys in connection with schemes of cheap transportation between the East and the West,—an appropriation which is no part of the River and Harbor Appropriation Bill proper.

Summing up the results of the table here presented, the aggregate appropriations made in the twelve regular appropriation bills is \$26,844,006.96 less than the amounts appropriated in the corresponding bills last year.

I have not taken into account in this statement the \$4,000,000 appropriated in what is known as the "Naval Emergency Bill"; but, on the other hand, I have more than balanced this \$4,000,000 by including in these bills the appropriations for expenses of the national loan, and other similar appropriations, which have been transferred from the list of permanent appropriations to the regular bills. Nor have I included in this statement the amount appropriated by Congress in the form of claim bills and relief bills. Though the number of private bills which have passed at this session is probably greater than those of the preceding year, yet I am satisfied that the amount appropriated in such bills is considerably less than the appropriations of last year. The appropriations of this class amounted last year to \$3,354,842.17. I do not believe that this year they will reach \$1,500,000.

The summing up of the amounts appropriated in the bills that have passed within the last day or two has been done somewhat hurriedly, and I will not vouch for the absolute correctness of the figures here given; but I am satisfied they are not far out of the way. I may safely affirm that the appropriations made at the present session of Congress are in the aggregate \$25,000,000 less than those of last year. I ought also to add, that in this statement no account has been taken of the unexpended balances in either year.

I desire to say, in conclusion, for myself and for my associates on the Committee on Appropriations, that we feel under great obligations to the House for the confidence with which it has accepted our work. I have no doubt that we have at times

appeared to many members unreasonable in our opposition to measures of expenditure, but the House has generally shown an unwavering purpose to follow the line of genuine economy in its management of public affairs. In this connection I may state (and I do so in no disparaging or invidious spirit) that almost every bill sent from this House to the Senate has come back to us larger in the amount of the appropriation than when it left us; and in almost every instance, the bills that have come back to the House from a conference committee have come back with smaller amounts of appropriation than when they were sent to the committee. No conference committee on any of the appropriation bills has enlarged the bill in its charge; but, on the contrary, nearly all such committees have decreased the appropriations. I shall watch with deep interest the financial history of the next fiscal year, with some apprehension that in some places we have cut too deeply. But I shall confidently expect to see the expenditures kept within the aggregate of the permanent and annual appropriation bills.

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ON the 29th of July, 1876, the House being in the Committee on the State of the Union, Mr. Garfield said: —

IN the year 1872, soon after I became chairman of the Committee on Appropriations, I made an analysis of the expenditures of the government from the official records of the Treasury Department, with a view to classifying them in such a manner as to make the various kinds of expenditures easily understood. I divided all the expenditures, exclusive of payments on the principal of the public debt, into three groups. The first embraced all those expenditures that grew directly out of the war. It did not include the very large incidental expenses of the war, such as the increase of the clerical force in nearly all of the departments, but included only those items as to which there could be no doubt that they were occasioned directly by the war itself. The second group consisted of expenditures for the army and navy in time of peace, but did not include those civil expenditures under the control of the War Department for rivers and harbors, and similar public works. The third group consisted of the expenditures for the civil service proper.

This analysis was continued year by year down to and including 1874. It was continued at the present session by the gentleman from Maine.<sup>1</sup> And now that the fiscal year ending June 30, 1876, is closed, I have obtained from the Treasury Department a similar analysis for that year, and present it in the following table, which also includes the four years 1873, 1874, 1875, and 1876; being the four years for which appropriations were made when I was chairman of the Committee on Appropriations.

It will be remembered that near the close of the last session of the Forty-third Congress I reviewed the appropriations and expenditures up to that time, and expressed the opinion that the work of the four years would show a reduction of at least \$30,000,000 in the expenditures of the government during that period. But the value of any speculative opinion can be tested only by time; and the following table speaks for itself.

[He then presented a comparative statement of expenditures for the years ending June 30, 1873, 1874, 1875, and 1876. His analysis was even more minute than the analyses found in the preceding speeches. These are the total expenditures by years:—

	<i>First Group.</i>			
	1873.	1874.	1875.	1876.
Amount paid directly on account of the war . . . . .	\$157,262,415.81	154,171,130.50	147,882,034.75	140,919,679.23
Percentage of the whole for each year	54.1	53.7	53.8	54.5
	<i>Second Group.</i>			
Army and Navy . . . . .	53,998,983.25	58,693,305.69	48,314,499.50	47,218,384.66
Percentage of the whole for each year	18.6	20.4	17.4	18.3
	<i>Third Group.</i>			
Civil Service proper . . . . .	79,083,847.27	74,269,437.57	78,426,858.59	70,321,733.44
Percentage of the whole for each year	27.3	25.9	28.8	27.2
Totals . . . . .	<u>\$290,345,246.33</u>	<u>287,133,873.76</u>	<u>274,623,392.84</u>	<u>258,459,797.33</u>

Mr. Garfield then added:—]

From this official exhibit it will be seen that the expenditures, under the first group, that have grown directly out of the war, have been reduced from \$157,250,000 to a little less than \$141,000,000; for the army and navy proper, from near \$54,000,000 to a little more than \$47,200,000; for the civil service proper, from \$79,000,000 to \$70,321,733; and that the aggregate reduction of expenditures during that period of four years is nearly \$32,000,000. It will be seen that 54½ per cent of all the expenditures for the fiscal year ending June 30, 1876, grew directly out of the war.

<sup>1</sup> Mr. Hale.



When the current fiscal year shall have ended and a similar analysis is made, we can judge precisely the merit of the work of this session. I shall not stint any just praise due to this House for whatever good work it has accomplished in that direction. But much the largest share of reductions that have been made in the bills already passed, and those yet to be acted upon by the House, have been postponements of necessary appropriations, and not an actual mustering out of expenditures. I make this statement for the purpose of doing justice to the work heretofore done, and also of laying the foundation of a just estimate of the appropriations of the present session.

## EFFECTS OF THE REBELLION ON SOUTH-ERN LIFE INSURANCE CONTRACTS.

ARGUMENT MADE BEFORE THE SUPREME COURT OF THE UNITED STATES IN THE CASE OF W. E. TATE *ET AL.*, HEIRS OF SAMUEL BOND, *v.* THE NEW YORK LIFE INSURANCE COMPANY *ET AL.*

MARCH 17, 1874.

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THE principal facts in this case can be inferred from Mr. Garfield's argument. As the court were equally divided in their opinions, no decision was reached, and hence no trace of the case appears in the reports. The effect was to confirm the decision of the court below.

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MAY IT PLEASE THE COURT, — The facts in this case have been so fully and clearly stated by the distinguished counsel on the other side, that I need not state them at length; but I deem it important that, as two cases are being considered together, it should be clearly understood in what respects they differ as to the facts. There are several important points of difference between the two cases.

In case No. 228,<sup>1</sup> the assured survived the war, and tendered to the company payment of his back premiums after the war was over. In the case now before your Honors, the assured did not survive the war, but died while it was in progress, and there was no tender of payment of premium after the conclusion of the war. In case 228 it is alleged that the executors of the assured had equitable claims, growing out of a surrender of a former policy, to the amount of eight or nine hundred dollars, which should be considered as a paid-up policy for that amount. In this case there is only one policy, and the annual premiums

<sup>1</sup> The case of *The Mutual Life Insurance Co. of New York v. Peter Hamilton, Executor of D. W. Goodman.*

which had been paid to keep it alive, to be considered. In the other case there were dividends due, alleged to be sufficient in amount to cover the premium of 1861. That, I believe, was denied; but it was set forth in the record, and counsel insisted that it was the duty of the company to credit Goodman with dividends sufficient in amount to cover the payment of premiums during the war. In this case no dividends were due. There was an express stipulation in the charter of the New York Life Insurance Company that, when the accumulation of surplus should reach \$500,000, and not till then, dividends should be declared by the company. It did not reach that sum, and the company were not bound to make a dividend in 1861, and as a matter of fact did not, to any of their members.

There is still another item of difference which ought to be noticed, and that is in reference to the status of the parties themselves. It was set forth in a note appended to the policy itself in case 228, that "agents of the company are authorized to receive the premium when due." In this case it is a special provision of the charter of the company that their place of business is in the city of New York, and not elsewhere. I refer your Honors to the fifteenth section of the charter, as quoted in the record. In further illustration of this difference in the two cases, I refer to a note on the margin of Dr. Bond's policy, as printed in the record, which reads as follows: "All receipts for premiums paid at agencies are to be signed by the President or Actuary." It results from these facts, that no agent is authorized to receive any premium on a policy already issued, until he has received from the home company a receipt in blank, signed by the President or Actuary of the company; and it is shown in the testimony, that this was the uniform custom of the company. These, I believe, constitute the main differences of fact in the two cases.

The case now before your Honors rests on these plain facts: that the life of Dr. Bond was insured by a contract with the New York Life Insurance Company, made October 17, 1854; that he paid the annual premiums regularly until October 17, 1861, when, through another person, he tendered the amount of the premium for that year to Kirtland, who had been the agent of the company at Memphis; and that Kirtland refused to receive it, alleging that he had no signed receipt giving him authority from the company, and that it was impossible for him

to transmit the money to New York, even if he had authority to receive it. As stated, the only authority Kirtland ever had to receive renewal premiums from assured persons was conferred by the company's sending him receipts bearing the signature of the President or Actuary for that particular purpose; and the fact that he had received no such authorization makes it true that he was not the agent of the company for that purpose in October, 1861.

THE COURT. These receipts, I suppose, were ordinarily sent to the agent after he had received the money.

That is not my understanding of the fact. It was the uniform custom of the company to send blank receipts to their agents before the day of payment.

THE COURT. What does the record say about it?

MR. CURTIS. "All receipts for premiums paid at agencies are to be signed by the President or Actuary." That is in the policy; and they were always signed in anticipation.

I refer your Honors also to the place in the record where a witness, who had been in the employment of the New York Life for fifteen years, says that, during the time of his connection with the company, no agent had authority to collect premiums until he had received receipts signed by the President or Actuary. I refer your Honors also to the testimony of the President of the company, which is to the same effect. The same fact is embodied in the bill of exceptions, as part of the ruling of the court below.

THE COURT. Is this a bill in chancery?

There seems to have been some doubt on that question in the minds of counsel in the court below. But we have the opinion of the court, printed in full, as a part of the record.

To conclude my statement of facts. On the 17th of October, 1861, a tender was made to Kirtland, who had been an agent, and his response was, that he had received no blank receipts, as he usually had done, authorizing him to accept payment. The agent made the further statement, that he had no means of communicating with the home office, and gave that as a further reason for not receiving the money. A few months later, the assured died at his home, near Memphis, Tennessee, within the Rebel lines. About two years after his death a

demand was made upon the company in New York for the payment of the policy, less the unpaid premiums. The company refused, and suit was brought to enforce payment.

In my judgment, there are but two vital questions in this cause. The first is, the nature of the contract, and the rights of the parties under it; the second is the effect of the war upon the contract. I shall pass the first point with the briefest notice, leaving its consideration to my distinguished colleague. I will say, however, that we hold that the payment of the premiums required by this contract cannot justly be called a *condition* at all, whether precedent or subsequent, but is of the essence of the contract itself. I desire to call the attention of your Honors to the peculiar language of this policy: "This policy of insurance witnesseth, that the New York Life Insurance Company, in consideration of the sum of \$224.50, to them in hand paid by Samuel Bond, and of the annual premium of \$224.50, to be paid on the 17th of October in every year during the continuance of this policy, do assure the life of Samuel Bond," etc. Now, it seems to us that the payment of the first sum is no more a part of the essence of the contract than the payment of the subsequent sums. The payment of the first sum and of the subsequent sums is made the fundamental basis of the contract. We cannot separate the two. Suppose the first had never been paid, could Dr. Bond or his executors have claimed any payment from the company? The first payment did two things. It bound the company to pay \$5,000 in case Bond died within the year; and it gave him the right to renew the policy at the end of the year, by paying the next premium. The payment of the second premium was as vital to the life of the policy as the payment of the first. There follows in the contract, after the usual stipulations, a clear and unequivocal declaration that it is the understanding of both parties that a failure to pay on the appointed day makes it void,—that it ceases to be a contract.

In considering the effect of war upon this contract, I will first notice the suggestion of my learned friend who has just addressed your Honors, that, if Bond was in default, it was because the action of the government in reference to the war made it impossible for him to perform his part of the contract. He quotes from a case in the Court of Queen's Bench, *Taylor v. Caldwell*, to show that a party is excused from performance of

a contract where performance is impossible. That was a case where the defendant had rented to the plaintiff, for four nights, a certain music hall and gardens for concerts. Before the first concert was given, the hall was destroyed by fire. The court held that, the existence of the hall being necessary to the performance of the contract, the defendant was excused for non-performance. My friend read this passage from the opinion of the court: —

“In contracts in which the performance depends on the continued existence of a given person or thing, a condition is implied that the impossibility of performance arising from the perishing of the person or thing shall excuse the performance.”

That we may know the reason for this view, I read the concluding paragraph of the opinion: —

“In the present case, looking at the whole contract, we find that the parties contracted on the basis of the continued existence of the Music Hall at the time when the concerts were to be given; that being essential to their performance. We think, therefore, that the Music Hall having ceased to exist, without the fault of either party, both parties are excused, — the plaintiffs from taking the gardens and paying the money, the defendants from performing their promise to give the use of the Hall and gardens and other things.”<sup>1</sup>

The court construes the contract to release both parties. I submit that this does not change its terms. In this connection, I cite the authority of this court in a case later than the English case just referred to. In *Dermott v. Jones*, Mr. Justice Swayne, speaking for the court, says: —

“It is a well-settled rule of law, that if a party by his contract charge himself with an obligation possible to be performed, he must make it good, unless its performance is rendered impossible by the act of God, the law, or the other party. Unforeseen difficulties, however great, will not excuse him.

“The application of this principle to the class of cases to which the one under consideration belongs, is equally well settled. If a tenant agree to repair, and the tenement be burned down, he is bound to rebuild. A company agreed to build a bridge in a substantial manner, and to keep it in repair for a certain time. A flood carried it away. It was held that the company was bound to rebuild. A person contracted to build a house upon the land of another. Before it was completed it was destroyed by fire. It was held that he was not thereby excused from the

<sup>1</sup> 32 Law Journal, 164.

performance of his contract. A party contracted to erect and complete a building on a certain lot. By reason of a latent defect in soil, the building fell down before it was completed. It was held (School Trustees *v.* Bennett, a case in New Jersey, cited by counsel) that the loss must be borne by the contractor. . . .

“The principle which controlled the decision of the cases referred to rests upon a solid foundation of reason and justice. It regards the sanctity of contracts. It requires parties to do what they have agreed to do. If unexpected impediments lie in the way, and a loss must ensue, it leaves the loss where the contract places it. If the parties have made no provision for a dispensation, the rule of law gives none. It does not allow a contract fairly made to be annulled, and it does not permit to be interpolated what the parties themselves have not stipulated.”<sup>1</sup>

Now, in this contract of insurance, did the insured reserve the right to plead non-performance if certain unforeseen difficulties should arise? The contract provides for none of these so-called impossibilities. It does not except the acts of God. It does not except the difficulties of communication. It makes no exception whatever. In the case I have just quoted, there is one and only one excuse that may be pleaded as implied in a contract, and that is when performance is prevented by the law. The learned counsel suggests that in this case the government of the United States intervened, cut off communication between the company and the assured, and girdled his domicile with a wall of bayonets, so that, if he was in default, it was because of the law, which made performance impossible. I ask your Honors to consider whether the war did, in fact, make the payment of the premium of October 17, 1861, impossible. Bond was under obligation to pay his premiums, not to Kirtland, but to some authorized agent or officer of the company. Was there an impossibility in this case? Could not Dr. Bond have separated himself from the Rebellion? Could he not have left the Rebel States, and made his payments directly to the company in New York, or to some authorized agent within the national lines?

The learned counsel who argued the other case yesterday suggested that, when the law interposed between the assured and his payment, at that moment it became impossible for him to change his domicile so as to make his payment, and therefore it was not possible for him to make the payment at all. I call

<sup>1</sup> 2 Wallace, 7, 8.

your Honors' attention to the judgment of this court in a case that seems to me to bear directly upon this point, — the case of *The William Bagaley*.

“The duty of a citizen, when war breaks out, if it be a foreign war, and he is abroad, is to return without delay; and if it be a civil war, and he is a resident in the rebellious section, he should leave it as soon as practicable, and adhere to the regular established government. . . .

“Personal property, except such as is the produce of the hostile soil, follows as a general rule the rights of the proprietor; but if it is suffered to remain in the hostile country after war breaks out, it becomes impressed with the national character of the belligerent where it is situated. Promptitude is therefore justly required of citizens resident in the enemy's country, or having personal property there, in changing their domicile, severing their business relations, or disposing of their effects, as matter of duty to their own government, and as tending to weaken the enemy. Presumption of the law of nations is against one who lingers in the enemy's country, and if he continue there for much length of time, without satisfactory explanation, he is liable to be considered as remorant, or guilty of culpable delay, and an enemy.”<sup>1</sup>

Bagaley was a citizen of Indiana, and a member of a firm doing business in Alabama. The court says: “The effect of the war was to dissolve the partnership, and the history of the period furnishes plenary evidence that ample time was afforded to every citizen desiring to improve it, to withdraw all such and dispose of all such interests.”

As a matter of fact, the assured in this case had ample time and opportunity to abandon the Rebel territory. In May, 1861, the State of Tennessee declared itself free from the Federal bond; and although on the 13th of July following Congress passed the act empowering the President to proclaim non-intercourse between the belligerents, that proclamation was not made until the 16th of August. Until then there certainly was nothing to prevent Dr. Bond from making his election to remain with the public enemy and suffer the dissolution of his insurance policy, or to come within the national lines and save it. Even after the proclamation, there followed three months in which he could have saved his contract; for the record shows that his premium was not due until October 17, 1861. He made his election. He chose to stay where it finally became impossible for him to make payment. Can he now plead this impos-

<sup>1</sup> 5 Wallace, 408.



sibility as a lawful excuse for not making the payment? It was not only possible, but easy, for Dr. Bond to have put himself in a position where he could make the payment, and his own choice cannot now be pleaded as an impossibility to perform his part of the contract. The opinion of this court in the case I have cited, if applied to Bond, would clearly indicate that it was his duty as a citizen to abandon the enemy's territory. This view is in accordance with public policy. It would, indeed, be strange if, having elected to become a public enemy, his representatives shall now say that it was impossible for him to perform his part of the contract, and he may not only be excused, but shall suffer no loss, either for his choice or his non-performance.

THE COURT. Does that case refer to residents of the South?

I think, your Honors, the reasoning of the court in that case does apply to residents of the South.

THE COURT. Then all loyal citizens South would be obliged to emigrate North in order to preserve their rights?

I should say, if they did not wish to be classed as enemies, and suffer the losses that a state of war would bring, they must abandon the enemy's territory.

THE COURT. The question is, Did they lose anything?

I should say they did; that they lost the right to compel a loyal company to continue to do business for them while they were public enemies. When they elected to stay with the enemy, they elected to suffer the consequences, — to suffer such losses as a state of war would bring upon their business relations with loyal men.

I will not weary your Honors with many citations of authorities, for the books are full of them, but will state in a summary way what we understand are the doctrines already settled by the courts in regard to the effect of war upon the business relations between belligerents.

And, first, it is well settled, both by the laws of nations and by municipal law, that contracts cannot be made between belligerents, and that executory contracts which require any further intercourse or action by the parties thereto are dissolved whenever the parties become enemies by a declaration of war. This principle was frequently asserted by this court in the years immediately following the last war with Great Britain.

In the case of *The Julia*, Mr. Justice Story, in delivering the opinion of the court, brings to bear on this question the authority of international law, and states at great length the grounds on which the opinion of the court is based. He declares that "no contract is considered as valid between enemies, at least so far as to give them a remedy in the courts of either government."<sup>1</sup> I refer also to 3 *Washington*, 127. This doctrine has since been reiterated in a long line of decisions, extending down even to the present term of this court. The court has stated the doctrine very succinctly, in the case of *The William Bagaley*. I quote: "Executory contracts with an alien enemy, or even with a neutral, if they cannot be performed except in the way of commercial intercourse with the enemy, are *ipso facto* dissolved by the declaration of war, which operates to that end and for that purpose, with a force equivalent to that of an act of Congress."<sup>2</sup> In *The United States v. Lapène*, No. 96 of this term, Mr. Justice Hunt, delivering the opinion of the court, says: "All commercial contracts with the subjects or in the territory of the enemy, whether made directly by one in person, or indirectly through an agent who is neutral, are illegal and void. This principle is now too well settled to justify discussion."<sup>3</sup> With that intimation from the court I need not say more.

THE COURT. Contracts made pending the war. Not contracts made before the war.

But, your Honors, in the decisions referred to, it is held that not only contracts made by belligerents during the war, but also executory contracts made before the war, which require intercourse, are dissolved by war. It is not affirmed that all contracts are made void by war; the doctrine is confined to those which require intercourse and further action on the part of belligerents.

Second. It is well settled, and is admitted in the brief of the learned counsel on the other side, that partnerships are dissolved when war makes partners public enemies. I will not stop to discuss this proposition.

Third. The same rule applies to agencies, except that an agent appointed before the war may during war receive payment for a debt due his principal; but he can make no new negotiation.

<sup>1</sup> 8 *Cranch*, 194.

<sup>2</sup> 5 *Wallace*, 407.

<sup>3</sup> 17 *Wallace*, 602, 603.

Fourth. It is also well settled that marine insurance policies are abrogated by war. The doctrine is clearly stated in *Gray v. Sims et al.* In that case the court says: "If the contract [of insurance] be legal when it is made, and the performance of it rendered illegal by a subsequent law, the parties are both of them discharged from its obligations. The insured loses his indemnity, and the insurer his premium."<sup>1</sup> The principles upon which this doctrine is founded are set forth very fully and clearly by Mr. Duer, in his work on *Marine Insurance*,<sup>2</sup> to which reference has been made in our brief.

Such being the decisions of the court in reference to executory contracts, partnerships, agencies, and policies of marine insurance, we may inquire whether the principles on which these decisions were based will not, with equal justice, apply to a contract of life insurance. I believe no case has yet been determined by this court which directly involves such a policy. I submit that it is incumbent upon the learned counsel on the other side to show why a contract of life insurance should be excepted from the general rule.

And now, may it please your Honors, let us consider the grounds on which the various decisions already referred to rest. On what principles have the courts proceeded in determining the effect of war on executory contracts, partnerships, agencies, and policies of marine insurance? These decisions appear to rest mainly on three grounds of public policy,—grounds which appear with more or less distinctness in the reasonings of the courts in all the cases referred to.

And the first is, that public policy forbids the continuation of any business or commercial relations that require intercourse between belligerents. Commercial intercourse between public enemies is held to be inconsistent with public policy. It will not be denied that, in all these cases, the chief reason given by the courts why war abrogates a contract of marine insurance, and contracts relating to other classes of business referred to, is that their continuance requires intercourse and communication between belligerents, which war makes unlawful. It can hardly be claimed that the business of life insurance could be carried on by a company in New York, with the insured member within the Rebel lines, without intercourse. The charter of the company requires that blank receipts be sent to the agent that he

<sup>1</sup> 3 Wash. 280.

<sup>2</sup> Vol. I. pp. 413-478 (New York, 1845).

may receive renewal premiums. The agent must keep the company informed whether the assured has so complied with the terms of the policy as to be entitled to renewal, and the premiums paid must be forwarded to the company by the agent. In fact, the relation of insurer and insured requires free and frequent communication, which is wholly inconsistent with a state of war.

The second ground, especially as applied to policies of marine insurance, is that the object insured is liable to capture by the enemy. Between most nations that go to war, the sea rolls, and ships sail; and one of the first efforts of a belligerent is directed to the destruction of the commerce of the enemy. A contract of marine insurance is directly affected, because ships, the subject matter of such insurance, are liable to capture by the enemy. Apply this principle to a policy of life insurance. The subject matter of such insurance is life, — and in this case the life of an enemy. If a contract of marine insurance is made void by war, because the ship insured is liable to capture, how much more would the life of a belligerent enemy be an improper subject matter for the other belligerent to insure! If ships are part of the materials of war, much more are lives. It would seem to be in the highest degree against public policy that a company in the loyal States should continue to insure the lives, and be interested in the preservation of the lives, of those who are public enemies.

It is no sufficient answer to say that the insured in this case was a non-combatant. He was none the less a public enemy, whose life and influence were thrown into the scale against the national government. If the policy of insurance had remained in force, the company would have had a direct interest in the preservation of his life, and in the continued payments of his premium.

A third reason which appears in many of the decisions touching the effect of war upon executory contracts is that the carrying on of a business, or the keeping alive of a contract requiring additional performance on the part of the belligerents, would tend to increase the resources of the enemy. In the opinion of Judge Emmons, which is a part of the record, this phase of the case is very fully discussed. It seems clear that, if a great company in New York be required to discharge all its functions, to perform all its duties as a corporation, and through all the

years of a great war to keep alive a contract for the benefit of a public enemy, that company will be adding to the resources of the enemy. I cannot believe that one belligerent will require its citizens to manage their business for the benefit of the citizens of another belligerent.

The learned counsel on the other side has quoted the case of *The United States v. Grossmayer*, to show that an agent may receive a debt; and he has suggested that, if he may receive a debt, it was lawful for Mr. Kirtland, our agent, to receive the premium in October, 1861. I believe the case cited contains one of the two qualifications which this court has made since the war, restricting the broad and sweeping application of the doctrine of the effect of war upon business relations between belligerents. It was there decided, that an agent might receive money or property for a belligerent in payment of a debt. But the court says that "in such a case the agency must have been created before the war began, for there is no power to appoint an agent for any purpose after hostilities have actually commenced; and to this effect are all the authorities."<sup>1</sup>

This opinion should be considered in connection with the case of *The United States v. Lapène*, already cited. In that case, an agent had been empowered before the war to collect debts in the South. He had also been empowered to purchase cotton with the moneys thus collected. The court held that in the receiving of money on debts due the agent acted lawfully. But it appeared that, after having received the money, he proceeded to purchase cotton, in pursuance of his authority as purchasing agent. This the court decided he could not do. The court says: —

"The agency to purchase cotton was terminated by the hostile position of the parties. The agency to receive payment of debts due to Lapène & Co. may well have continued. But Avegno was no debtor to that firm. He advanced money to their agent when it was legal to do so. With this money, and other moneys belonging to them, while in an enemy's country, the agent of the plaintiffs bought the cotton in question. This purchase gave effectual aid to the enemy, by furnishing to them the sinews of war. It was forbidden by the soundest principles of public law."<sup>2</sup>

The mere receiving of money by an agent in payment of a debt was lawful; but when the agent undertook to transact

<sup>1</sup> 9 Wallace, 75.

<sup>2</sup> 17 Wallace, 604.

other business, to make a purchase which he had been authorized to make, the court says that he did what was forbidden by the soundest principles of public law.

Now, by what logic can the learned counsel on the other side bring this case of Grossmayer into their service? Will they hold that the payment of this premium was only the payment of a debt? In what recognized sense of the term can a premium on a life insurance policy be called a debt? Nothing is a debt that is not collectible by law. Dr. Bond was under no obligation whatever to pay the premium. It was within his power to decline to pay for any reason, good or bad, and the company had no resource; they could not compel him to pay. It was a unilateral contract, which left the insured free to pay or not, as he pleased. If he paid, the company was bound by the contract. But whether he paid or did not pay was a matter of his own choice. The premium cannot, therefore, be called a debt. In its relations to war, the premium differs from a debt in this: the Confederacy could confiscate a debt, whether paid to an agent or not. If Dr. Bond had owed a debt to the New York Life, the Confederate government could have confiscated it in Dr. Bond's hands just as well as it could after it had been paid over to Kirtland. It did not change the status of the property. And it appears to me a sufficient reason why the court has decided that an agent may receive a debt, because in so doing it does not change the status of the property in relation to belligerent parties. But suppose Dr. Bond had paid the premium to Kirtland as the agent of the New York company. The moment before payment it was Bond's money, not liable to confiscation by the Confederate authorities; but the moment he took the \$224.50 from his estate, and delivered it over to a recognized agent of the New York company, that moment it would have been enemy's property in Kirtland's hands, and that moment it would have been liable to confiscation by the Confederate authorities. And this fact makes the power of an agent to receive money in payment of a debt wholly unlike the power of an agent to receive money as a premium on an insurance policy.

I desire to call your Honors' attention to another aspect of this case. If the view contended for by counsel on the other side be correct, the war conferred special legal benefits upon all assured persons within the territory of the Rebellion. A large

per cent of those who hold life insurance policies annually fail to pay their premiums. This happens partly by accident and partly by their own choice. Now, if the doctrine contended for by the opposing counsel be adopted, it will follow that war excuses all assured persons from the necessity of paying their premiums to any company belonging to a belligerent, but does not release the company from its obligations to keep the policy alive, and to pay the loss whenever the war is over. Thus the assured enemy enjoys all the benefits of the insurance, and incurs no risk by failure to pay his premium. Indeed, the war not only excuses him from payment, but gives him all the rights and benefits of his policy, even though he did not intend to make payment.

If it should be determined that an insured enemy is entitled to have his insurance policy carried all through the war, this will follow: the insured is under no obligation to pay his premium, because the war excuses him; but the company is obliged to carry and protect the interest of the insured, without enjoying the benefit of the premiums, or the interest that it is entitled to derive therefrom. Now, the life of the company depends upon receiving its premiums promptly, and investing them, so as to make it possible to pay losses. Yet it must go forward without its premiums, or interest thereon, to keep alive a contract with a public enemy who incurs no risk, no danger of a lapse, no loss in any way, and who is shielded from obligation to pay only because he has elected to stay with the enemy. I cannot believe that this would be equitable, even if it should be held that life insurance policies are only suspended, and not abrogated, by war.

There is another phase of this case to which I desire to call your Honors' attention. There is in the State of New York a public officer called the Insurance Commissioner, whose duty it is to examine the condition of insurance companies, to see that each policy claimed to be in force is sustained by the proper legal reserve in possession of the company. Companies which do not hold the requisite legal reserve to cover the policies which they consider in force, are declared insolvent, and are closed up. Now, if the doctrine insisted on by the counsel on the other side should be adopted, it might result that, while the New York company was doing all in its power to keep itself in a sound condition, yet, because so many of its members be-

longing to a belligerent government had not paid their premiums, the reserves of the company might fall below the amount required by law, and that the Commissioner would report the company insolvent, and wind it up. In that case, the company would be insolvent only because the court should declare it to be the duty of the company to carry ten thousand policies, perhaps, on the lives of enemies.

The counsel who last addressed the court cited a case, the case of *Semmes v. Hartford Insurance Company*.<sup>1</sup> I submit that there is nothing in that case which throws any light on the question of the validity of insurance policies during war. In that case the loss occurred before the war began, and there was a complete obligation on the part of the company to pay. It so happened that, before the sixty days had elapsed within which the company was obliged to make payment, the war broke out. It was simply a question as to the construction of the statute of limitations as affected by the war.

MR. PHILLIPS. I merely cited it as authority to show that the war was an excuse for the non-performance of a thing expressly stipulated in the contract.

The case shows clearly that it was simply a question whether the failure to bring suit within the length of time was excused by the war.

The learned counsel also made another suggestion to which I desire to call your Honors' attention. He held that ours was an insurrection rather than a war. For a full answer to this suggestion, I refer to the decision of this court in the *Prize Cases*,<sup>2</sup> where it is shown that our war was not merely an insurrection, not merely a rebellion, but a great territorial civil war, with definitely defined boundaries, — a contest to be carried on in accordance with the laws of nations, the laws of war. It was as really a war as though it had been waged between England and the United States. If these two had been the belligerents, the insurance cases likely to arise would have been cases of marine insurance; but from the fact that ours was a war between those who had been fellow-citizens, and had been in close business relations with each other, it has resulted that contracts of life insurance have borne to the Rebellion a relation analogous to that which contracts of marine insurance ordinarily bear to a foreign

<sup>1</sup> 13 Wallace, 158.

<sup>2</sup> 2 Black, 63, 65.



war. From our study of the principles that underlie both kinds of insurance, it seems to us that the great doctrines which have been held by this court in a long series of decisions require only to be applied in the same spirit that they have already been applied in ordinary contracts of partnership, agency, and marine insurance, to enable us to reach a just conclusion in this case.

It is not out of place to suggest, that a decision which shall determine that this life insurance company is bound to keep alive its contracts with public enemies will probably strike a staggering blow to those companies that had a large Southern membership before the war. But the future is more important than the past, provided it be determined that, when a civil war breaks out, those citizens who elect to stay with rebels shall lose nothing on their life insurance policies, but, by playing the part of non-combatants, shall be able to hold their grip on loyal life insurance companies, while uninsured enemies go into the field and do the fighting. I submit that it is far more in accordance with public policy that every citizen should know that he cannot rebel against his country without losing the benefits which result from a policy of life insurance; that to maintain such a policy he must commit his fortune and his life to the cause of his country, and not to the cause of her enemies.

## EFFECTS OF THE REBELLION ON SOUTHERN LIFE INSURANCE CONTRACTS.

ARGUMENT MADE BEFORE THE SUPREME COURT OF THE UNITED STATES IN THE CASES OF THE NEW YORK LIFE INSURANCE COMPANY *v.* STATHAM *ET AL.* AND THE SAME *v.* CHARLOTTE SEYMS.

APRIL 26, 1876.

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THESE cases were decided at the October term of the court, 1876, and the decision, pronounced by Mr. Justice Bradley, is found in 3 Otto's Reports. The Reporter thus states the history of the two cases:—

“The first of these cases is here on appeal from, and the second on writ of error to, the Circuit Court of the United States for the Southern District of Mississippi.

“The first case is a bill in equity, filed to recover the amount of a policy of life assurance, granted by the defendant (now appellant) in 1851 on the life of Dr. A. D. Statham, of Mississippi, from the proceeds of certain funds belonging to the defendant attached in the hands of its agent at Jackson, in that State. It appears from the statements of the bill that the annual premiums accruing on the policy were all regularly paid until the breaking out of the late civil war, but that, in consequence of that event, the premium due on the 8th of December, 1861, was not paid; the parties assured being residents of Mississippi, and the defendant a corporation of New York. Dr. Statham died in July, 1862.

“The second case is an action at law against the same defendant to recover the amount of a policy issued in 1859, on the life of Henry S. Seyms, the husband of the plaintiff. In this case, also, the premiums had been paid until the breaking out of the war, when, by reason thereof, they ceased to be paid, the plaintiff and her husband being residents of Mississippi. He died in May, 1862.”

This is the Reporter's syllabus of the decision:—

“1. A policy of life assurance which stipulates for the payment of an annual premium by the assured, with a condition to be void on non-payment, is not an insurance from year to year, like a common fire

policy ; but the premiums constitute an annuity, the whole of which is the consideration for the entire assurance for life ; and the condition is a condition subsequent, making, by its non-performance, the policy void.

“ 2. The time of payment in such a policy is material, and of the essence of the contract ; and a failure to pay involves an absolute forfeiture, which cannot be relieved against in equity.

“ 3. If a failure to pay the annual premium be caused by the intervention of war between the territories in which the insurance company and the assured respectively reside, which makes it unlawful for them to hold intercourse, the policy is nevertheless forfeited if the company insist on the condition ; but in such case the assured is entitled to the equitable value of the policy arising from the premiums actually paid.

“ 4. This equitable value is the difference between the cost of a new policy and the present value of the premiums yet to be paid on the forfeited policy when the forfeiture occurred, and may be recovered in an action at law or a suit in equity.

“ 5. The doctrine of revival of contracts, suspended during the war, is based on considerations of equity and justice, and cannot be invoked to revive a contract which it would be unjust or inequitable to revive, — as where time is of the essence of the contract, or the parties cannot be made equal.

“ 6. The average rate of mortality is the fundamental basis of life assurance, and as this is subverted by giving to the assured the option to revive their policies or not after they have been suspended by a war (since none but the sick and dying would apply), it would be unjust to compel a revival against the company.”

Hon. Matt H. Carpenter opened, and Mr. Garfield closed for the plaintiff.

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MAY IT PLEASE THE COURT:—It is certainly a ground for congratulation, both to the court and the bar, that we have so nearly reached the end of the discussion of the vexed questions involved in these cases. But, after the court has been deluged with the argument of three hundred causes, and now, near the close of a long term, is asked to consider for the third time the complicated questions growing out of the effects of war upon a policy of life insurance, I may safely say that the man who presses to your Honors' lips the cup which contains the dregs of this long debate needs the sympathy, if not the forgiveness, of the court. In closing the argument of these causes, therefore, I shall avoid, as far as possible, any repetition of what has been so well said by my learned colleague.

He has stated very clearly the chief ground upon which the business of life insurance rests; but as there is also another element worthy of consideration, I will state the two in connection. Both elements grow out of the very curious—I might perhaps say the mysterious—doctrine of chances, or rather the law of averages. The late Baron Quetelet, of Belgium, a leading authority on this subject and on vital statistics, has shown that, if a pair of dice be thrown a million times, the lowest count being two and the highest twelve, the aggregate count will be almost exactly seven millions. The mathematical average will be realized in the practical result. In fact, the variation from that average will disappear long before the millionth throw. Nothing is more uncertain than the result of any one throw; few things more certain than the result of many throws.

When applied to human life, the law of averages exhibits many striking results. The element of sex in population would seem to be, at first thought, wholly fortuitous. In one family all the children are boys; in the next, all girls; apparently an irregular distribution, controlled by no law. But whenever large masses of population are considered, the law of averages appears in full force, and with the most remarkable constancy. Throughout the civilized world, it appears that to every one thousand females there are born one thousand and fifty-six males. Quetelet has collected and tabulated the vital statistics of twenty-seven countries of Europe; and has shown, not only that the grand average of male and female births is as I have stated, but that in each country the average is almost exactly the same. Indeed, when so small a territory as a county of twenty-five thousand inhabitants is considered, the variation from this ratio is very small. Soon after I first read Quetelet's book, there fell into my hands a copy of the annual report of the Registrar of Rhode Island, a small State three thousand miles away from the nearest of the twenty-seven kingdoms on which his average had been calculated; and turning to the record of births, I found that the ratio for the year was one thousand females to one thousand and fifty-seven males, a variation of but one in a thousand from the general average of all Europe.

This law applied to the death rate shows results equally striking. Few things are more uncertain than the chances of any one life; yet, of a large group of people, the per cent that will

die annually can be predicted with almost mathematical certainty. From this law of nature the individual seems wholly free; yet to a great group of individuals it applies with inexorable certainty, —

“ So careful of the type she seems,  
So careless of the single life.”

This law as exhibited in the average expectation of life is one of the two bases, I may say one of the two piers, on which the superstructure of life insurance rests. No company could undertake to insure just one life; but, trusting to the great law of averages, it may, with perfect safety, insure a great group of lives. Thus a contract of life insurance is made possible. The business of the company is made safe, because its income is calculated on the sure basis of the law of averages; and the insured is protected against the loss arising from the uncertainty of a single life. The certainty that a fixed per cent of the insured will die in each year, makes it necessary that, with equal certainty, those who live and remain in the company shall pay their annual premiums, and thus enable the company to meet their annual losses.

But there is another element in a contract of life insurance, — a second pier upon which the structure rests, — that should be considered in construing the contract. I refer to the per cent of lapses as a source of income to the company. Of those who become insured, and at the time intend to continue during life, a considerable number, from choice, necessity, or accident, abandon their policies after a few years, and forfeit the premiums they have paid. I have asked the New York Life Insurance Company to furnish me with a statement of the annual per cent of lapses; and their letter shows, from the aggregate experience of all the life companies in America, that the average of lapses is nearly ten per cent; that is, ten per cent of the insured abandon their policies after having paid one or more premiums.

MR. JUSTICE MILLER. My impression was that the Insurance Commissioners of New York and other places have put it just the other way; that not more than ten per cent ever came to bearing.

I do not now speak of those who die, but of those who live and allow their policies to lapse.

MR. JUSTICE MILLER. Is it not true that ninety per cent of those who take out policies never die with the policies in existence?

I do not so understand it.

MR. JUSTICE MILLER. I know very well the enormous ratio which the Commissioners of several of the States show; and that is where all the profit and hardship come in. My impression was, that out of eight policies not more than one continues until death.

I am informed by an officer of the New York Life, that nearly fifty per cent of their policies issued to persons still living are valid to-day.<sup>1</sup>

MR. JUSTICE BRADLEY. The annual report and each policy shows its own number. They can show, therefore, how many they have paid, and how many still are standing. Of course it is much more than ten per cent that remain in existence to the end of life.

It is not essential to my argument that I state the per cent correctly; but certainly there is a per cent per annum of persons insured who allow their policies to lapse, and the forfeited premiums are a second source of income to the companies.

MR. JUSTICE BRADLEY. Do your companies ever take that into consideration as a basis of insurance?

That element, I was about to say, is a source of profit to the companies. It is one of their two original sources of income, a source found in the certainty, derived from the law of averages, that a certain number of policies will lapse.

<sup>1</sup> The following note is appended to this argument in the edition published by the Insurance Company.

"There was manifestly a misunderstanding between the court and the counsel in reference to time included in the statement of the per cent of lapses. The counsel was speaking of the *annual* per cent of lapses. The letter referred to by counsel was in answer to an inquiry as to the *per cent* per annum, and is here inserted:—

"NEW YORK, April 25, 1876.

"W. H. BEERS, ESQ., *Arlington Hotel, Washington, D. C.*

"DEAR SIR,— On receipt of your telegram to Mr. Franklin, I went to the Mutual Life and had an interview with Mr. Lawton. From their last experience [in] investigations, the average rate of terminations from all causes except deaths has been, from the beginning of the company, not far from five per cent; commencing at ten per cent the first year, and gradually running down.

"In our own experience, I find that in an investigation made in 1869, the average rate of terminations from *all* causes up to that time had been about 6½ per cent. Calling deaths one per cent would leave about 5½ per cent for terminations from other causes; but if this had been brought down to date I think the result in both companies would have been a higher percentage, as I find by the New York report for 1875 that the average ratio of terminations by surrenders and lapses, in all companies combined, was about 10½ per cent. Of course, in all these investigations no account was taken of 'not taken policies.' The ratios are on those only on which premiums had been paid.

"Yours, truly,

"P. S. LINCOLN."

In a mutual company like the New York Life, the profits, from whatever source, — and I have indicated the two original sources of revenue, namely, the premiums paid by those who continue till death, and the premiums paid on policies which are allowed to lapse, — belong to the insured. Of course the interest that the company receive on their investments is a subsequent matter; but all the profits resulting from these original and secondary sources of income, in a mutual company like this, find their way back to all the members in the form of dividends, under rules and regulations adopted by the company. Now, the courts must, I take it —

MR. JUSTICE BRADLEY. I think that consideration is one that would be subject to this criticism. What you have said with regard to the necessary basis of life insurance upon the average of human life is undoubtedly correct; but with regard to this matter of lapses, taking any one insurance company, it has no right to presume on any lapses until they occur. At the commencement of the war, if the company chose to consider these Southern policies as lapses it might do so, but it was at its own peril that it did so. If it did so, it would have for that year a large profit exhibit on its books; but that was its own fault; it must know what the law is. The question is, What is the law?

Certainly, your Honor. But the law depends upon the contract which the parties made; and that contract was based upon the two facts I have stated. Having in view these two sources of revenue and the obligations to be incurred by the company, they proceeded to make this contract of insurance, which must be regarded as a private law. This law the court is called upon to construe and enforce; and we should, in the first place, examine its terms without regard to the war. To make ourselves sure that we understand the obligations mutually entered into by these parties, we must examine the contract itself, and interpret it by the intent of the parties that made it. That intent, as expressed in its terms, is the law to both parties. Beyond that law we cannot go. This court has said, in *Dermott v. Jones*,<sup>1</sup> that they will not interpolate new conditions, but will hold the parties to their own agreement. The court will not make contracts. Parties are bound by their own agreements. If they have made a hard contract, they must abide by its terms.

Our learned friends on the other side are disturbed about the doctrine of conditions, — conditions subsequent and conditions

<sup>1</sup> 2 Wallace, 1.

precedent. But it is our duty to inquire what the parties themselves have stipulated in the contract between them. Turning to pages of the record in the *Seym's* case, we find that the parties do use the word "conditions" in one portion of their contract. In the first paragraph they declare that the contract itself is made in consideration of a sum of money paid in hand, and of another sum to be paid each year. I ask our learned friends on the other side whether they think the first payment was a condition precedent to insurance or not. Suppose, after the terms of the policy had been agreed upon, the application filed and approved, and the policy drawn up and ready to be signed, the applicant should not pay the first premium; or suppose that, as in the case I recently had the honor to argue before this court, he should offer a horse instead of the money; it cannot be doubted that the court would say, as it said to me in that case, "The delivery of the horse is not payment, and, unless the first premium is paid, there is no contract." The very language of the policy is, that this contract is made in consideration of the first and subsequent premiums. No payment, no contract; and the subsequent premiums are embraced in the same clause, as an inseparable part of the consideration for the creation and the continued existence of the contract.

MR. JUSTICE CLIFFORD. If the party died before the expiration of the first payment, was it not a contract?

Certainly; for it declares here that he shall be insured up to the 23d of December, at noon. But the payment of the second premium is as essential to the life of the contract for the second year as the first was for the first year.

MR. JUSTICE CLIFFORD. So you divide it into many contracts.

Yes, your Honor; and this is the uniform construction given to such contracts in England. Nor has there been any different construction in this country, until the question became involved in complications growing out of our late war.

After thus stating the consideration for which the contract is made, the parties proceed to describe some of its subsequent terms as conditions. They say, "The same is accepted by the assured upon these *express conditions*: that if the assured shall pass beyond [certain geographical limits] without the consent of the company, or enter into any military or naval service



whatever, or die in consequence of a duel, or by the hands of justice, etc., etc., this policy shall be null and void." These are, in fact, conditions. The parties so denominate them. But none of these provisions are in controversy in this case. Further on in the instrument we find the clauses out of which this suit springs; and they are clauses which the parties do not call conditions. But they are of the very essence and substance of the contract itself. This is the language employed by the parties: —

"And it is understood and agreed to be the true intent and meaning hereof, that if the declaration made by the said Charlotte Seyms, and bearing date the 13th day of December, A. D. 1859, and upon the faith of which this agreement is made, shall be found in any respect untrue, then and in such case this policy shall be null and void; or in case the said Charlotte Seyms shall not pay the said premiums on or before the several days hereinbefore mentioned for the payment thereof, then and in every such case the said company shall not be liable to the payment of the sum insured, or in any part thereof, and this policy shall cease and determine."

Now, I submit to your Honors, that, in the above paragraph, we have passed beyond the chapter of conditions set forth by the parties themselves, and have reached a clause which describes and limits the risk taken. And it is the declared intent of the parties that the risk taken shall be limited as herein described. They fix the termination of the contract; they limit the time beyond which it shall not exist, namely, the time when an annual premium is payable and is not paid. I refer your Honors to the *American Jurist*,<sup>1</sup> where there is a very able article on "Conditions and Limitations," and the distinction between them. The author, after defining the word "conditions," says: "A limitation is conclusive of the time of continuance, and of the extent of the estate granted. . . . Limitations are imperative. They fix the end and duration of an estate." We may fairly say that the paragraphs of the policy now under consideration are not conditions at all, but are the two limitations which the parties have agreed upon to define the extent of the risk; one relating to the truthfulness of the representations made in the application for insurance, the other relating to the time at which the contract shall cease and determine if the payment be not made.

<sup>1</sup> Vol. XI. pp. 42, 43.

Now, my colleague cited the case of *House v. Mullen*,<sup>1</sup> just reported, in which it appears that a false statement had been made by the insured in his application. But although that statement was against himself and favorable to the company, your Honors held that he could not be permitted to make a false statement even against himself; and that the contract, by its own terms, made the policy void in that case. Thus your Honors have construed one half of the paragraph which defines and limits the risk. But the paragraph contains two limitations; one, that the statements of the applicant shall be true, and the other, that he shall pay. You have already decided that, in case the one failed, the contract was void. Is it not clear that the same doctrine should be applied to the next clause, which is separated from the first only by a semicolon, and is really a part of the same sentence? They must be construed together. If this view be correct, it is unnecessary for us to discuss the doctrine of conditions in order to determine whether the payment of the annual premiums is a condition precedent or a condition subsequent.

But our opponents insist upon discussing the doctrine of conditions, and we accept their challenge. They will hardly deny that, up to the time when life insurance contracts were affected by our late war, few, if any, leading decisions of any courts at home or abroad can be found in which the payment of the annual premium is called a condition subsequent to the continuance of the policy. On the contrary, the whole current of authorities, until these very recent cases, sweeps the other way with the force of a torrent. From the case of *Want v. Blunt*,<sup>2</sup> where Lord Ellenborough distinctly declared that the payment of the quarterly premium was a condition precedent to the continuance of the contract, down through the other cases cited in our brief, there is no exception to the rule. We insist that, if we are to consider these clauses as conditions at all, we are in the current of authorities which brings us to the inevitable conclusion that payment of premiums on the day named is a condition precedent to the continuation of the contract. But whether this provision of the policy be considered a limitation of the risk, or a condition precedent, the practicable result will be the same. The premium was not paid, and hence the contract "ceased and determined." The parties to

<sup>1</sup> 22 Wallace, 42.

<sup>2</sup> 12 East, 183.

the contract are not to be excused by any hardship that may result from it; nor are they to be excused from performance of the contract by the act of God, or of the law. On this point several authorities are cited in our brief, to one of which I desire to call special attention, viz. the case of the Earl of Shrewsbury *v.* Scott, decided by the Court of Queen's Bench in 1859.

Far back in the first quarter of the fifteenth century, Henry VI. created the earldom of Shrewsbury, to which were annexed immense estates in half a dozen counties in England. The earldom was to descend in the male line, and the estates were to follow the title. But in the year 1700, one of the earls, having resolved never to marry, made a deed of settlement to adjust the descent of the title and the estate. Doubts were however raised as to his power to make such settlement; the case was taken to Parliament, and an act was passed in 1718 ratifying his settlement. It was a period of excitement in England on the Catholic question, and a proviso was added in the House of Lords, and became a part of the act, that no person holding the earldom should have power to alienate the estates. But it was further provided, that, if within six months after the heir became eighteen years of age he should make the declaration and take the oaths prescribed in the act of 30 Charles II., declaring himself a Protestant, renouncing the Catholic religion, and should continue to be a Protestant after he was twenty-one, he might alienate them. This settlement stood undisturbed for a hundred and forty years. The later agitation of the Catholic question swept away all laws prescribing oaths for Catholics. But in the year 1856, Bertram Arthur, the seventeenth earl, died without issue; and by going back two centuries a collateral branch of the family was found who succeeded to the title. Just before Arthur died, he executed a disentailing deed, by which he transferred to Scott, the defendant, a portion of his estates. The successor of Arthur brought an action of ejectment; and when the case came on for hearing, the question arose whether, under the act of 1718, the late Earl had the power to alienate his land, as he attempted to do in the disentailing deed. The counsel for the plaintiff insisted that the taking of the oaths prescribed in the act of 1718 was a condition precedent to the authority of the Earl to alienate his estates. The defendant responded, that compliance with that law had

been rendered impossible by subsequent legislation; that the act of 30 Charles II. had been repealed; that Parliament had made it impossible for him to take the oaths. On this question the Chief Justice said: —

“It is urged . . . that the performance of the condition has become impossible. Assuming this for a moment, it seems to me to follow, as a necessary consequence in point of law, that alienation has become impossible. There is here a condition precedent upon alienation, and it is elementary knowledge that a condition precedent is a thing which cannot be got over.”

The court then quotes the well-known passage from Blackstone on the subject of conditions, and also the following from *Egerton v. The Earl of Brownlow*: —

“‘Supposing it to be illegal, if it be a contingency or condition precedent, and the event does not happen, or if it be impossible, and therefore cannot happen, the party never obtains the estate; if it be a condition subsequent, he never loses what he has got.’ (4 House of Lords Cases, I. 120.)

“This I take to be the true rule of law upon this subject,” the court continues. “Now, here we have an estate tail from which the incident of alienability is taken away by positive enactment, but to which alienability may be restored upon the performance of a condition precedent. If the performance of the condition precedent is prevented, no matter how, and the condition does not take effect, that which was conditioned upon it cannot possibly take effect either. It cannot therefore avail the defendants to say that the condition has become impossible [by law]. . . . If impossibility of performance of the condition has supervened, . . . the power to alienate is gone.”<sup>1</sup>

The case is one full of historic interest; and the doctrine is clearly stated, that, even when the performance of a condition precedent is made impossible by law, the party not performing has no remedy.

I refer your Honors to another case, not mentioned in our brief, — the case of *Barker v. Hodgson*.<sup>2</sup> It appears in this case that the owner of a ship declared on a charter-party of affreightment, made between himself and a shipper in Liverpool, that he was to go to Gibraltar and deliver a cargo there, and then load, take back, and deliver another cargo in Liverpool. The running time was to be sixty days. He went out to Gibraltar, anchored in the stream, and landed his cargo by

<sup>1</sup> 6 C. B. N. S. 176, 178.

<sup>2</sup> 3 Maule and Selwyn, 267.

means of a lighter; but before he had loaded his return cargo a pestilence broke out in Gibraltar, and under the local statute it was made unlawful for anybody to pass out from the wharf to the ship, or for the ship to come into the dock. The law had reared an impassable barrier around Gibraltar, and between him and the wharf. He waited until the sixty days had elapsed; and, hoisting sail, returned to Liverpool, claiming that the law had intervened to make it impossible for him to carry out his part of the contract. After stating the case, Lord Ellenborough said: —

“Perhaps it is too much to say that the freighter was compellable to load his cargo; but, if he was unable to do the thing, is he not answerable for it upon his covenant? Is not the freighter the adventurer, who chalks out the voyage, and is to furnish, at all events, the subject matter out of which freight is to accrue? The question here is, on which side the burthen is to fall. If indeed the performance of this covenant had been rendered unlawful by the government of this country, the contract would have been dissolved on both sides, and this defendant, inasmuch as he had been thus compelled to abandon his contract, would have been excused for the non-performance of it, and not liable to damages. But if, in consequence of events which happen at a foreign port, the freighter is prevented from furnishing a loading there which he has contracted to furnish, the contract is neither dissolved nor is he excused for not performing it, but must answer in damages.”<sup>1</sup>

In other words, he was to deliver his outward cargo and bring another back to Liverpool, as a condition precedent to receiving payment on the contract; and though the *lex loci* made performance impossible, yet such impossibility was no excuse for non-performance, and was so held by the court.

But it is quite clear that there was no such impossibility in the present case. We have cited in our brief the dates at which the governments of the Confederate States and of the United States forbade intercourse between the belligerents, and also the dates at which the United States invited all its loyal citizens who proposed to adhere to the government to come within the Union lines. At the same time, those in the South who elected to adhere to the Union were ordered, by the Confederate authorities, to leave the Rebel lines; and it was possible and practicable at that time for any citizen who chose to adhere to the Union during the struggle to put himself in a position where, without

<sup>1</sup> 3 Maule and Selwyn, 270, 271.

obstruction or violation of law, he might keep alive his contract of insurance. This court strongly intimated, in the case of *The William Bagaley*,<sup>1</sup> and the case of *Mrs. Alexander's Cotton*,<sup>2</sup> what the duty of the loyal citizen was in such a situation. It may perhaps be going too far to say that it was the duty of every person to abandon his property and leave the home of his birth; but we are now discussing the possibility or impossibility of his saving his contract by so doing. And we hold that our friends on the other side cannot show that it was impossible for their clients to put themselves in a situation to keep their contracts alive. They insist, first, that they were under no obligation to make performance possible; secondly, that they have lost nothing by non-performance; and, finally, they propose to throw upon us all the burdens resulting from their own failure.

Thus far I have sought to interpret the contract by the plain intent of the parties who made it; to ascertain the conditions and limitations which they imposed upon each other; and have asked your Honors to enforce that intent in accordance with the conditions and within the limitations of the instrument itself. The parties declare it to be their intent, that, if the money be not paid before the day and hour specified, the contract of insurance ceases and determines. The parties have set up that limit for themselves, and either one is estopped from asking this court to change the contract by taking away that limit or by setting up any other.

Our learned friends say that the late war was a surprise to everybody; that the parties did not have in their minds the thought or the possibility of war; and that the court should therefore interpolate into the contract such modifications as a state of war requires. I invite our friends to examine the contract more closely, to see whether the parties did not have the idea of war in their minds when they made it.

The policy itself shows that the parties attempted to state exhaustively, both affirmatively and negatively, the conditions and contingencies which might affect the obligation to insure; and they distinctly allude to a state of war. They declare that, if the assured shall enter any military or naval service (the militia not in actual service excepted), this policy shall be null and void. Can it be doubted that, in making this provision, the parties contemplated a state of military and naval activity, — a state

<sup>1</sup> 5 Wallace, 377.

<sup>2</sup> 2 Wallace, 421.

of war? The exception of the militia *not in actual service* strengthens this conclusion. It is fair to assume that these parties provided for peace and for war. It is fair to presume that they made a contract exhausting the possibilities of the situations in which they might be placed; and having so exhausted them, it is difficult to see how the court can now interpolate into the contract any conditions that the parties themselves did not provide.

My learned friend who has just addressed the court has referred to the case of *Semmes v. Hartford Insurance Company*,<sup>1</sup> as sustaining his position that war only suspends a contract of life insurance. It needs but a glance at that case to discover that the issue was wholly confined to the remedy for collecting a debt. True, the debt grew out of a contract of life insurance; but the loss had occurred before the war began, and the representatives of the deceased had a vested right to recover on the policy. The decision of the court was clearly in accordance with the acknowledged rule of law, that debts are not forfeited, but that the remedies for the collection of debts of belligerents are suspended, by war. The case turned upon a clause in the policy which provided that no suit or action should be brought to recover on a policy, unless brought within twelve months after the loss should occur. The loss had happened, the debt had been incurred, before the war; but as the war began before the twelve months expired, the court held that the executors of the insured could recover by bringing suit within twelve months after the return of peace. That decision does not at all apply to a case of life insurance, where the loss occurred after the war began. The case now before the court does not involve the question of debt. Nothing was due to the insured when the war began. He was not compelled to pay his annual premiums. He had the option to pay and revive his insurance, but of that option the company had no control.

The effect of war on the business relations of belligerents cannot be more clearly and tersely stated than it has been done in *Montgomery v. United States*, where the court says:—

“It is certain that ‘every kind of trading or commercial dealing or intercourse, *whether by transmission of money*’”—I emphasize that, because it applies to a case like this,—“‘whether by transmission of money or goods, or orders for the delivery of either between two coun-

tries (at war), directly or indirectly, or through the intervention of third persons or partnerships, *or by contracts* ' " — I emphasize that — " " in any form, looking to or involving such transmission,' is prohibited. If this be allowed, the enemy is benefited, and his property is protected from seizure or confiscation." <sup>1</sup>

I cite this paragraph to show how great is the difference, in their relations to war, between a debt and an unexecuted contract of life insurance. We admit that one part of the policy is an executed contract, namely, the insurance for the year that was begun before the war, and for which the premium had been paid. If the insured had died before the expiration of that year, even after the war began, I have no doubt the company would be liable for the loss; for it would have been a debt due under an executed contract. Nothing further was needed, on either side, except to make the proof of loss. The war suspended the machinery by which the proof could be made and the debt collected. But that executed part of the contract is not at all involved in this case. The question now in issue grows out of the second, or executory part of the contract, — that part which defines the limitation of the risk, which declares that, if the payment of premium is not made on a certain day, the policy shall cease and determine. The payment of the premium is the life of the policy. During the year which is covered by payment already made, it was a living, an executed contract; that part which permits a future insurance upon future payment is an executory contract.

MR. JUSTICE CLIFFORD. But there was no necessity for a new contract at the expiration of the first year.

The *form* of a contract exists, but its life is gone whenever it strikes against the hour of the day when payment must be made in order to protract its life.

MR. JUSTICE CLIFFORD. But it had life until it received the blow.

Certainly, your Honor; but I would not say it was killed by the blow. It lived and had its being by virtue of payment already made. The second payment, made at the time prescribed, would have breathed into it the life of another year; if not made, the contract died of inanition, expired by its own limitation.

<sup>1</sup> 15 Wallace, 400.



The contract now under consideration lived until the noon of December 23, 1861. Up to that moment it was an executed contract; but all else was executory, was contingent upon payment, — payment at the time prescribed, — prepayment. Was it possible for one who had adhered to the Rebellion, and remained within the Rebel lines, to make that payment, December 23, 1861? Manifestly not, without intercourse. Several acts of intercourse must necessarily have been performed in order to give life to the policy for another year; money must have been transmitted, receipts delivered, letters sent; in short, the contract must have been renewed; and this court has said that all such intercourse is prohibited by war.

My learned friend on the other side insists that the cases cited in our brief from 12 East and 8 House of Lords Cases are based upon conditions precedent, and do not apply to this case. This is begging one of the questions at issue. But these cases were not quoted for the purpose of proving that payment in this case is a condition precedent. They were quoted for the purpose of showing, by the unchallenged authority of the English courts, that a contract of life insurance is a contract from year to year, or from quarter to quarter; that it was not one, but many; a series, consisting of one actual and many possible contracts. In the House of Lords case, the payments were to be made quarterly; and the court held that it was a contract for three months, and quarter by quarter, if premiums were paid. It was not of one piece, like an iron rod, but in sections, like the vertebræ of a snake.

In order to understand more clearly the character of this contract, let us consider the effect upon the parties of a decision that these policies were only suspended during the war, to be revived and enforced on the return of peace. Of all the people in the South who were insured at the beginning of the war, a certain per cent — a large per cent — would have allowed their policies to lapse; and their premiums already paid would have belonged to the company. These lapses happen in accordance with the inexorable law of averages, and are a recognized element in the business of life insurance. Now, if the court hold that the contract was only *suspended* during the war, it will follow that every death occurring during the war, among those who should voluntarily allow their policies to lapse, must be paid for by the company insuring; for, in every such case,

executors will tender the back premiums and demand payment. Thus the court would compel the company to pay losses that happened long after the voluntary abandonment of the policy by the insured; and thus the company would lose all the income that flows into its treasury from one of its two sources of revenue. By such a construction dead men are to be treated as though they were alive, and, at the close of the war, had elected to pay back premiums and continue the insurance. This the living will not do. They know it will be cheaper to take out new policies than to pay the arrears of the old ones. But the policies of the dead have drawn prizes; and, of course, their executors will elect to pay for the fortunate tickets. This construction interpolates into the contract a provision which no insurance officer outside of an insane asylum would ever dream of making, — a provision which allows dead men to determine whether their policies shall be renewed or abandoned. Now, upon the supposition that the war had lasted twenty years instead of four, the evil resulting from such a construction would be measureless; or, rather, it would ruin the company, and carry down with it all its policies, North and South. This construction would not be proposed by our learned friends, had they not confounded an executory contract with an ascertained debt.

To exhibit in another way the broad distinction between this kind of contract and a debt, I refer to the question of agency. It is insisted that we were bound to keep an agent in the South during the war. For what purpose? To receive premiums? If so, his business would have consisted in the work of converting suspended policies into debts. Every premium received or tendered would instantly have become the property of a belligerent, and, under the confiscation laws of the Confederacy, would have been swept into the Rebel treasury. Thus every premium would aid in filling the coffers of the Confederate government; and yet our friends on the other side charge us with breaking the contract, because we did not send an agent to Mississippi, not only to put our revenues where we should lose them, but to place them in the treasury of a hostile government. This view of the case demonstrates how utterly impossible it was to keep this contract alive during the war.

But suppose the contract was only suspended during the war. The insured in both these cases died while it was suspended, — before it revived. Can they now take the benefit? Can they

take the benefit of a contract that was dead when they died? If anybody can take the benefit of such a suspended contract, it must be one who lived beyond the period of suspension, and after its revival tendered his arrears of premium. Such a case would present a question very different from the one now under consideration.

But, if your Honors hold that this contract was only *suspended* during the war, two results will follow: first, the company receives not one dollar from those policy-holders who survived the war, for they are unwilling, and the company has no power to compel them, to revive their policies; secondly, the company must pay every policy whose holder died, even though he was one of that large number who would have allowed his policy to lapse. I cannot believe that your Honors will thus interpolate into the contract conditions that no company ever did, or ever would, propose or tolerate.

Now, I have no sympathy with those arguments and decisions in favor of the insurance companies which are founded on drums and cannon,—on the assumption that anything which hurts rebels, and helps defenders of the flag, should be looked on with favor. This contract should be studied by the white light of the law, and by the aid of all the equities which this court is authorized to employ. If the court think that there are hardships in this case which they have a right to consider,—if the court think that there are equities in either case which they can fairly administer (and one of these is a case of equity),—if the court find a place to apply the rules of equity so as to save the policy-holders something for what they have already paid, let us inquire what rule of adjustment ought to be adopted.

In this connection, I take the liberty of referring to the fifth point made in the brief of my learned friend, Mr. Hinckley, in the case of the New York Life Insurance Company *v.* Hendren, argued last week, where the several rules of adjustment are stated. The substance of that point is this: if the court will not hold that war *destroys* a contract originally valid so far as to forfeit all the rights of the insured under it, because the war makes it impossible for him to keep it alive by payment, then let the scales of justice hang even, and do not construe impossibility to pay into a *right to pay or not to pay*, as he chooses, at some future, indefinite time. If there be no forfeiture, then at least there should be no extension of a privi-

lege. To allow the insured the surrender value of the policy as it stood at the beginning of the war would avoid both extremes.

If any form of equitable adjustment should be found lawful and right, I venture to suggest that the court ought to follow the rule of partnerships. A mutual life insurance company is virtually a partnership, — a sort of incorporated partnership. And your Honors have decided again and again, that a partnership between belligerents is dissolved by war. The property of the partners is not forfeited, but the power to distribute it is suspended. Some of the parties are within the jurisdiction of one belligerent, and others are within the jurisdiction of the other. The partnership is not suspended to revive again on the return of peace, but is dissolved by the fact of war. Nor can its affairs be settled during the war. But on the return of peace, the court will require a statement of accounts, just as they stood on the day of the dissolution. If this analogy be followed, it would be held that war dissolved contracts of insurance, and that each policy-holder whose policy was alive when the war began would be entitled to the surrender value of the policy at that date. This would avoid, on the part of the insured, the hardship of involuntary forfeiture of premiums already paid, and also the injustice of requiring the company to pay on all lapsed policies, whether voluntary or involuntary.

There is no ground for the assumption that, on the day when the war struck this policy, the insured had a vested right to the whole amount for which he had been insured. Our learned friend spoke of his client as holding a vested right. Did he mean a vested right to eight thousand dollars? Certainly not when the war began; certainly not on the day he failed to make payment. But if your Honors determine that, after the day on which the war struck the policy with paralysis, you cannot revive it for his benefit, the most that can then be done for him will be to give him its surrender value on the day of its paralysis, in accordance with some one of the four rules so ably stated by Mr. Hinckley.

And now, thanking your Honors for the patient attention with which you have listened to this long discussion, I leave the case for your consideration and judgment.

# CURRENCY AND THE PUBLIC FAITH.

SPEECH DELIVERED IN THE HOUSE OF REPRESENTATIVES,

APRIL 9, 1874.

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ON the 29th of January, 1874, Mr. Horace Maynard, of Tennessee, reported from the Committee on Banking and Currency a bill "to amend the several acts providing a national currency, and to establish free banking, and for other purposes." These were its more important provisions:—

1. Section 31 of the National Banking Act of June 3, 1864, to be so amended that the banks shall not hereafter be required to keep on hand any amount of money whatever by reason of the amount of their respective circulations; but the money reserves required to be kept at all times on hand to be determined by the amount of deposits, as provided by said section of said act.

2. Section 21 of said act, and the amendments thereto, so far as they restricted the circulation of the banks, to be repealed.

3. Every national bank to keep and have on deposit in the treasury of the United States, in lawful money of the United States, a sum equal to five per cent of its circulation, to be held and used only for the redemption of such circulation. The entire amount of United States notes outstanding and in circulation at any one time not to exceed the sum of \$400,000,000.

4. The banks to keep their lawful money reserves within their own vaults at the places where their operations of discount and deposit are carried on.

5. Section 8 of the Maynard bill ran as follows: "That the Secretary of the Treasury is hereby authorized and directed to issue, at the beginning of each and every month from and including July, eighteen hundred and seventy-four, two millions of United States notes not bearing interest, payable in gold two years after date, of such denominations as he shall deem expedient, not less than ten dollars each, in exchange, and as a substitute, for the same amount of the United States notes now in circulation, which shall be cancelled and destroyed, and not re-

issued. And any excess of gold in, or hereafter coming into, the Treasury of the United States, after payment of interest on the public debt, and supplying any deficiency in the revenues provided to meet the current expenses of the government, shall hereafter be retained as a reserve for the redemption of such notes."

April 9, Mr. Garfield entered his protest against the bill in the following speech. April 10, Sections 7 and 8 were stricken out on motion of the friends of the bill. April 14, the bill as thus amended passed the House. The bill now went to the Senate, where it was amended. Next, it passed through the hands of two conference committees. After undergoing many changes, more or less important, and losing some of its original features and taking on new ones, it passed both houses, and was approved, June 22, 1874. The banks were relieved of some of their former limitations and restrictions, and the maximum of United States notes was fixed at \$382,000,000.

At the same time that this bill was under discussion in the House, important financial propositions of a somewhat analogous character were pending in the Senate. Especial attention may be drawn to one. March 23, Senator Sherman reported Senate Bill No. 617, entitled "A Bill to provide for the Redemption and Reissue of United States Notes, and for free Banking." This bill passed both houses, and was vetoed by President Grant, April 22, 1874. These facts explain Mr. Garfield's reference in his second sentence to the "four months of debate in the Senate, and nearly three weeks of debate in the House."

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"Thou shalt have a perfect and just weight, a perfect and just measure shalt thou have: that thy days may be lengthened in the land which the Lord thy God giveth thee."—*Deut.* xxv. 15.

"A false balance is abomination to the Lord; but a just weight is his delight."—*Proverbs* xi. 1.

"Capital may be produced by industry, and accumulated by economy; but jugglers only will propose to create it by legerdemain tricks with paper."—THOMAS JEFFERSON.

"We are in danger of being overwhelmed with irredeemable paper; mere paper representing, not gold, nor silver,—no, sir, representing nothing but broken promises, bad faith, bankrupt corporations, cheated creditors, and a ruined people."—DANIEL WEBSTER.

**M**R. SPEAKER,—The hour for argument has passed. Four months of debate in the Senate, and nearly three weeks of debate in the House, have demonstrated that this Congress has determined to reverse the policy of its predecessors, and to enter upon a path new to our recent history, but well known as an old path of disaster and disgrace. I have sought the floor to put on record my protest against the step about to be taken. My opinions may be of but little conse-

quence to others, but I should be untrue to myself, untrue to my deepest convictions, did I not take the occasion to warn the House and the country against what I firmly believe to be the most dangerous and fatal legislation that I have known in my service in this House.

This legislation is framed to answer a demand for what several gentlemen have called "cheap money." I hope they will take no offence if I say they would more fitly characterize the thing they are aiming at if they would apply to it the old, homely epithet "cheap and nasty." I hope they will take no offence if I quote a paragraph which strikingly exhibits my opinion of the result of this measure. In his essay entitled, "Shooting Niagara; and after?" Thomas Carlyle says that one of the three things which are visibly before us Americans is free racing, erelong with unlimited speed, in the career of cheap and nasty.

"'Cheap and nasty'; there is a pregnancy in that poor, vulgar proverb, which I wish we better saw and valued! It is the rude, indignant protest of human nature against a mischief which, in all times and places, haunts it or lies near it, and which never in any time or place was so like utterly overwhelming it as here and now. Understand, if you will consider it, that no good man did, or ever should, encourage 'cheapness' at the ruinous expense of *unfitness*, which is always infidelity, and is dishonorable to a man."<sup>1</sup>

I cannot better express my opinion of the policy that seems to have been fixed upon by the late votes of the two houses, than to say that we are proposing now to make a surrender of reality for the sake of an apparent good,—to grasp at empty shadows and lose the substance. In discussing the questions which now confront us, it is not always easy to find the path of duty. The conditions of the problem before us are so complicated, the subject is so many-sided, that men may well differ in methods. But we ought to follow our measures out to their inevitable consequences, and confront results as well as methods. It was easy to see and to follow the path of duty, when citizens were called upon to decide by the wager of battle between the destruction of the nation and its salvation. But next to the great achievements of the nation in putting down the rebellion, destroying its cause, and reuniting the republic on the principle of liberty and equal rights to all, was that series of financial

<sup>1</sup> Miscellaneous Essays, Vol. VII. pp. 226, 227 (New York, 1872).

achievements by which the enormous charges of the war were paid, the debt funded, the public credit maintained, and the nation launched upon its career of prosperity. The financial perils through which we have passed were almost equal to the direst perils of the war. Let us trace the steps by which the nation came up through its dangers to the basis of safety and peace.

There is a fellowship among the virtues by which one great, generous passion stimulates another. When the patriotism of the people had risen to the height of the sublime in their purpose to put down the Rebellion, they manifested an equally noble purpose of meeting all their obligations incurred in the sacred work. Under the pressure of an overmastering necessity, and upon that plea alone, the nation issued its treasury notes, and made them a legal tender in payment of debts; but by the most solemn sanctions they gave their pledge to the world that the volume should never exceed \$400,000,000, and that at the earliest possible moment they would redeem their promises and restore the currency to the standard of the Constitution. Scarcely had the echoes of their cannon died away, when they set about the work of redeeming these pledges. In 1866, by the almost unanimous voice of both houses of Congress, the work was commenced for the redemption and cancellation of these notes. The great revenues of the nation were applied to this purpose, and to the reduction of the interest-bearing debt.

Hardly had the great cost of the war been stated, when the nation was menaced with the formidable threat of repudiation. The worst elements of American politics were appealed to, and the passions of selfishness and cupidity were summoned to the aid of those who joined in the assault on the public faith. The autumn of 1867 and the spring of 1868 were days of darkness and gloom; but during the summer and fall of 1868 the Republican party appealed with confidence to the American conscience to put down repudiation in every form, to keep the public faith, and to pay the sacred obligations of the war to the uttermost farthing. No issue was ever more sharply defined than that on which the presidential canvass of 1868 was made. That issue was declared in the national platform of the Republican party, and the victorious results were announced in the inaugural address of President Grant, wherein he stated that "to pro-



tect the national honor every dollar of government indebtedness should be paid in gold, unless otherwise expressly stipulated in the contract. Let it be understood that no repudiator of one farthing of our public debt will be trusted in public places, and it will go far toward strengthening a credit which ought to be the best in the world." This victory was sealed by the first act of Congress to which President Grant gave the approval of his signature, and which has been so often quoted in this debate. It was a victory won in the name of the public conscience, the public honor, the public faith,—in the name of truth. From that moment the public credit was enhanced, month by month, and the national faith met no shock until the great struggle of 1870, when a most formidable attempt was made to break down the barriers of public confidence, and launch the nation again upon a career of irredeemable paper-money expansion.

I believe no argument has been advanced during this debate that was not presented in the debate of 1870. I have now in my possession nearly fifty bills on this question, introduced into the two houses of Congress in that year, in which every shade of opinion now entertained in this House is expressed and advocated,—bills to abolish the national bank system and issue greenbacks in place of national bank notes, and bills to authorize the reissue of the \$44,000,000 of greenbacks already retired and cancelled. No one then ventured the opinion that the Secretary of the Treasury had power to reissue those notes without further authority from Congress. The result of that debate was that the banking facilities of the South and West were increased, and additional notes were authorized to the extent of \$54,000,000; but to prevent the inflation of the currency and the derangement of values, it was provided that the three per cent certificates, which were used as bank reserves and clearing-house certificates, should be retired and cancelled *pari passu* with the increase of national bank-notes.

Those who favored a great enlargement of the currency at that time denounced the measure as wholly insufficient to meet the wants of the country. The fifty-four millions was said to be wholly inadequate to the demands of business. We were told that that amount would be taken up so soon as speedily to demonstrate its insufficiency. But, sir, the most significant possible answer to that opinion is the fact that the \$54,000,000

was issued so slowly that even to-day four and one third millions of that amount has not been taken by national banks in the States that had less than their proportion of circulation. Let gentlemen explain this significant fact before they ask us to follow their lead.

And now, Mr. Speaker, in a time of profound peace, nine years after the last hostile gun was fired, we are called upon to reverse all our past policy, — to break down the dikes and let the sea roll in upon us. We are asked to declare that it was a mistake to take any steps toward the resumption of specie payments; that it was a mistake to redeem our solemn promises to pay; that it was a mistake even to keep our faces turned toward the solid ground of stable values. How many years of disastrous experience are needed to enforce the lesson that there are immutable laws of nature which no Congress can safely ignore, and which no legislation can overturn? Underlying all exchange, all trade, all active industry, there are three elements which cannot be ignored; — elements that enter into every contract and are of the essence of every exchange; elements that are recognized in the national Constitution. They are the measure of extension, whether of length, breadth, depth, or capacity; the measure of weight, which is intimately related to that of extension; and the measure of value, which is closely related to both. The Constitution empowers Congress to fix the standards of weights, of measures, and of values. But Congress cannot create extension, nor weight, nor value. It can measure what exists; it can declare, and subdivide, and name a standard; but it cannot make length of that which has no length; it cannot make weight of that which has no weight; it cannot make value of that which has no value.

With what care has our government protected its standards! The gentleman from Massachusetts<sup>1</sup> sneeringly asked, Why does not some one argue in favor of redeeming the yardstick, the quart-pot, or the Fairbanks scales? In that paragraph he uses words without significance. We do not *redeem* these standards, but we do in regard to them what is analogous to the redemption of our standard of value. Our yardstick is a metallic bar copied from the standard yard of England, which is nearly three hundred years old. It is deposited in the office of the Coast Survey, and is sacredly guarded from change or injury. The best

<sup>1</sup> Mr. Butler.

efforts of science have been brought to bear to make the yardstick as little liable as possible to mutilation or change. Two methods have been adopted to test the accuracy of the standard and preserve it from loss. One is to find a pendulum which, swinging *in vacuo*, will make one vibration a second, at a given altitude from the level of the sea; the other, the method adopted by France when, in the last century, she sent her surveyors to measure six hundred miles of a meridian line, from Dunkirk to Barcelona. Thus she made her meter a given aliquot part of the earth's circumference, so that should her standard be lost the measure of the globe itself would furnish the means of restoring it. Both these standards are deposited in the Coast Survey, and, together with the standard measures of capacity, are furnished to the several States as the standards to which all our State and municipal laws refer. Every contract for the sale and delivery of anything that can be weighed or measured is based upon these standards, and the citizen who changes the weight or the measurement commits a misdemeanor, for which he is punished by the law. The false weight and balance are still an abomination. Sir, we do not redeem our yardstick; but we preserve it, and by the solemn sanctions of the law demand that it shall be applied to all transactions where extension is an element. Let us, with equal care restore and preserve our standard of value, which must be applied to every exchange of property between man and man. An uncertain and fluctuating standard is an evil whose magnitude is too vast for measurement.

Let me call attention to a few features of the bill now before the House. Its first section abolishes all the reserves by which our statesmen have hitherto protected the circulation of the banks and kept them in readiness to redeem their notes. This great safeguard is thrown away. The ballast is tossed from the boat of the balloon; the cables are cut which held it to the earth. The section will also operate unequally and unjustly. For example, it requires five and a half millions less of reserve to be held by the banks of New York, and five and a half millions more by the banks of Boston, than is now required by law. Inflation in New York, contraction in Boston.<sup>1</sup> Section 5

<sup>1</sup> The editor is indebted to Hon. John Jay Knox, Comptroller of the Currency, for the following note:—

“The bill then pending provided for the repeal of all acts requiring money to

works a revolution in the system of bank balances. It requires five per cent in lawful money of the circulation of every national bank to be kept in New York and Washington. This takes twenty millions of greenbacks away from the sixteen redemption cities of the United States, and places them in Washington and New York, for the purpose of making the officers of the Treasury assort and redeem the mutilated currency of the banks and issue new notes in their place. By the third section forty-four millions are added to the greenback circulation. By this we are to lose all we have gained in the way of redeeming the promise of the nation to pay its long overdue paper. This is a permanent postponement of specie payments; it hopelessly cripples the machinery by which that result is to be reached. To this is added an unlimited increase of national bank notes.

By this measure we invite two dangers. With one hand we throw overboard the ballast; with the other we spread the sails, and thus commit the ship of our public credit

“To the god of storms,  
The lightning and the gale.”

I believe, Mr. Speaker, that the proposition before us is fraught with measureless mischief. If you will authorize free banking coupled with some wise restriction, something that will lead us slowly but surely toward specie payments, — if we can reach the two great results, specie payments and free banking, — we shall preserve the quality of our currency and shall leave

be kept on hand as a reserve for circulation. It required, however, that the banks should keep on hand a redemption fund in the treasury amounting to five per cent of the circulation.

“The act then in force authorized the national banks in the redemption cities to keep one half of their reserve in New York City, — the country banks to keep a reserve of fifteen per cent, three fifths of which might be kept in the redemption cities. The banks in New York were required to keep all their reserve on hand.

“The proposed law decreased the reserves in New York by abolishing the reserve upon circulation. It also decreased the reserve in Boston, and in the other banks, in the same way; but at the same time it largely increased the total reserve to be kept on hand, by repealing the sections of the act then in force, which authorized such banks to keep large amounts in the hands of their correspondents.

“The figures of General Garfield were given in round numbers, and were an estimate, but the effect of the bill would have been as he stated, — a diminution of reserves in New York, and an increase of reserves to be kept on hand elsewhere. The bill, as it finally passed, did not change the proportion of reserves on deposits to be held with their correspondents by banks outside of the city of New York, and allowed the five per cent redemption fund to be counted as a part of such reserves.”

its quantity to be regulated by the demands of trade. There never did exist on this earth a body of men wise enough to determine by any arbitrary rule how much currency is needed for the business of a great country. The laws of trade, the laws of credit, the laws of God, impressed upon the elements of this world, are superior to all legislation; and we can enjoy the benefits of these immutable laws only by obeying them.

I desire, Mr. Speaker, that all the real wants of the Great West and of the whole country shall be fully supplied; but let them be supplied by that which is reality, and not by broken and dishonored promises. Let us not offer to the people of this country the apples of Sodom, that shall turn to ashes on their lips. I believe, sir, if this legislation prevails, that the day is not far distant when the cry will come up from those who labor in humblest fields of industry, denouncing those who have let loose upon them the evils enveloped in this bill. It has been demonstrated again and again that upon the artisans, the farmers, the day-laborers, falls at last the dead weight of all the depreciation and loss that irredeemable paper money carries in its train. Let this policy be carried out, and the day will surely and speedily come when the nation will clearly trace the cause of its disaster to those who deluded themselves and the people with what Jefferson fitly called "legerdemain tricks with paper."

I was greatly surprised to hear gentlemen quote the fathers of the republic as supporters of irredeemable paper money. The gentleman from Pennsylvania<sup>1</sup> has referred to Franklin to support his opinions. I appeal from the Franklin of 1729 and 1764 to the Franklin of riper experience.<sup>2</sup> I have been, if not a thorough, yet a reverent reader of those great men whose names illuminate the pages of our history; and I affirm that they are almost unanimous in their condemnation of any standard of value except that of the Constitution, or any kind of paper money except such as is redeemable in gold at the will of the holder. From the days of Washington to the present hour, no President, no Secretary of the Treasury, and scarcely a statesman whose name is enrolled among the illustrious dead, has failed to make his protest against the weak and wicked policy of issuing and permanently maintaining an irredeemable

<sup>1</sup> Mr. Kelley.

<sup>2</sup> See the paper entitled "The Currency Conflict," *post*, p. 255.

paper currency. I should be false to history, false to the past of our nation, if I did not refer to this instructive fact. I ask leave to put on record a few paragraphs on this subject from some of the great men who have adorned the records of our country.<sup>1</sup> It will be seen that from the beginning until now our leading statesmen have uttered their warning voices. At no period have their warnings been more needed than at the present moment. Gentlemen may despise the wisdom of the past, but at last the truth will vindicate and avenge itself.

Gentlemen hope that this bill will give relief to the country; but that hope is delusive. Any relief it may bring will be temporary, and it will bring in its train greater evils than those we now suffer. By the currency act of 1870, the West and South are now entitled to a distribution of \$25,000,000 of banking circulation, to be taken from the overplus of the Eastern States. If that is not enough, let the amount be increased; but let the increase be coupled with provisions that shall prevent the further depreciation of the mass. Above all things, let us take no step backward; but persevere in the purpose to restore to the people their standard of value, and make their money better, rather than worse.

<sup>1</sup> The pamphlet edition of this speech issued by its author contained quotations from J. S. Mill, (*Political Economy*, Book III. Chap. XIII. sec. 3); Dr. Franklin (*Works*, Vol. VIII. p. 368, and Vol. X. p. 9); Richard Henry Lee and George Washington (*Washington's Works*, Vol. IX. pp. 120, 186, 187, 231-233); John Adams (*Life and Works*, Vol. VIII. p. 410); Pelatiah Webster and W. M. Gouge (*Gouge's History of Paper Money*, pp. 30, 31); *The Madison Papers* (*Elliott's Debates*, Vol. V. pp. 434, 435); Alexander Hamilton (*Works*, Vol. III. pp. 124, 125); Thomas Jefferson (*Works*, Vol. VI. pp. 139, 142, 232, 241, 245-247); James Madison (*Writings*, Vol. I. pp. 243, and Vol. III. p. 166); Daniel Webster (*Works*, Vol. III. pp. 53, 542); John C. Calhoun (*Debates in Congress*, Vol. XIV. Part I. p. 476); James Buchanan (*Debates in Congress*, Vol. XIV. Part I. p. 355); S. P. Chase (*Financial Reports*, December 9, 1861, pp. 40, 41, and December 4, 1862, p. 16).

These quotations fill several pages, and need not be reproduced in this place.

# CENSUS.

ARTICLE CONTRIBUTED TO JOHNSON'S NEW UNIVERSAL  
CYCLOPÆDIA.

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CENSUS [a Latin word, from *censeo, censum*, to “weigh, estimate, tax, assess”; a registering and rating of Roman citizens; the censors’ lists; the registered property of Roman citizens; Fr. *recensement*, a “statement, return, verification”; *cens*, “census,” or amount of direct tax qualifying one to be an elector; Eng. *cense* (obsolete), a “public rate,” “rank,” “condition”; also *cess* (obsolete), to “rate,” to “assess”], an official enumeration of the inhabitants of a state or municipality. The various forms and significations of the word, as given above, indicate the chief objects for which the census has been used in the different periods of history, though in many cases other objects have been associated with these.

I. THE CENSUS OF ANCIENT NATIONS. — An inquiry into the censuses of ancient nations is valuable only in so far as it exhibits the objects had in view and the methods employed. It is alleged that China ordained a census more than twenty centuries before Christ; also, that a census was taken in Japan a century before the Christian era; also, that statistical information was taken by officials in Peru under the reign of the Incas. But these and similar notices of ancient censuses are too vague and uncertain to possess much value. This article will be directed chiefly to those nations of which history speaks with definiteness and reasonable certainty.

1. *The Jewish Census.* — It was ordered in the Jewish law that the first-born of man and beast, as well as the first fruits of agricultural produce, should be set apart for religious purposes; the first-born of man to be redeemed, the first-born of the beasts, excepting the ass, and the first fruits of the earth, to be offered unto the Lord (Ex. xiii. 11–13; xxii. 29). According to Arch-

bishop Ussher's chronology, this enactment must be referred to the year 1491 B. C. The law further provided that when the sum of the children of Israel was taken they should give every man a ransom for his soul, amounting to a half-shekel of silver (Ex. xxx. 12-16). So far as appears, this is the original institution of the Jewish census. It is clear that it was primarily for religious purposes. The Hebrew word answering to census or enumeration means a "numbering combined with lustration," from a verb signifying to "survey, in order to purge." The four most notable enumerations recorded in the Old Testament were: 1st. In the third or fourth month after the Exodus the males of the Hebrews, twenty years of age and upwards, were enumerated by Divine command, chiefly for the purpose of raising money for the tabernacle (Ex. xxxviii. 26). The enumeration amounted to 603,550. The number of men at the time of leaving Egypt is stated (Ex. xii. 37), but it is hardly probable that a formal enumeration was made at that time. Probably the result, 600,000, was retrospectively inferred from the first numbering at Sinai. 2d. A second enumeration was made at Sinai in the second month of the second year after the Exodus (Num. i. 2, 3). Here a new idea appears, as this numbering was to ascertain (1.) the number of fighting men between the ages of twenty and fifty; and (2.) the amount of the redemption offering. Exclusive of the Levites, the result was the same as the first. 3d. The next enumeration was made just before the tribes entered Canaan, thirty-eight years after the one just mentioned (Num. xxvi. 63-65). The number of men had slightly fallen off. 4th. The most notable of the Jewish censuses was that taken in the reign of King David. Its history can be gathered from 2 Sam. xxiv. 1-9; 1 Chron. xxi. 1-7, 14; xxvii. 23, 24. This enumeration was followed by a three days' pestilence, which destroyed 70,000 men. The pestilence is credited to David's presumption. It is not altogether clear in what his offence consisted. According to Josephus (*Antiquities*, vii. 13, § 1), the king's transgression was in not collecting the redemption offering required by the law. This account is more generally followed by Biblical scholars, but some attribute the pestilence to David's presumption and pride, of which the enumeration is regarded as an indication. It appears from Ex. xxx. 12, either that the customary ransom was to avert a plague among the people, or that such plague was to be the penalty for neglecting to require the offering.



The pestilence made a lasting impression on the minds of men; for to this day, in both Mohammedan and Christian countries, especially in the former, there are superstitious fears attending enumerations of the people. David's enumeration of the people was not recorded. All the objects comprehended in the Jewish census are stated above. It does not appear that the law made any provision as to the time or manner of making the enumerations. The censuses referred to in the New Testament were taken under Roman authority, and were in no proper sense Jewish.

2. *The Greek Census.*—History gives us no definite knowledge of a census in any portion of Greece except at Athens, where the census was established by Solon, who held the office of Archon from 558 to 549 B. C. He made a radical change in the constitution of Attica. Before his time the honors and duties of the citizen were based on birth; he introduced what was called the *timocracy*, or government based on wealth. He distributed all free citizens, without regard to birth or rank, into four classes, according to the amount of property they owned. The classes were, — 1st. Those whose annual income was equal to or exceeded 500 medimni of corn (about 700 English bushels). 2d. Those whose income was less than 500 and more than 300 medimni. 3d. Those whose income was less than 300 and more than 200 medimni. 4th. All whose property yielded an income less than 200 medimni. The medimnus of corn was valued, in the time of Solon, at about one drachma, or  $9\frac{3}{4}d$ .

The first class (*Πεντακοσιομέδιμνοι*) alone were eligible to the principal public offices. The second class (*Ἴππεῖς*) were knights, or those having sufficient income to keep horses and perform cavalry service. The third class (*Ζευγῖται*, so named from their being able to keep a yoke of oxen) formed the heavy-armed infantry. The fourth class (*Θῆτες*), which comprised the great body of the people, were ineligible to any office, paid but little if any tax, and in case of war served only as light-armed infantry, with weapons furnished by the state.

The census was instituted for the double purpose of making this classification of citizens, and of laying the foundation of the Athenian system of taxation. The idea of assessment was as much a part of the census as that of enumeration. The Greek word for assessment (*τελεῖν*) has also the general meaning of rank or class; and the phrase *τελεῖν τὸ τέλος*, which signifies

“to comply with the requisition assessed,” signifies also to belong to a class. The census was taken, at first, by the Naucrari, and afterwards by the Demarchi. A record was kept, showing the class to which each citizen belonged, and the list of his taxable property. The census was taken sometimes once a year, and sometimes once in four years, according as property fluctuated in value. The classification of Solon lasted, with some modification, to the close of the Peloponnesian war (404 B. C.), and was in part preserved after the renovation of the democracy in the following year. The classification of citizens and the mode of assessment were changed during the archonship of Nausinicus (in 378 B. C.), in order to levy increased taxes for carrying on the war against Sparta.

(For the latest and fullest discussion of the Greek census see Boeckh's "Political Economy of the Athenians," (English trans., Boston, 1857,) Book IV. chap. 5; Grote's "History of Greece," Vol. III. chap. 11, and Vol. X. chap. 87; Plutarch's "Solon"; and Smith's "Dictionary of Greek and Roman Antiquities," words *Censor* and *Census*.)

3. *The Roman Census*.—The institution of the census at Rome was intimately connected with the great reform in the Roman constitution consummated by Servius Tullius. Before his time all the political and military authority was wielded by a few powerful Roman families, and clans or groups of families, called *gentes*. The word *populus* applied to these families alone. Around the members of this ruling class were gathered, under the name of *clients*, a large number of foreigners (*metaci*) residing at Rome, subjugated people, and freedmen, who possessed no political rights, paid no regular taxes, and were neither compelled nor permitted to serve in the army. Most of them were farmers, and many were wealthy. As the city grew, this plebeian class rapidly increased. In order to equalize the burdens of the state, but particularly to strengthen the army and make it more national, Servius Tullius so changed the constitution as to place the burdens of taxation and the duties and honors of military service, not upon the patricians as such, but upon freeholders between the ages of seventeen and sixty, without regard to family or rank. All these were distributed into five classes, according to the amount of land owned by each. It has been held by most writers that the classification was based upon the amount of wealth, in any form,

possessed by the citizen; but Mommsen and other late authorities insist that the basis was land.

The first class comprised those who owned an entire *hide* of land, — a full Roman farm, — not less than twenty jugera (about fourteen acres). The second, third, fourth, and fifth classes consisted of those who owned respectively three fourths, one half, one fourth, and one eighth of a *hide* of land. The non-freeholders (*proletarii*), counted by some authorities as the sixth class, were called *capite censi* (i. e. "counted by the head"). They could not vote, paid no taxes, and were not liable to perform military service. The rights and duties of all Romans were determined by the class to which they were thus assigned.

In order to effect these changes in the government, Servius Tullius instituted the census (555 B. C.). Every citizen was compelled to declare his name, age, and tribe, the name of his father, the number of his children, the value of his estate, and the number of his slaves. The record thus made was both a land register and a roster or rank roll of the Roman people. When the enumeration and registration were completed, the people were assembled in the Campus Martius, where the religious solemnities of the lustration were performed. The sacrifices attending it were called *suovetaurilia*, because a pig, a sheep, and an ox, after being led three times around the campus, were sacrificed for the purification of the people. This was called the closing of the lustrum. As the census was taken quinquennially, the word *lustrum* came to signify a period of five years.

At first, the census was taken by the kings in person. After the expulsion of the kings it was taken by the consuls; but the duties accompanying the census became so important that in 443 B. C. two magistrates, called *censors*, were chosen from the patricians, to whom this duty was intrusted. The office of the censors ranked next to that of dictator. Their powers and duties were threefold: — 1st. They took the census and made and kept the official record. In performing this duty they were the sole judges of the qualifications required by law for the rank or class to which a citizen should be assigned. 2d. They were conservators of public and private morals. This branch of their power was called *regimen morum*. If in their judgment a citizen was guilty of immoral or unworthy conduct, they placed

him in a lower class. They could even degrade a senator by omitting his name from the senatorial list. Ulpian says in his "Digest" (tit. 1-6), "Roman citizens are free who have been made free by the act of manumission, by the census, or by a lawful will." (See also Cicero, Top. ii. 10.) Any one known to absent himself from the registration was called *incensus*, and was subject to the severest punishment. In the time of Servius Tullius this punishment might be imprisonment or death. In the days of the republic the *incensus* might be sold as a slave: "Maxima capitis diminutio est, per quam et civitas et libertas amittitur, veluti cum incensus aliquis venerit." (Ulpian, Digest, tit. xi. 11.) 3d. They were charged with the administration of the finances of the state. The tribute assessed upon a Roman citizen depended upon the amount of his property, as registered in the census; and the regulation of taxes was placed in their hands, though they did not receive nor disburse the revenues. The censorship continued 421 years, when its powers were absorbed by the emperors. Augustus extended the census to the provinces, and ordered a general enumeration of persons and property throughout the empire. Domitian assumed the title of "perpetual censor." The enumeration continued to be made for several centuries, but the ceremony of lustration was not observed after the reign of Vespasian; and, later, the censuses were taken but once in fifteen years. With the dissolution of the Roman empire, the census seems to have disappeared from history; and, in the general decline of intellectual life that followed, even the original meaning of the word was practically lost from the customs of nations.

II. THE CENSUS DURING THE MIDDLE AGES.—In mediæval times the word "census" was still employed, but it was applied almost exclusively to the records of landed estates and the assessment of taxes. Until the thirteenth century there is no record of a distinct enumeration of the population in the annals of any mediæval people. In that dreary waste of history, a few attempts were made to learn something concerning the people and their condition. In the year 780, Charlemagne appointed officers called *missi dominici*, or royal commissioners, who travelled from province to province to examine the condition of his empire. Their reports contained some valuable statistics concerning the people, the soil, and the products of his vast dominions. (See Martin's "Histoire de France,"

Tom. II. pp. 277-284.) These reports were not kept up after the death of Charlemagne. A more elaborate and successful effort in the same direction was made in England (1080-86) by William the Conqueror, in the famous "Domesday Book." An inquisition was made throughout the kingdom concerning the quantity of land contained in each county, the name of each Saxon and Norman proprietor of land, and the slaves and cattle belonging to each. All these were registered in a book, each article beginning with the king's property, and proceeding downward according to the rank of the proprietors. By this register the king could know the wealth, rank, and position of all his subjects. It served as the basis of taxation, and was used in the courts as the evidence of property. Of this book Burke says, "It was a work in all respects useful, and worthy of a better age." Several early attempts at a census were made in Spain, — one by Peter the Ceremonious, king of Aragon, in the fourteenth century, the results of which were not published until the present century; and another in the fifteenth century, by order of the Crown of Castile. In different parts of Europe a few statistical works appeared; but their scope was narrow, and their materials were scanty and inaccurate. It would appear that a comprehensive census is found only in enlightened despotisms and in free communities. Neither of these were frequent in the Middle Ages, and this may account for the absence of enumerations of the people during that period.

III. THE CENSUS IN MODERN TIMES. — The modern census is of slow growth, and seems to have developed only as nations came to appreciate the fact that the strength and glory of a state depend upon the condition of its people and their industries. While rulers were unwilling to allow their people any share in public affairs, there was little attention paid to the population and its condition. Till within the last two centuries scarcely an effort was made in any modern country to obtain any comprehensive knowledge of the people.

1. *European Nations.* — *Sweden* has the honor of being the first modern government to establish a systematic plan, and to record important facts concerning its population. The frequent recurrence of famine and pestilence in that country near the beginning of the sixteenth century led the clergy to keep a register of the marriages, baptisms, and burials within their several parishes. The keeping of this register was made obli-

gatory by an ecclesiastical law of 1686, which is still in force. That law required a register of marriages, births, and deaths, with many accompanying particulars; a record of all persons removing to or from each parish; a list of the inhabitants by houses and households; and a record of all extraordinary accidents occurring during the year. These registers were intended to serve the requirements of religion, and also to afford the means of correcting the register of landed property and households kept by the tax-collectors. As these registers were made on a uniform plan, and by a body of intelligent and cultivated men, who were well acquainted with the people of their parishes, the records were exceedingly accurate and valuable. For a long time the results were not collected; but in consequence of a memorial presented to the Diet in 1746 by the Academy of Sciences of Stockholm, schedules of questions concerning the movement and condition of the population were distributed among the parishes, with orders to the pastors to make returns from their registers for the previous twenty-five years. In the year 1749 a return was made, which contained a large number of valuable details concerning the condition of the population, but it was many years before these facts were published. The number of inhabitants was long regarded as one of the most important state secrets; and it was forbidden under heavy penalties to reveal to the public anything respecting it. It was only in 1762 that permission was given to publish some extracts from the official reports concerning the progress of the population. It was from facts thus obtained that Doctor Price prepared his first essay, in the form of a letter to Doctor Franklin, which laid the basis for the famous life-tables founded on the statistics of Sweden. From 1749 to 1751 the reports of population were made annually; from 1754 to 1772, triennially; from 1775 to the present time, the census has been taken once in five years. In towns, the head of the household, in accordance with instructions, fills up the schedules, which are collected by the agents of the police. In the country districts, the census is still taken by the pastors as a part of their parochial duties.

*England* was very slow in achieving a census. In 1592, when the plague was in London, records were kept of the number of deaths in the city; but the practice soon fell into disuse, and was not revived until 1603, the first year of the reign of James I.,

when a weekly account of burials and christenings in London was ordered to be kept. These records were regularly kept thereafter, but little attention was paid to them until the year 1661, when Sir William Petty, writing under the name of Captain John Graunt, published a tract entitled "Natural and Political Observations, mentioned in a following Index, and made upon the Bills of Mortality of London, with reference to the Government, Religion, Trade, Growth, Air, Diseases, and several Changes of said City." This work attracted much attention, and the author followed it up by several similar works: one on the mortality bills in Dublin; another, in 1686, entitled "An Essay concerning the Multiplication of Mankind and the Growth of the City of London"; also, "Essays on Political Arithmetic."

It is curious to observe what vague and erroneous opinions prevailed, even among the most intelligent thinkers of that time, concerning the number of people in any state or city. A striking illustration of this may be seen in the fact, that, when Sir William began his investigation of the population of London, he mentions it as a matter of general belief that the city then contained several millions of people. The imperfections of the statistical methods employed in his day may be seen in the following passage from Sir William's "Third Essay on Political Arithmetic," 1686, pp. 21, 22: —

"Proofs that the number of people in the 134 Parishes of the London Bills of Mortality, without reference to other cities, is about 696 thousand, viz. : —

"I know but three ways of finding the same.

"1. By the houses, and families, and heads living in each.

"2. By the number of burials in healthful times, and by the proportion of those that live to those that die.

"3. By the number of those who die of the plague in pestilential years, in proportion to those that 'scape."

In applying his first method he has no count of the houses, but, as he says, "pitches upon a number" as a rough estimate, then guesses at the average number of families to a house and persons in a family, and finally applies his arithmetic. His second and third methods were even more vague.

During the eighteenth century several efforts were made to guess at the population of England, but nothing of value was accomplished till near the close of that century. Considering

the fact that economic science had already attained a high degree of development in England, that many writers had successfully investigated and ably discussed statistical subjects, and that censuses had been ordered in the American colonies by the home government since the seventeenth century, it is surprising that no attempt was made to ascertain the population of any one of the three united kingdoms by actual inquiry until 1790, when Sir John Sinclair, a high authority in matters of public finance in his time, and a man of rare intelligence, enterprise, and perseverance, undertook the compilation of a complete population, agricultural, commercial, and industrial census of Scotland. For this purpose he addressed one hundred and sixty questions, on as many different subjects, to all the clergymen of the Established Church. He had much difficulty in obtaining answers from them, but by dint of persistently repeated appeals he succeeded, after several years, in securing returns from nearly all the parishes. The returns were published by him in a series of twenty-one successive volumes. The energy of this remarkable man may be judged from the fact that he secured no less than nine hundred contributors to his census, and that the whole compilation and publication were completed in just seven years. He subsequently prepared a masterly compendium of the series, entitled an "Analysis of the Statistics of Scotland." His statistics were not absolutely accurate, but they formed, although the work of a single individual, a more complete census than any yet undertaken by any government. Sir John Sinclair may be said to be the founder of British public statistics; for it was mainly at his suggestion that Parliament, on December 31, 1800, passed an act providing for a general enumeration of the population of England, Wales, and Scotland in the following spring, and every tenth year thereafter. The bill was offered in the Commons by Charles Abbott (afterwards Lord Tenterden), and the motion for leave to introduce it was seconded by Mr. Wilberforce. The first census was taken on the 10th of March, 1801, in England and Wales; for Scotland a later day was assigned, owing to the inclemency of the season. The law contained but one schedule, and the following inquiries were made. The number of houses, inhabited and uninhabited; the number of families; the number of inhabitants, male and female; a classification of the population according to occupation, in



three divisions: 1st, persons chiefly employed in agriculture; 2d, persons chiefly employed in trade and manufactures or handicrafts; 3d, all other persons not comprised in these two classes; the number of baptisms and burials each tenth year, from 1700 to 1800; and the number of marriages from 1754 to 1801. In the two subsequent enumerations, in 1811 and 1821, the same schedule was followed, except that the occupations of the heads of families only were entered. In that of 1821, a classification of ages was also adopted. In 1831, a uniform system of registration of births, marriages, and deaths was established by act of Parliament for England and Wales, under the supervision of the registrar-general's office. Under the act the territory to which it was applied was divided into over two thousand registration districts. The same act provided that subsequent enumerations in England and Wales should be taken by the local registrars, under the direction of the registrar-general. The creation of a regular statistical service greatly facilitated the census of 1841 in England and Wales. In Scotland, the less efficient method of employing the parish schoolmasters as local census-takers was continued.

In Ireland, the first attempt at a general census was made in 1811, with very unsatisfactory results. It was repeated in 1821, but produced nothing more than an enumeration of doubtful accuracy. The next census, taken in 1831, was subjected to a correction in 1834. In 1841, the constabulary force was employed as census-takers, with better results. An attempt was made, in connection with the census of the year last named, to obtain statistics of the rural economy of the Irish kingdom, which proved very successful.

Great efforts were made to render the sixth census of England, Wales, and Scotland, in 1851, superior in results to the preceding enumerations. The special law enacted for the purpose provided that the census should be taken on one and the same day — the 31st of March — in the three parts of the kingdom named. For that purpose 30,610 competent enumerators were appointed, with the authority of the registrar-general, by the 2,190 district registrars then in function in England and Wales. Only as much territory was assigned to each enumerator in the registration districts as could be conveniently canvassed by one person. There being no uniform system of registration in Scotland, the thirty-two sheriffs of that kingdom were authorized to

appoint 1,010 temporary registrars, — generally parochial school-masters, — and 8,130 enumerators; the government appointed 257 enumerators for the smaller islands. Some days before the day fixed, the enumerators delivered to every occupier of a house or tenement a "householder's schedule," containing inquiries as to the name, the head of family, condition, sex, age, occupation, and birthplace of every person in Great Britain, and also as to the number of blind, deaf, and dumb. For the use of the lower classes of Wales schedules were printed in Welsh. The schedule was to be filled up in the night of March 30-31. No one present in any household on that night was to be omitted, except workmen and others performing night labor away from their habitations. Travellers were enumerated at the hotels and houses at which they arrived on the following morning. Simultaneously with the household schedules the enumerators distributed in the proper quarters forms for collecting information respecting places of worship, scholastic establishments, and miscellaneous institutions. The schedules were taken up by the enumerators at an early hour on the 31st of March. The collectors filled up those parts which persons had either neglected or were unable to fill. They were also required to note all the unoccupied houses and buildings in course of construction. The floating population — that is, such persons as spent the night named in barges or boats on canals or small streams, in barns, sheds, tents, and the like — the enumerators were required to estimate according to the best information they could obtain. Special notice was to be taken of all extraordinary assemblages of people anywhere at the time of the census. The enumerators were allowed one week for the transcription of their schedules and the completion of summaries and estimates called for in their very full instructions. The revision of the returns by the district registrars, in which the latter were to pay particular attention to nine specially defined points, had to be completed in a fortnight. The revised returns were subjected to another revision by the supervising registrars before they were finally transmitted to the census office. The custom-house officers took the census of sea-going vessels in port. Persons belonging to the navy and commercial marine were also separately enumerated by the proper authorities. The government furnished the statistics of the army, half-pay officers, and pensioners, the civil service, the civilians and Europeans in the East

India Company's service, and of all British subjects living in foreign parts, as far as they could be ascertained through consular and diplomatic organs.

The British census of 1851 was the most successful statistical operation, both as regards quickness and accuracy of execution, performed up to that time in any country where public statistics were cultivated. The plan of the census of 1861 did not vary in any essential respect from that of the preceding one. Its execution was equally rapid and fruitful of satisfactory results, in spite of the greater difficulty of the task from the growth of population, etc.

In Ireland the censuses of 1851 and 1861 were again taken by the constabulary force. The mode of enumeration was essentially the same as in England, except that the schedules represented a wider field of inquiry. The additional interrogatories related to insanity, idiocy, degree of education, attendance at school, buildings other than habitations, and language. Since 1804 a general registration of births and deaths in Ireland is made by civil officers; up to that time registers were kept only for the Protestant population. While both in Ireland and in Scotland an agricultural census, which serves to determine the area devoted to the culture of different products of the soil, and the number of live stock, had been required for many years, the first cattle census was taken in England and Wales only in May, 1866; it was followed soon after by a comprehensive agricultural census.

In 1871 the eighth census of the United Kingdom was taken. Over 32,000 enumerators were employed in taking it. Several minor inquiries were added to the schedules, and some important inquiries concerning education were made to supply the demand for information by the School Board established under the Elementary Education Act of 1870. In London alone the School Board was supplied with certain particulars concerning the 700,000 children between the age of three and thirteen living within the limits of the London School Board district.

The digestion of the English and Irish census reports by the central statistical authorities is conducted in a thoroughly scientific manner. The general reports and the special compilations therefrom on a variety of subjects are unsurpassed by the corresponding records of any other country. Their great value to statisticians and economists is universally acknowledged.

The movement of the population of the United Kingdom is annually determined by the registrar-general's office through the agency of the district registrars.

*France* established a census only after many ineffectual attempts, and against formidable obstacles. The first comprehensive suggestion of a census was made by Vauban, the great engineer and scholar of the seventeenth century. Seeing the distress into which France had been plunged by the long wars of Louis XIV., and deploring the heavy and unequal burdens of taxation which had been laid upon the people, he entered upon a careful survey of the condition of France, and in the first years of the eighteenth century developed a plan to sweep away the great army of fiscal officers and establish a uniform tax on all the property of the realm. This he called the "projet d'une dixme royale," which he published in a volume addressed to the king. In order to apply his plan, it was necessary to know the number and classes of the population. His method of estimating the number was peculiar. Selecting a portion of France which he regarded as having an average density of population, he caused it to be accurately measured and its population estimated. From this he calculated the area of France and its population; but near the conclusion of his book he appealed to the king to provide by law for the numbering of the people, and set forth in strong and eloquent language the advantages of such an enumeration. "There is no battalion," said he, "in the kingdom, however insignificant it may be, that is not subject at least to a dozen reviews and inspections during each year. If such pains be taken with one battalion, of how much greater importance it is to enumerate and review the condition of that great body of the people from which the king draws all his glory and all his riches!" This book appeared in January, 1707. It gave great offence to Louis XIV., because it assumed that the glory of the realm consisted of the people and their wealth, and it further assumed that kings and ministers needed to study the people and their wants, in order to the proper performance of their duties. By a royal decree of February 14, 1707, the book was ordered to be seized and burned in the pillory, and all the booksellers were forbidden, under heavy penalties, to keep or sell it. Vauban survived the shock of this disgrace but six weeks. He died of a broken heart. The treatment he received

is a striking illustration of that arrogant ignorance which refuses to draw instruction from the only true source of knowledge and statesmanship.

Several attempts were made at different times to ascertain such facts relating to the people as would aid the French monarchs in making their military levies; but nothing of value was accomplished except by individual effort. In the latter part of the reign of Louis XV., M. Gourney, Minister of Commerce, organized a bureau of information, which gave some attention to the subject of population. M. Moheau, who was attached to this bureau, collected some important statistics, which were published by order of the government in 1774. In 1784 appeared the work of M. Necker, Minister of Finance of Louis XVI., entitled "Traité de l'Administration des Finances," in which the number and condition of the population were discussed. But nothing was done to establish a census until after the Revolution of 1789. Before the close of the eighteenth century a law was passed requiring prefects of the departments to prepare from the civil registers exact annual abstracts of the number of marriages, births, and deaths. This law, with some modifications, is still in force. In 1801, the legislature decreed that national censuses should be taken once in five years. A census was taken in 1801, and another in 1806. No other was taken under the first Napoleon. The next general enumeration was taken in 1821, six years after the restoration of the Bourbons. Since that year quinquennial censuses have been the rule.

*Belgium* has carried the work of census-taking to a high degree of thoroughness and completeness since the revolution which made her an independent sovereignty. This revolution was immediately followed by active efforts in the direction of statistics. One of the first acts of the provisional government, in 1831, was the creation of a special statistical service. In 1841, a central commission of statistics was established by royal decree, with which M. Quetelet and other distinguished statisticians have been connected from its organization. In 1843, provincial statistical commissions were instituted throughout the kingdom. In 1856, a law was enacted newly regulating the mode of taking the census and keeping the civil register. It provided that a general census should be taken every ten years throughout the kingdom, and that the population returns should form the basis of representation. The census was to be taken in

such a manner as to give the actual, as well as the legal population. The prescribed inquiries included surnames and Christian names, sex, age by year and month, birthplace, civil status, occupation or condition, habitual domicile, and residence, whether town or country. Three schedules, printed in the French, German, and Flemish languages, were distributed and collected throughout the kingdom by special census agents. Both the distribution and collection were to be made in one day. Temporary census bureaus were established, one for each province, which were to receive the returns of the agents after they had been revised by the communal juries, — bodies appointed for each community, and consisting of officials and private citizens. The statistics of schools and public institutions were taken by means of special schedules. The military authorities were charged with the army census. The refusal to give information to the census agents was punishable by fine and imprisonment. The law of 1856 also contained provisions regarding the keeping of civil registers, which insured greater accuracy in the recording of the movement of the population. Two general censuses have been taken under the law of 1856, — one in that year and another in 1866. In the latter, comprehensive inquiries into the agricultural, mining, and manufacturing industries of the kingdom were made. In 1858, a special census of deaf mutes and the blind was taken. The central statistical commission receives the returns of the successive censuses, yearly abstracts from the civil registers, and the results of special inquiries, and prepares the whole for publication.

*Prussia.* — As in many European countries, Prussia obtains her population reports through a central bureau of statistics, which was established in 1805, and continues to the present day, though with some modifications. The labors of the bureau are directed to, — 1, general statistics; 2, births, marriages, and deaths; 3, schools and churches; 4, medical statistics; and 5, statistics of mechanical trades and manufactures. From 1805 to 1820 these inquiries were made annually, but since the latter date information relative to the first, third, and fourth subjects was collected but once in three years. When the Customs-Union of 1834 was established, triennial censuses of the population were authorized, and have been taken regularly since that date. At first, the inquiries concerning population were the actual population, according to sex, age, birthplace, religion,

immigration, and emigration. In 1840 the enumeration was made nominative, which resulted immediately in a large increase in the population returns. In 1846, the number of families was determined, and in 1849 the distribution of the population by habitations. In 1858, the persons of the two sexes between seventeen and forty-five years of age were returned in five classes. In 1861, the unmarried and widowed were specially classified. With the census of the same year an inquiry was added in reference to the language spoken and the social condition and occupations of the population. The Prussian census is taken by civil officers, in the month of December, on one day, by means of printed schedules. Great expedition is shown in the publication of the returns. In addition to the statistics of population, many statistics are obtained showing the nature, extent, and distribution of real property, wages and salaries, insurance, aid and co-operative societies, and the numerical strength of the Catholic and Protestant Churches.

*Austria.* — During the last half of the eighteenth and the first half of the nineteenth century no censuses were taken in Austria except such as were connected with military conscription and inquiries to ascertain what portion of the population were liable to do military duty. Separate systems of enumeration prevailed in the different provinces, and the materials for a general knowledge of the whole population of the empire were very meagre. A uniform enumeration was made throughout the empire for the first time in 1851; but its results were so imperfect that in 1855 a commission of high administrative officers was appointed for the preparation of a new census law, which received the imperial sanction in 1857. By its provisions the military needs of the state were no longer the main motive for a census; but statistics of population, wealth, and industry were to be obtained as a basis for the safe conduct of public affairs. It provided that a census, based on the actual population, should be taken once in six years, exclusively by the civil authorities. Printed schedules were distributed by municipal and administrative officers, to be filled up by the heads of families, owners of tenement-houses, and those in charge of convents, schools, and public institutions. Detailed printed instructions accompanied the schedules. Those who intentionally failed to furnish the desired information were punished by fine and imprisonment. The schedules called for information under the following heads:

composition of families, including servants; age; sex; names and titles; civil status; social condition; religion; occupation; marriages, births, and deaths; the number of cities, towns, hamlets, villages, dwellings, and renters. The number of Austrian subjects living in foreign parts was obtained through the imperial legations. The census of the naval and military population was separately taken by the proper authorities. In 1828, a central bureau of statistics was created, and charged with the duty of consolidating the census returns and preparing them for publication.

*Russia.*— Partial censuses were taken by order of the Russian government in 1700, 1704, 1705, and 1710. In 1718, Peter the Great required all landed proprietors to make a declaration of the number of serfs belonging to each. The same year he organized a special commission to visit the separate provinces of his empire, for the purpose of making a general census. No enumeration of females was made in these early censuses, which were taken solely for the purposes of revenue and military conscription. A decree of 1722 directed that a census should be taken once in twenty years; but this interval of time was not regularly observed during the remainder of the eighteenth century. In 1802 a central bureau of statistics was organized under the direction of the Minister of the Interior, who superintended the returns of population, agriculture, commerce, and industry. This bureau was reorganized in 1852 under the name of the statistical commission. The commission has taken censuses in 1812, 1815, 1834, 1850, 1860, and 1870. The census is taken by means of printed schedules distributed by the local authorities, who are made responsible for the proper returns. The work of consolidating and publishing the returns devolves upon the statistical commission.

*Norway.*— A decennial census was instituted in Norway in 1815, and has continued up to the present time, comprising inquiries as to age, sex, civil status, number of families and habitations, useful domestic animals, and the territorial area of each district. A bureau of statistics superintends all forms of public statistics except those pertaining to the administration of justice, public education, and financial administration. Inquiries are made once in five years in regard to the condition of industry. Annual exhibits are made of births, marriages, and deaths, of commerce and navigation, of the administration of justice, and



of the population suffering from physical and mental disabilities.

*Spain* paid but little attention to public statistics after her census of 1798 until 1856, when a central statistical commission was organized, under whose supervision a general census was taken in 1857, and since then once in three years. The census is taken in one night by government officials charged with the collection, verification, and consolidation of the returns. A final revision is made by the statistical commission.

*Switzerland.* — The original constitution of the Swiss federation required a census to be taken once in twenty years. Most of the inquiries were conducted by the several Cantonal governments. The returns were not uniform, and were generally inaccurate. In 1860 a law of the federal assembly prescribed a decennial census for the whole federation, and instituted a federal bureau of statistics under the direction of the Interior department. The first census under the new law was in 1860. The inquiries included sex, age, civil condition, origin, birth-place, domicile, religion, language, physical disabilities, immigration, the distribution of real property, the number of families, and the number of habitations and other buildings. The statistical bureau is endeavoring to extend the range of the census, but finds its efforts somewhat impeded by the difficulty of dealing with twenty-five Cantonal governments. The Cantonal statistics collected by the local governments are consolidated and published by the central bureau. The latter is endeavoring to give a more national character to the statistical service. Until a few years ago, the different Cantons followed different methods in the collection of vital and mortuary statistics, but at the instance of the bureau they have now adopted a uniform plan. In 1866 the central bureau initiated the census of live-stock, and later collected very full statistics of railways, savings banks, and fire-insurance companies.

*Italy.* — Soon after the establishment of the modern kingdom of Italy, a bureau of statistics was created, in 1859 and 1860, with ample powers, under the direction of Doctor Maestri, an eminent statistician. The first general census, which was to afford the basis of representation in the national parliament, was taken, December 31, 1861, under a law prescribing general enumerations once in ten years. The census is taken in one day by means of previously distributed schedules. Since 1861 the

central bureau has been charged with additional inquiries relative to mutual aid societies, savings banks, public charities, industrial corporations, libraries, and institutions of education.

The census in modern *Greece* dates from her last struggle for independence. The first general enumeration of her people was made in 1836. From that date censuses were taken annually until 1845, since which time they have been taken at irregular intervals, viz. 1848, 1853, 1856, 1861, and 1868.

*The Statistical Congress.*—The work of taking modern censuses has been greatly facilitated, and the value of the results greatly increased, by the efforts of the "International Statistical Congress," an organization which resulted from the Great Exposition held in London in 1851. The congress is composed principally of men from all civilized nations, who in their own countries are members, leaders, and chiefs of bureaus of statistics, or who have charge of the census. Sessions of the congress were held in Brussels in 1853, Paris in 1855, Vienna in 1857, London in 1860, Berlin in 1863, Florence in 1867, at the Hague in 1869, and the eighth and last at St. Petersburg, August, 1872. The census has been a leading topic of discussion by the congress. Statements of the condition of the census movement in the various countries have been made, and the congress earnestly recommends uniformity in the census inquiries, in order that comparisons of the vital statistics of the different countries may be made. Many valuable modifications have been made in the censuses of nearly all the nations, in consequence of the suggestions of the congress. As a result of these efforts, M. Quetelet and Heuschling published at Brussels in 1865 a volume of international statistics, in which the population reports of the United States and of all the leading states of Europe are collected and arranged in comparative tables.

2. *The Census of the United States.*—Considering the character of the present work, the census of the United States should receive much more attention than that of any other country. The matter will be distributed under three heads:—

(1.) *The Colonial Period.*—The American census originated in the Colonial period of our history. The British Board of Trade played an important part in Colonial affairs. At times it was almost the supreme directing power, and under its instructions several enumerations of the population of the Colonies

were attempted. The tables were prepared under the immediate direction of the Colonial governors by the sheriffs and justices of the peace, and were exceedingly inaccurate. Mr. Bancroft, speaking of enumerations in the latter part of the seventeenth century, says, "The positive data in those days are half the time notoriously false." (History, Vol. II. p. 450, note.) Speaking of the same materials in the middle of the eighteenth century, he says, "Nearly all are imperfect." (Vol. IV. p. 128, note.) The so-called enumerations should rather be called computations. No general examination, embracing all the Colonies, was ever attempted. The tables prepared for the Board of Trade were in great part based on muster-rolls and returns of taxables. "Enumeration is a slow and laborious process," says Sir G. C. Lewis, "and until experience has taught us its necessity where correctness is required, there is a disposition, especially among uncultivated people, to rely upon computation." Besides, the aggregates found in the tables were no doubt generally too large. "To count," says Doctor Johnson, "is a modern practice; the ancient method was to guess; and when numbers are guessed they are always magnified." That no accurate enumerations of population were made in the Colonial period should excite no surprise. The census had not yet assumed scientific form and definiteness. England took her first census in 1801, and even then the work was so imperfectly done that the results were of no great value. On general grounds it would be absurd to suppose that the Board of Trade took accurate enumerations of the British colonists in America a half-century or century before England counted her own people. Besides, the directing authority was three thousand miles distant from the people to be enumerated, and the sparseness of the population, scattered over immense areas, as well as the free and independent modes of life prevailing in many localities, made thoroughness and accuracy impossible. Superstition also opposed census-taking. In 1712, Governor Hunter undertook an enumeration of the inhabitants of New York. In writing to the home government he excused the imperfection of the returns in part by saying that "the people were deterred by a simple superstition and observation that the sickness followed upon the last numbering of the people." (Colonial History of New York, Vol. V. p. 339.) Governor Burnett, of New Jersey, in a communication to the English Board in 1726, alluding to an enumeration made in

New York three years before, said: "I would have then ordered the like accounts to be taken in New Jersey, but I was advised that it might make the people uneasy, they being generally of a New-England extraction, and thereby enthusiasts; and that they would take it for a repetition of the same sin that David committed in numbering the people, and might bring on the like judgments. This notion put me off from it at that time, but, since your Lordships require it, I will give the orders to the sheriffs that it may be done as soon as may be." (Ibid., p. 777.)

The tables prepared under the direction of the Board of Trade are so inaccurate, that the more careful of recent writers have generally preferred to construct new tables rather than rely on them. Mr. Bancroft constructs a valuable table, showing the population at different dates from 1750 to 1790. (History of the United States, Vol. IV. pp. 127, 128, note.) He uses as data the returns, computations, and official papers of current history, and also private letters and journals. Mr. Bancroft says: "He who . . . will construct retrospectively general tables from the rate of increase in America since 1790 will err very little." In 1688, the period of the English Revolution, the population of the Colonies was about 200,000. The aggregates found in three tables prepared for the Board of Trade are here presented (see Bancroft, Vol. IV. p. 128, note): —

Year.	Whites.	Blacks.	Total.
1714 . . . . .	375,750	58,850	434,600
1727 . . . . .	502,000	78,000	580,000
1754 . . . . .	1,192,896	292,738	1,485,634

Mr. J. D. B. DeBow, following Holmes's "Annals" as his chief authority, gives these other totals (Compendium U. S. Census, 1850, p. 39): —

Year.	Total.
1701 . . . . .	262,000
1749 . . . . .	1,046,000
1775 . . . . .	2,803,000

(2.) *The Continental Period.* — In the Continental Congress the question early arose, How shall the burdens of the war be distributed? During the whole struggle for independence, Congress found no more perplexing question. On the 26th of December, 1775, that body authorized and directed the emis-

sion of \$3,000,000 in bills of credit. It also resolved that the thirteen United Colonies be pledged for the redemption of these bills; that each Colony provide ways and means to sink its proportion in such manner as it sees fit; that the proportion of each Colony be determined according to the number of its inhabitants of all ages, including negroes and mulattoes; and that it be recommended to the Colonial authorities to ascertain in the most effectual manner their respective populations, and to send the returns to Congress properly authenticated. Most of the Colonies failed to comply with this recommendation. Immediately after the adoption of the Declaration of Independence, Congress began to discuss the form of a confederation to be entered into by the States. After long discussion the Articles of Confederation were perfected, and submitted to the States in 1777; but failing of an earlier ratification, they did not go into operation until March 1, 1781. The ninth article declared: "The United States in Congress assembled shall have authority . . . to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such State." In November, 1781, a resolution was introduced into the Congress recommending to the several States that they cause to be taken and transmitted to Congress the number of their white inhabitants, pursuant to the ninth article of the Confederation. The resolution failed to pass, and the article was inoperative. The financial machinery provided by the eighth article of the Confederation wholly broke down; rather, it was never set in motion. In 1783, Congress sought to induce the States to provide new machinery. An amendment to the eighth article was proposed, which declared that "All charges of war and all other expenses that have been or shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, except so far as shall be otherwise provided for, shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the whole number of white and other free citizens and inhabitants, of every age, sex, and condition, including those bound to servitude for a term of years, and three fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes in each State; which number shall be triennially taken and transmitted to the United States in Congress assem-

bled, in such mode as they shall direct and appoint." (Journals of Congress, April 18, 1783, Vol. VIII. p. 141.) This amendment did not prevail, and the Articles of Confederation remained unchanged until they were superseded by the present national Constitution. The proposed amendment, however, contains the original suggestion of the "three-fifths rule." During the Continental period no general enumeration of population was secured. Various estimates and computations were produced in Congress from time to time, but they came no nearer accuracy than those made in the Colonial period. Thus far, no complete enumeration had been effected; but it had become clear that there never could be such enumeration until the work was done by a central directing authority. It was left to the Constitution to give us first an enumeration of population, and afterwards a national census.

(3.) *The Constitutional Period.*—The framers of the Constitution had few, if any, more difficult questions to deal with than the apportionment of representatives and direct taxes. After long deliberation the matured opinion of the Federal Convention assumed the well-known form: "Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct." In a subsequent clause this enumeration is called a census, but it did not contemplate a census in the present received sense of that word. Enumerations of the people have almost always originated in military or fiscal necessities, and have been used for immediate practical ends. The varied and important uses for which statistics are now gathered are altogether modern. But while the framers of the national Constitution never contemplated a census that should answer the thousand questions of social and political science, they nevertheless provided an instrument by which many of those questions are now answered. At its second session, the First Congress passed a law to carry the constitutional provision into effect. It was approved March 1, 1790. As this law

was the model of subsequent legislation upon the same subject for sixty years, its leading provisions are here stated.

The marshals of the several judicial districts were authorized and required to cause the inhabitants within their districts, excluding Indians not taxed, to be enumerated; the marshals were empowered to appoint as many assistants as the service required; the enumeration was to commence on August 1, 1790, and was to be completed within nine months thereafter; the marshals were to file the returns with the clerks of their respective District Courts, who were directed to receive and carefully preserve the same; the aggregates were to be transmitted to the President of the United States by September 1, 1791; each assistant marshal was required to cause a correct schedule of the inhabitants enumerated within his division, duly signed, to be set up for inspection at two of the most public places within said division; and every person above sixteen years of age was required to give the census-taker all necessary information in his possession. The law further prescribed the necessary oaths, penalties, forms, and compensation. Although all inquiries pertained solely to population, the schedule incorporated in the law covered two or three items of information not strictly required by the Constitution. The inquiries were six in number: 1. Names of the heads of families; 2. Free white males of sixteen years and upwards, including heads of families; 3. Free white males under sixteen years; 4. Free white females, including heads of families; 5. All other free persons; 6. Slaves. Under this law the first real enumeration of population within the United States was made.

Just before the census law of 1800 was enacted, two learned societies memorialized Congress on the subject. The American Philosophical Society, of which Thomas Jefferson was then President, represented that the decennial census offered an occasion of great value for ascertaining sundry facts highly important to society, and not otherwise to be obtained. It therefore prayed that the next census might be so taken as to present a more detailed view of the inhabitants of the United States under several different aspects; such as the effect of soil and climate on human life, the increase of population by birth and emigration, and the conditions and vocations of the people. To gain the first of these ends, the society suggested that the population should be much more minutely analyzed with respect to age.

To gain the second, it was proposed that a table should be used, presenting in separate columns the respective numbers of native citizens, citizens of foreign birth, and aliens. To reach the third end, it was proposed that the number of free male inhabitants of all ages engaged in different professions and pursuits should be ascertained, such as merchants, agriculturists, handicraftsmen, mariners, etc. The other memorial came from the Connecticut Academy of Arts and Sciences, of which Timothy Dwight was President. It had in contemplation to collect the materials for a complete view of the natural history of man and society in this country. Its suggestions were similar to those contained in the former memorial, but were less detailed. Both memorials were presented to the Senate, January 10, 1800, and were referred to the committee already charged with drafting a census bill. They do not appear to have attracted any attention. In the year 1800 the national legislature was poorly prepared to appreciate the value of such a census as these memorialists prayed for; but it is interesting to note the fact that there were then thoughtful men in the country, who appreciated the importance of statistical investigation, and who saw that the national Constitution had provided all necessary machinery to gather its materials.

The law of 1800 contained some new features of minor importance. The schedule was considerably extended. It registered the name of the county, parish, town, etc. where the family resided; the name of the head of each family; free white males under ten years of age; free white males of ten and under sixteen; free white males of sixteen and under twenty-six; free white males of twenty-six and under forty-five; free white males of forty-five and upwards. The last five inquiries were duplicated in reference to females. All other free persons, except Indians not taxed and slaves, were also enumerated, but without distinction of age. The general direction of the census was placed in the State Department, where it remained until the passage of the present census law.

In 1810, the population schedule of 1800 was used without change or modification. The scope of the census was enlarged so as to embrace other statistics than those relating to population. An act approved May 1, 1810, amendatory of the census act approved March 1, 1810,—thereby showing that the enlargement was an afterthought,—required the marshals and their assistants, at the time for taking the enumeration, to take,



under the direction of the Secretary of the Treasury, and according to such instructions as he should give, an account of the several manufacturing establishments within their several districts and divisions. The construction of the schedule was left to the discretion of the Secretary of the Treasury. The one used was a mere aggregation of items, and evinced no skill in selecting and classifying the inquiries. For this reason, as well as for the further one that the manufacturers were but poorly prepared to co-operate with the census-takers, the results obtained were of no great value.

The census of 1820 presents no new features of marked importance. The population schedule discriminated between foreigners naturalized and not naturalized, while slaves and free colored persons were classified with respect to age. A new manufacturers' schedule was introduced, which was an improvement upon that of 1810. It comprehended fewer details, but was much more discriminating in inquiries and more scientific in arrangement. This part of the work, however, was so imperfectly done by the census-takers that the results obtained possessed but little value.

In the census of 1830 no attempt was made to obtain industrial statistics of any sort. The schedule made a more minute classification of population than had been before attempted. The number of the deaf and dumb and the blind in the three great classes of white, free colored, and slave population, was ascertained as far as practicable in conducting a new experiment.

In 1840 still other statistics of population were collected, the number of insane and idiotic people was recorded, the number of persons engaged in the great industries, such as agriculture, mining, manufactures, and commerce, was ascertained; likewise the number of Revolutionary pensioners. Several columns were added to the schedule for educational statistics of universities or colleges, academies, and grammar, primary, and common schools; the number of scholars in these schools; together with the number of white persons over twenty years of age who could not read and write. The attempt to obtain statistics of industry was renewed, and an extended though badly arranged list of questions was incorporated in the population schedule. As there was no penalty for refusing to answer these questions, in some localities the people refused to answer them, on the

ground that they were illegal and inquisitorial. A leading journal asked: "Is this Federal prying into the domestic economy of the people a precursor to direct taxes? Is nothing to escape its inquisitors or tax-gatherers? Is it worthy of the dignity and high functions of the Federal government to pursue such petty investigations?" (See "Compendium of the United States Census," 1850, p. 12.) The industrial statistics obtained, however, were the most valuable yet procured.

There have been two important events in the history of the American census: first, the incorporation in the national Constitution of the clause requiring a decennial enumeration of the people; secondly, the passage of the law under which the last three censuses have been taken.

As the time for taking the seventh census drew near, the subject began to attract an unusual degree of attention. A census board, consisting of the Secretary of State, the Attorney-General, and the Postmaster-General, was created by an act approved March 3, 1849. This board was empowered to appoint a secretary, and was charged with the duty of preparing forms, schedules, etc. for taking the next census, but was instructed not to incorporate into the schedules more than one hundred questions of all kinds. At the next session of Congress the Senate raised a special committee on the census, and imposed upon it a similar task. Several eminent statisticians were called to Washington for consultation. As the result of this preparatory work, a bill was finally matured and passed which greatly extended the sphere of the census. This act, approved May 23, 1850, is entitled "A general Act providing for the Census of 1850, and for every subsequent Census." It created a census office in the newly created Department of the Interior, and placed the taking of the seventh and each succeeding census under the charge of an officer known as the Superintendent of the Census. The six schedules incorporated in the law bore the following names by number: 1. "Free inhabitants." 2. "Slave inhabitants." 3. "Persons who died during the year ending June 1." 4. "Productions of agriculture." 5. "Products of industry." 6. "Social statistics." Two important new features were incorporated in the first schedule: the name, age, sex, and color of each person, together with the place of his birth, whether State, Territory, or country, were required. The third, or mortality schedule, contained a class of inquiries wholly new in the Amer-

ican census, which led to valuable results. The fourth, fifth, and sixth schedules related to subjects that had received some attention in previous censuses, but they were now for the first time investigated with much thoroughness. The census of 1850 was a great improvement on all its predecessors, and went far to place our census in the front rank of national enumerations. The census of 1860 was taken, under the superintendence of Mr. J. C. G. Kennedy, on the same plan as that of 1850, with but few modifications. Its statistics, however, were more complete than those of 1850.

Before the census of 1870 was taken, an attempt was made to procure a new law which should provide new machinery and remodel the old schedules.<sup>1</sup> An elaborate bill passed the House of Representatives, but failed to receive the sanction of the Senate. The census of 1870 was taken under the law of 1850, with such modifications as were required by the amendments to the Federal Constitution. Some important additions to the inquiries were also made by the Census Office, under the superintendence of Mr. Francis A. Walker. In consequence of the abolition of slavery, the old schedule relating to slaves was dropped. To meet the requirements of the Fourteenth Amendment to the Constitution, two columns were added to the population schedule: the first, to obtain the number of male citizens of the United States in each State of twenty-one years of age and upwards; the second, to obtain the number of such citizens whose right to vote is denied or abridged on other grounds than rebellion or crime. Many changes were made by the Census Office in the forms of the inquiries, by which they were rendered more definite and more easily understood. Besides the inquiries concerning "place of birth," two columns were added requiring a statement of the parentage of each person. This has enabled us to know the number of our people born of foreign parents. An inquiry was also added concerning the public debt of towns, cities, counties, and States, the results of which are very interesting. A striking new feature was the publication in the Report of fourteen finely engraved graphic maps, illustrating various classes of statistics. They represent the density of the total population; the distribution of the col-

<sup>1</sup> A full history of the attempt to procure the new law is found in the Remarks and Speech entitled "The Ninth Census," April 6, 1869, "The Ninth Census," December 16, 1869, and "The Fourteenth Amendment and Representation," December 12, 1871, all found in the first volume.

ored and foreign elements of population; the dispersion over the States of natives of the leading European countries; the illiteracy and the wealth of each section in contrast; the geographical and political divisions of the United States at each period from the organization of the government to 1870; the range in degree of four leading groups of diseases; and the range in degree of five principal agricultural products.

The ninth census was completed in a much shorter space of time than any of its predecessors. The actual enumeration of inhabitants began on June 1, 1870, and was completed on the 9th of January, 1871. On the 1st of November, 1872, the Superintendent announced the completion of his report. It is not too much to say, that the reports of the ninth census form one of the noblest contributions which any country has ever made to statistical science.

It clearly appears from this historical review, that the census of the United States is the result of a uniform and steady development. Its germ is found in the national Constitution, and its epochs of growth are the periods of the recurring decennial enumerations. Instead of one schedule, comprehending six inquiries, as in 1790, we now have five schedules, comprehending about one hundred inquiries. Two other series of facts exhibit this growth in a manner equally striking; viz. the official publication of the results of the successive censuses, and the total cost of each census. These facts are shown in the following exhibit.

1790. "Return of the whole Number of Persons within the several Districts of the United States," etc.,—an octavo pamphlet of 52 pages, published in 1792. Cost of first census, \$44,377.18.

1800. "Return of the whole Number of Persons within the several Districts of the United States," etc.,—a folio of 78 pages, published in 1801. Cost of second census, \$66,609.04.

1810. The report of this census was in two folio volumes: I. "Aggregate Amount of Each Description of Persons within the United States," etc.,—an oblong folio of 90 pages, the date of publication not named. II. "A Series of Tables showing the several Branches of American Manufactures, exhibiting them in every county of the Union, so far as they are returned in the reports of the Marshals and the Secretaries of the Territories, and of their respective Assistants, in the autumn of 1810;

together with returns of certain doubtful goods, productions of the soil, and agricultural stock, so far as they have been received," — 170 pp., 4to. Cost of third census, \$178,444.67.

1820. I. "Census for 1820," etc., — a folio of 164 pp., published in 1821. II. "Digest of Accounts of Manufacturing Establishments," etc., — a folio of 100 pp., 1823. Cost of fourth census, \$208,525.99.

1830. "Fifth Census of Enumeration of the Inhabitants of the United States," — a folio of 163 pp., 1832. (This report was so badly printed that Congress required by law a republication, which was made the same year under the immediate direction of the Secretary of State.) Cost of the fifth census, \$378,543.13.

1840. I. "Compendium of the Enumeration of the Inhabitants and Statistics of the United States," — a folio of 378 pp., 1841. II. "Sixth Census or Enumeration of the Inhabitants of the United States," — folio, 470 pp., 1841. III. "Statistics of the United States," etc., — folio, 410 pp., 1841. IV. "Census of Pensioners of Revolutionary and Military Service, with their names, ages, and places of residence," etc., — 4to, 196 pp. Cost of sixth census, \$833,370.95.

1850. I. "The Seventh Census of the United States," — 4to, 1022 pp., 1853. II. "Statistical View of the United States," — 8vo, 400 pp., 1854. III. "Mortality Statistics of the Seventh Census," etc., — 8vo, 304 pp., 1855. IV. "Digest of the Statistics of Manufactures," — 8vo, 143 pp., 1859. Cost of seventh census, \$1,329,027.53.

1860. I. "Preliminary Report of the Eighth Census, 1860," — 8vo, 284 pp., 1862. II. "Final Report." Vol. I. "Population," 694 pp., 1864; Vol. II. "Agriculture," 292 pp., 1864; Vol. III. "Manufactures," 746 pp., 1865; Vol. IV. "Mortality and Miscellaneous Statistics," 584 pp., 1866. Cost of eighth census, \$1,922,272.42.

1870. "Ninth Census of the United States." Vol. I. "The Statistics of the Population of the United States, embracing the tables of race, nationality, sex, selected ages, and occupations, to which are added the statistics of school attendance and illiteracy, of schools, libraries, newspapers and periodicals, churches, pauperism and crime, and of areas, families, and dwellings," — 4to, 804 pp., 1872. Vol. II. The Vital Statistics of the United States, embracing the tables of deaths, births, sex, and age, to

which are added the statistics of the blind, the deaf and dumb, the insane, and the idiotic,"—4to, 679 pp., 1872. Vol. III. "The Statistics of the Wealth and Industry of the United States, embracing the tables of wealth, taxation, and public indebtedness, agriculture, manufactures, mining, and the fisheries, with which are reproduced, from the volume on Population, the major tables of occupations,"—4to, 813 pp., 1872. Also, "A Compendium of the Ninth Census, compiled pursuant to a concurrent Resolution of Congress," and a "Statistical Atlas of the United States." Cost of the ninth census, \$3,336,511.41.

(4.) *State Censuses.*—In most of the States of the Union a census is required at some time within the interval between the national censuses, for the purpose of ascertaining the basis of representation in their legislatures. In some of the States (for example, Massachusetts, Rhode Island, and New York) the enumerations are made with great care, and many valuable statistics are obtained in connection with them. But in most of the States nothing more than a simple enumeration is attempted, and this is made with little accuracy. In all the States, except Connecticut, Georgia, and West Virginia, a census is authorized or required by their constitutions. The constitution of Indiana, adopted in 1851, requires a census in 1853, and every six years thereafter. The constitution of Pennsylvania requires a census to be taken once in seven years, in such manner as the legislature may direct. In Kentucky, a census was required to be taken in 1857, and every eight years thereafter. In the following States censuses are required once in ten years, beginning as follows: Tennessee, 1841; Michigan, 1854; Illinois, New York, Wisconsin, and California, 1855; Massachusetts, Kansas, Minnesota, and Oregon, 1865; Alabama, Arkansas, Florida, Iowa, Louisiana, Nebraska, Nevada, North Carolina, South Carolina, and Texas, 1875; and Missouri, 1876. The constitutions of Maryland, New Jersey, and Rhode Island permit the taking of a census once in ten years. The constitution of Mississippi requires a census to be taken once in ten years, after a day to be fixed by the legislature. The constitution of Maine permits a census once in five years, and requires it once in ten years. Delaware and New Hampshire have no provisions in their constitutions requiring a census. The constitution of Ohio permits a State census; for many years the legislature has provided for a State statistician, who makes annual reports on vital and other statistics.

The classes enumerated in the several State censuses are as follows. In Kentucky and Tennessee, qualified voters; in Pennsylvania, taxable inhabitants; in Michigan, white inhabitants and civilized persons of Indian descent not belonging to Indian tribes; in Indiana, white male inhabitants over twenty-one years of age; in Illinois, Oregon, and Texas, white inhabitants; in Maine, the whole population, except foreigners not naturalized and Indians not taxed; in Nebraska and Wisconsin, the whole population, except Indians not taxed, and soldiers and sailors in the army and navy of the United States; in New York, the whole population, except aliens and colored persons not taxed. In all the other States where a census is required, the whole population is taken.

Besides the works already referred to, the following may be consulted on the general subject: Sinclair (Sir John), "Analysis of the Statistical Account of Scotland," 8vo, Edinburgh, 1825; Macaulay's "History of England," Vol. I. chap. 3; McClintock and Strong, "Encyclopædia of Biblical, Ecclesiastical, and Theological Literature"; Smith, "Dictionary of the Bible," 3 vols., 8vo, London, 1860-63; Smith, "Dictionary of Greek and Roman Antiquities," 8vo, London, 1842; Babbage, "Ninth Bridgewater Treatise," 8vo, London, 1837; "Journal of the Statistical Society of London," Vols. I. to XXXIV., 8vo, London, 1839; Hume, "Essay on the Populousness of Ancient Nations," Philosophical Works, Vol. III., Boston edition, 1854; Captain John Graunt (Sir William Petty), "Natural and Political Observations upon the Bills of Mortality," 5th edition, 16mo, London, 1676; "Annuaire de l'Économie Politique et de la Statistique," 1<sup>e</sup>-28<sup>e</sup> année, Paris, 1844-72; "Journal des Économistes," 1<sup>e</sup>-28<sup>e</sup> année, Paris, 1841-69; "Report of the Proceedings of the International Statistical Congress, Fourth Session, at London, 1860," 4to, London, 1861; "British Almanac for the Year 1872," 12mo, London, 1873; Ad. Quetelet, "Statistique Internationale" (Population), 4to, Bruxelles, 1865; and, "Physique Sociale, ou Essai sur le Développement des Facultés de l'Homme," Bruxelles, 1869, 2 vols., 8vo; Moreau de Jonnés, "État Économique et Social de la France depuis Henri IV. jusqu'à Louis XIV.," Paris, 1867.<sup>1</sup>

<sup>1</sup> In the Cyclopædia this article is credited to Mr. Garfield and B. A. Hinsdale, President of Hiram College. It is proper to say that Mr. Garfield cast the whole article, and that he wrote all of it except the subsections "The Jewish Census," and "The Census of the United States," both of which were written by Mr. Hinsdale.

# AMNESTY.

SPEECH DELIVERED IN THE HOUSE OF REPRESENTATIVES,

JANUARY 12, 1876.

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THE Fourteenth Amendment to the Constitution, Sec. 3, imposed civil disabilities as follows: "No person shall be a Senator or Representative in Congress, or Elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each house, remove such disability."

At different times Congress legislated upon this subject, removing disabilities both from individuals and from certain disabled classes. The following act was approved, May 22, 1872: "*Be it enacted, etc.*, (two thirds of each house concurring therein,) That all legal and political disabilities imposed by the third section of the Fourteenth Article of the Amendments of the Constitution of the United States are hereby removed from all persons whomsoever, except Senators and Representatives of the Thirty-sixth and Thirty-seventh Congress, officers in the judicial, military, and naval service of the United States, heads of departments, and foreign ministers of the United States." This act left the disabilities imposed by the Fourteenth Amendment resting upon comparatively a small number of persons, — Mr. Garfield says in the following speech, upon only seven hundred and fifty.

December 15, 1875, Mr. S. J. Randall, of Pennsylvania, introduced this bill in the House of Representatives: "*Be it enacted, etc.*, (two thirds of each house concurring therein,) That all disabilities imposed and remaining upon any person by virtue of the third section of the Fourteenth Article of the Amendments of the Constitution of the United States be, and the same are hereby, removed, and each and every person is hereby forever relieved therefrom."



January 6, Hon. J. G. Blaine submitted the following, which he said he should offer as an amendment at the proper time: "*Be it enacted, etc.,* That all persons now under the disabilities imposed by the Fourteenth Amendment to the Constitution of the United States, with the exception of Jefferson Davis, late President of the so-called Confederate States, shall be relieved of such disabilities upon their appearing before any judge of a United States court, and taking and subscribing in open court the following oath, to be duly attested and recorded, namely: "I, A. B., do solemnly swear, or affirm, that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that, to the best of my knowledge and ability, I will well and faithfully discharge the duties of a citizen of the United States."

Pending this subject, Mr. Garfield addressed the House in the following speech. The day after his speech was delivered, the Randall bill was sent to the Judiciary Committee, from which it came back with an amendment requiring the person who wished to take the benefit of the proposed amnesty to take an oath of allegiance before a United States judge, or a State court of record. January 14, the bill fell, failing to receive a two-thirds vote, as the Constitution requires.

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MR. SPEAKER, — No gentleman on this floor can regret more sincerely than I do the course that the debate has taken, especially that portion which occurred yesterday. To one who reads the report of that discussion, it would be difficult to discover the real question at issue, or to learn the scope and character of the pending measure. I regret that neither the speech of the gentleman from New York,<sup>1</sup> nor that of the gentleman from Georgia,<sup>2</sup> has yet appeared in the Record. I should prefer to quote from the full report, but, replying now, I must quote them as their speeches appeared in the public journals of yesterday and to-day. But they are here, and can correct any inaccuracy of quotation. Any one who reads their speeches would not suspect that they were debating a simple proposition to relieve some citizens of political and legal disabilities incurred during the late war. For example, had I been a casual reader and not a listener, I should say that the chief proposition yesterday was an arraignment of

<sup>1</sup> Mr. Cox.

<sup>2</sup> Mr. Hill.

the administration of this government for the last fifteen years. If I had been called upon to pick out those declarations in the speech of the gentleman from Georgia which embody the topic of debate, I should have said they were these:—

“If, with the history of the last fifteen years fresh in the memory of this people, the country is prepared to talk about the grace and magnanimity of the Republican party, argument would be wasted. With masters enslaved, intelligence disfranchised, society disorganized, industry paralyzed, States subverted, legislatures dispersed by the bayonet, the people can accord to that party the verdict of grace and magnanimity, may God save the future of our country from grace and magnanimity!”<sup>1</sup>

I should say that the propositions and arguments arrayed around that paragraph were the centre and circumference of his theme. Let me, then, in a few words, try to recall the House to the actual subject of this debate.

A gentleman on the other side of the House, a few weeks ago, introduced a proposition in the form of a bill to grant amnesty to the persons who are not yet relieved of their political disabilities under the Constitution. That is a plain proposition for practical legislation. It is a very important proposition. It is a proposition to finish and complete forever the work of executing one of the great clauses of the Constitution of our country. When that bill shall have become a law, much of the Fourteenth Amendment will have ceased to be an operative part of the Constitution. Whenever so great and important a matter is proposed, a deliberative body should bring to its consideration the fullest and most serious examination. But what was proposed in this case? Not to deliberate, not to amend, not even to refer to a committee for the ordinary consideration given even to a proposition to repeal the tax on matches. No reference to anybody; but a member of the House, of his own motion and at his own discretion, launches that proposition into the House, refusing the privilege of amendment and the right of debate, except as it might come from his courtesy, and proposes to pass it, declaring as he does so that the time has come to do justice to an oppressed people.

Under circumstances like these, Mr. Speaker, a large number of gentlemen on this floor felt that they had a right—under the

<sup>1</sup> Congressional Record, January 11, 1876, pp. 345, 346.

rules of the House and in the forum of justice and fair-dealing, an undoubted right—to deliberate on the proposition; that it should be open for amendment and debate. Every expression on this side of the House showed that we were earnestly in favor of closing the drama of war so far as it relates to disabilities; that it should be closed forever,—closed in good faith and with good feeling. We deeply regretted that the attempt was made to cut us off from deliberation and amendment, and we therefore threw ourselves back upon our rights; and it is by virtue of those rights that we debate this question to-day.

The gentleman from Maine<sup>1</sup> offered a criticism on the bill. He suggested that there were two points in which it ought to be changed. One was that the seven hundred and fifty persons who are still forbidden to hold office under the Constitution should have free and absolute amnesty whenever they declare, by taking the oath of allegiance in open court, that they want it; that, like God's mercy and perfect pardon, amnesty should be granted on the asking for it. It was suggested that we should follow the rule that we have followed hitherto in all similar cases. That was the first point. Another point was suggested, that there is one person, and only one, who ought to be excepted from the operation of the proposed law. Now these criticisms may have been wise, or they may have been unwise, as a matter of statesmanship, but they were questions deserving debate, deliberation, and answer.

The proposition of the gentleman from Pennsylvania<sup>2</sup> is an affirmative one, and should be supported by affirmative reasons. If we allege any reasons against it, we ought to be answered. Two allegations have been made: first, that there ought to be an oath of allegiance before a court; and, second, that one man ought to be excepted. How have these propositions been met? How have these suggestions been answered? The first response was a speech full of brilliant wit and personalities. It was like joking at a funeral to joke on such an occasion. They have been answered, in the second place, by the speech of yesterday, which arraigns not the Republican party alone, but arraigns twenty-five millions of people, arraigns the history of the republic for fifteen years, including everything that is glorious in its record and high and worthy in its achievements. I

<sup>1</sup> Mr. Blaine.

<sup>2</sup> Mr. Randall.

was deeply pained that such an arraignment should have been made on such a subject. If the gentleman had confined himself to a reply to the argument which had been offered to show why the exception should be made, it would have been a response pertinent to the subject-matter in controversy. While I occupy the attention of the House, I shall endeavor to confine myself to the question and to the speech of the gentleman from Georgia.

Let me say in the outset that, so far as I am personally concerned, I have never voted against any proposition to grant amnesty to any human being who has asked for it at the bar of the House. Furthermore, I appeal to gentlemen on the other side who have been with me in this hall many years, whether at any time they have found me truculent in spirit, unkind in tone or feeling, toward those who fought against us in the late war. Twelve years ago this very month, standing in this place, I said this: "I believe a truce could be struck to-day between the rank and file of the hostile armies now in the field. I believe they could meet and shake hands together, joyful over returning peace, each respecting the courage and manhood of the other, and each better able to live in amity than before the war." I am glad to repeat word for word what I said that day. For the purposes of this speech I will not even claim the whole ground which the government assumed toward the late rebellion. For the sake of the present argument, I will view the position of those who took up arms against the government, in the light least offensive to them. Leaving out of sight for the moment the question of slavery, which evoked so much passion, and which was the producing cause of the late war, there were still two opposing political theories which met in conflict. Most Southern statesmen believed that their first obedience was due to their State. We believed that the allegiance of an American citizen was due to the national government, not by the way of a State capital, but in a direct line from his own heart to the government of the Union. Now, that question was submitted to the dreadful arbitrament of war, to the court of last resort, — a court from which there is no appeal, and to which all other powers must bow. To that dread court the great question was carried, and there the right of a State to secede was put to rest forever. For the sake of peace and union I am willing to treat our late antagonists as I would treat litigants in other courts, who, when

they have made their appeal, and the final judgment is rendered, pay the reasonable costs and bow to its mandates. But our question to-day is not that, yet is closely connected with it. When we have made our arguments, and the court has rendered judgment, it may be that in the course of the proceedings the court has used its discretion to disbar some of its counsellors for malpractice, for unprofessional conduct. In such a case, a motion may be made to restore the disbarred members. Applying this illustration to the present case, there are seven hundred and fifty people who are yet disbarred before the highest authority of the republic, the Constitution itself. The proposition is to offer again the privileges of official station to these people; and we are all agreed as to all of them save one.

I do not object to Jefferson Davis because he was a conspicuous leader. Whatever I may believe in theology, I do not believe in the doctrine of vicarious atonement in politics. Jefferson Davis was no more guilty for taking up arms, than any other man who went into the Rebellion with equal intelligence. But this is the question: In the high court of war did he practise according to its well-known laws, — the laws of nations? Did he, in appealing to war, obey the laws of war? or did he so violate those laws that justice to those who suffered at his hands demands that he be not permitted to come back to his old privileges in the Union? That is the whole question; and it is as plain and fair a question for deliberation as was ever debated in this House. Now, I wish we could discuss it without any passion, — without passionate thoughts, such as we heard expressed yesterday. The words were eloquent, for the gentleman from Georgia well knows how to utter passionate thoughts with all the grace and eloquence of speech.

What answer has been made to the allegations of the gentleman from Maine, — to the reasons he gave why a full amnesty should not be offered to Jefferson Davis? The gentleman from Georgia denies, and so also apparently did the gentleman from New York,<sup>1</sup> the authenticity of the charges of atrocities at Andersonville. The gentleman from New York spoke of the committee from whose report the gentleman from Maine read, as a "humbug committee." The gentleman from Georgia spoke of it as an *ex parte* and partisan committee, — a committee that wrote and reported out of its fury and rage. Now, Mr. Speaker,

<sup>1</sup> Mr. Cox.

I am unwilling that this case shall turn upon the mere authority of a committee, however high; but I want to say, without arguing its merits, that, whether the charge was just or unjust, it was a charge made by the government of the United States. I mean to place the responsibility of the charges on the high ground of the authority of the government, which no self-respecting man can call trivial and unworthy of his serious attention. On the 4th of May, 1864, the Secretary of War, speaking with the authority of one of the Executive Departments of the national government, addressed a communication to a committee of Congress, which I will read. It is found in a volume of reports of committees of the first session of the Thirty-eighth Congress, 1863-64, and is as follows:—

“WAR DEPARTMENT, WASHINGTON CITY, May 4, 1864.

“SIR, — I have the honor to submit to you a report made to this department by Colonel Hoffman, Commissary-General of Prisoners, in regard to the condition of Union soldiers who have, until within a few days, been prisoners of war at Richmond, and would respectfully request that your committee immediately proceed to Annapolis to take testimony there and examine with their own eyes the condition of those who have been returned from Rebel captivity. The enormity of the crime committed by the Rebels towards our prisoners for the last several months is not known or realized by our people, and cannot but fill with horror the civilized world when the facts are fully revealed. There appears to have been a deliberate system of savage and barbarous treatment and starvation, the result of which will be that few, if any, of the prisoners that have been in their hands during the past winter will ever again be in a condition to render any service, or even to enjoy life.

“Your obedient servant,

“EDWIN M. STANTON, *Secretary of War.*

“HON. B. F. WADE, *Chairman of Joint Committee on Conduct of the War.*”<sup>1</sup>

On the receipt of this letter, the joint committee of the two houses, known as the Committee on the Conduct of the War, went to Annapolis, to hold their sessions in the presence of the thousands of returned prisoners who had just been landed; and as the result of their deliberations, and after taking testimony on the spot from officers and men who had just returned, they reported not only their opinions, but the testimony in full, in the volume which I hold in my hand. That committee was composed of Republicans and Democrats, and its report is unan-

<sup>1</sup> House Report No. 67, 1st Sess. 38th Cong., p. 4.

imous. The Democrats on the committee were among the foremost Democratic members of the Senate and House. One of them was Mr. Odell, of New York, a gentleman not now living, who was one of the best men that party has had on the floor of this House since I have been a member. Another was Senator Harding, of Oregon. That committee made an elaborate report, from which I will read a few paragraphs: —

“The evidence proves, beyond all manner of doubt, a determination on the part of the Rebel authorities, deliberately and persistently practised for a long time past, to subject those of our soldiers who have been so unfortunate as to fall into their hands to a system of treatment which has resulted in reducing many of those who have survived and been permitted to return to us to a condition, both physically and mentally, which no language we can use can adequately describe. Though nearly all the patients now in the Naval Academy Hospital at Annapolis and in the West Hospital in Baltimore have been under the kindest and most intelligent treatment for about three weeks past, and many of them for a greater length of time, still they present literally the appearance of living skeletons, many of them being nothing but skin and bone; some of them are maimed for life, having been frozen while exposed to the inclemency of the winter season on Belle Isle, being compelled to lie on the bare ground without tents or blankets, some of them without overcoats or even coats, with but little fire to mitigate the severity of the winds and storms to which they were exposed. . . .

“It will be observed from the testimony, that all the witnesses who testify upon that point state that the treatment they received while confined at Columbia, South Carolina, Dalton, Georgia, and other places, was far more humane than that they received at Richmond, where the authorities of the so-called Confederacy were congregated, and where the power existed, had the inclination not been wanting, to reform those abuses and secure to the prisoners they held some treatment that would bear a public comparison to that accorded by our authorities to the prisoners in our custody. Your committee, therefore, are constrained to say that they can hardly avoid the conclusion, expressed by so many of our released soldiers, that the inhuman practices herein referred to are the result of a determination on the part of the Rebel authorities to reduce our soldiers in their power, by privation of food and clothing, and by exposure, to such a condition that those who may survive shall never recover so as to be able to render any effective service in the field.”<sup>1</sup>

I am not now discussing the merits of the charge at all, but am showing that such is, and for twelve years has been, the au-

<sup>1</sup> House Report No. 67, 1st Sess. 38th Cong., pp. 1, 3.

thoritative official charge of an Executive Department of the government, and of a joint committee of the two houses. So much for the responsible character of the charge. To this I should add, that this charge is believed to be true by a great majority of the people whom we represent on this floor. I now inquire, Is this charge true?

The gentleman from Georgia denies generally the charge that atrocities were practised upon our prisoners at Andersonville. He makes a general denial, and asserts that Mr. Davis did observe the humane rules of modern warfare. As a proof, he quotes the general order issued by the President of the Confederate government, under which the prison was established, — an order providing that it should be located on healthy ground, where there was an abundance of good water, and trees for healthful and grateful shade. That is a perfect answer so far as it goes. But I ask how that order was executed? To whose hands was committed the work of building the Andersonville prison? To the hands of General Winder. And who was General Winder? He was a man of whom the Richmond Examiner used these words the day he took his departure from Richmond to assume command of the proposed prison: "Thank God that Richmond is at last rid of old Winder. God have mercy upon those to whom he has been sent!" He was, as the testimony in the Wirz trial shows, the special and intimate friend of Jefferson Davis, the President of the Confederacy, by whom he was detailed on this business, and detailed with the send-off that I have read you from a paper of his own city warmly in the interest of the Rebel cause. What next? How did General Winder execute the order after he went to Andersonville?

I turn to the record of the Wirz trial, and read from it only such authorities as the gentleman from Georgia recognizes, — officers of the Rebel army. The gentleman stated yesterday that there was nothing in this book connecting the head of the Confederate government with the Andersonville atrocities. Before I am through we shall see. On the 5th of January, 1864, a report was made concerning those atrocities by D. T. Chandler, a lieutenant-colonel of the Confederate army. This report was offered in evidence in the Wirz trial, and Colonel Chandler was himself a witness at that trial, and swears that the report is genuine. I quote the following from the report: —



“ANDERSON, January 5, 1864.

“COLONEL, — Having, in obedience to instructions of the 25th ultimo, carefully inspected the prison for Federal prisoners of war and post at this place, I respectfully submit the following report : —

“The Federal prisoners of war are confined within a stockade fifteen feet high, of roughly hewn pine logs about eight inches in diameter, inserted five feet into the ground, inclosing, including the recent extension, an area of five hundred and forty by two hundred and sixty yards. A railing around the inside of the stockade, and about twenty feet from it, constitutes the “dead line,” beyond which the prisoners are not allowed to pass, and about three and one fourth acres near the centre of the enclosure are so marshy as to be at present unfit for occupation, reducing the available present area to about twenty-three and one half acres, which gives somewhat less than six square feet to each prisoner. Even this is being constantly reduced by the additions to their number. A small stream passing from west to east through the enclosure, at about one hundred and fifty yards from its southern limit, furnishes the only water for washing accessible to the prisoners. Some regiments of the guard, the bakery, and the cook-house, being placed on the rising grounds bordering the stream before it enters the prison, renders the water nearly unfit for use before it reaches the prisoners. . . .

“D. T. CHANDLER,

*Assistant Adjutant and Inspector General.*

“COL. R. H. CHILTON, *Assistant Adjutant and Inspector General.*”<sup>1</sup>

Here is an official exhibit of the manner in which the officer detailed by Jefferson Davis chose the place with respect to health, running water, and agreeable shade. He chose a piece of forest ground that had a miasmatic marsh in the heart of it and with a small stream running through it; but the troops stationed outside of the stockade were allowed to defile the pure water before it could reach the stockade; and then, as if in the very refinement of cruelty, as if to make a mockery of the order quoted by the gentleman from Georgia, he detailed men to cut down every tree and shrub in the enclosure, leaving not a green leaf to show where the forest had been. And subsequently, when the burning sun of July was pouring down its fiery heat upon the heads of those men, with but six square feet of ground to a man, and when a piteous petition was made by the prisoners to Winder to allow details to go outside, under guard, and cut pines from the forest to make arbors under which they could shelter themselves, they were answered with all the loathsome brutality of malignant hate, that they

<sup>1</sup> Wirz Trial, (Washington, 1868,) p. 224.

should have no bush to shelter them. And thus, under the fierce rays of the Southern sun, they miserably perished. These last statements are made on the authority of Ambrose Spencer, a planter of Georgia, who resided within five miles of Andersonville. I quote from his testimony: —

“Between the 1st and 15th of December, 1863, I went up to Andersonville with W. S. Winder, and four or five other gentlemen, out of curiosity, to see how the prison was to be laid out. . . . I asked him if he was going to erect barracks or shelter of any kind. He replied that he was not; that the damned Yankees who would be put in there would have no need of them. I asked him why he was cutting down all the trees, and suggested that they would prove a shelter to the prisoners from the heat of the sun, at least. He made this reply, or something similar to it: ‘That is just what I am going to do; I am going to build a pen here that will kill more damned Yankees than can be destroyed in the front.’ Those are very nearly his words, or equivalent to them.”<sup>1</sup>

So much for the execution of the President's order to locate the prison.

But I am not yet done with the testimony of Colonel Chandler. A subsequent report was made by him in the month of August. He went back and re-examined the horrors of that prison-pen, and as the result of his examination he made a second report, from which I quote the last few sentences: —

“ANDERSONVILLE, August 5, 1864.

“COLONEL: . . . My duty requires me respectfully to recommend a change in the officer in the command of the post, Brigadier-General J. H. Winder, and the substitution in his place of some one who unites both energy and good judgment with some feeling of humanity and consideration for the welfare and comfort (so far as is consistent with their safe keeping) of the vast number of unfortunates placed under his control; some one who at least will not advocate deliberately and in cold blood the propriety of leaving them in their present condition until their number has been sufficiently reduced by death to make the present arrangement suffice for their accommodation; who will not consider it a matter of self-laudation and boasting that he has never been inside of the stockade, a place the horrors of which it is difficult to describe, and which is a disgrace to civilization; the condition of which he might, by the exercise of a little energy and judgment, even with the limited means at his command, have considerably improved. . . .

“D. T. CHANDLER,

*Assistant Adjutant and Inspector-General.*

“COL. R. H. CHILTON, *Assistant Adjutant and Inspector General C. S. A., Richmond, Virginia.*”<sup>2</sup>

<sup>1</sup> Wirz Trial, p. 359.

<sup>2</sup> *Ibid.*, pp. 226, 227.

Now, what do honorable gentlemen suppose would naturally be done with such a report as that? Remember that Colonel Chandler was a witness before the court that tried Wirz, and re-affirmed every word of this report. If he is living, I would gladly make a pilgrimage to see him and thank him for the humanity and tenderness with which he treated my unfortunate comrades. So anxious was he that the great crime of Winder should be rebuked, that he went to Richmond, and in person delivered his report to the Secretary of War, a member, of course, of the cabinet of Jefferson Davis. If I am not correct in this, I believe there is a member of that cabinet now on this floor who can correct me. Of course, being a soldier, Colonel Chandler first delivered his report to the Adjutant-General, and that officer, General Cooper, on the 18th of August, 1864, wrote upon the back of the report this indorsement: —

“ADJUTANT AND INSPECTOR GENERAL’S OFFICE,  
August 18, 1864.

“Respectfully submitted to the Secretary of War. The condition of the prison at Andersonville *is a reproach to us as a nation*. The engineer and ordnance departments were applied to, and authorized their issue, and I so telegraphed General Winder. Colonel Chandler’s recommendations are coincided in.

“By order of General S. Cooper.

“R. H. CHILTON,  
*Assistant Adjutant and Inspector General.*”<sup>1</sup>

Not content with that indorsement, Colonel Chandler went to the office of the Secretary of War himself; but, the Secretary being absent at the moment, the report was delivered to the Assistant Secretary of War, J. A. Campbell, who wrote below General Cooper’s indorsement these words, with his signature: “These reports show a condition of things at Andersonville which calls very loudly for the interposition of the department, in order that a change be made.”

MR. REAGAN. Does not the gentleman know that the Adjutant-General could only have made such an order by direction of the President?

I do not know what the habit was in the Confederacy. It is not so in this government.

MR. REAGAN. The gentleman will allow me to say, that all persons familiar with the business of that office know that the Adjutant-General

<sup>1</sup> Wirz Trial, p. 230.

executes direct orders made by the President, but has not himself authority to make such orders.

That may have been the rule in the Confederate government; but it was never the rule here. The Adjutant-General of our army signs no order except by direction of the Secretary of War. The Adjutant-General is the clerk of the Secretary of War, and the Secretary of War is in turn the clerk of the President. But the gentleman from Texas<sup>1</sup> will soon see that he cannot defend Davis by the indorsement of General Cooper. The report did not stop with the Adjutant-General. It was carried up higher and nearer to Davis. It was delivered to Assistant Secretary Campbell, who wrote the indorsement I have just read. The report was lodged in the Department of War, whose chief was one of the confidential advisers of Mr. Davis,—a member of his official family. What was done with it? The record shows, Mr. Speaker, that a few days thereafter an order was made in reference to General Winder. To what effect? Promoting him! Adding to his power in the field of his infamy! He was made Commissary-General of all the prisons and prisoners throughout the Confederacy. That was the answer that came as the result of this humane report of Colonel Chandler; and this new appointment of Winder came from Mr. Seddon, the Confederate Secretary of War, by order of the President. All appointments were made by the President, for the gentleman from Georgia says that they carried our Constitution with them, and hugged it to their bosoms. But that is not all. The testimony in the Wirz trial shows that at one time the Secretary of War himself became shocked at the brutality of Winder, and, in a moment of indignation, relieved him from command. For my authority upon this point I refer to the testimony of Cashmyer, a detective of Winder's, who was a witness before the Wirz court. That officer testified that when Mr. Seddon, Secretary of War, wrote the order relieving Winder, the latter went with it to Jefferson Davis, who immediately wrote on the back of it, "This is entirely unnecessary and uncalled for." Winder appears to have retained the confidence and approval of Davis to the end, and he continued on duty until the merciful providence of God struck him dead in his tent in the presence of the witness who gave this testimony.

Now, who will deny that in the forum of law we do trace the

<sup>1</sup> Mr. Reagan.

responsibility for these atrocities to the man who is before us to be relieved of all his political disabilities? If not, let gentlemen show it. Wipe out the charge, and I will be the first man here to vote to relieve him of his disabilities.

Winder was allowed to go on. What did he do? I will give only results, not details. I will not harrow my own soul by the revival of those horrible details. There is a group of facts in military history well worth knowing, which will illustrate the point I am discussing. The great Napoleon did some fighting in his time, as did his great antagonist, the Iron Duke. In 1809 was fought the battle of Talavera; in 1811, the battle of Albuera; in 1812, the battle of Salamanca; in 1813, Vittoria; in 1815, the battles of Ligny, Quatre Bras, Waterloo, Wavre, and New Orleans; and in 1854 and 1855, the battles of the Crimean war. The number of men in the English army who were killed in these battles, or died of wounds received in them, amounted, in the aggregate, to 12,928. But this Major-General Winder, from April, 1864, to April, 1865, tumbled into the trenches of Andersonville the dead bodies of 12,644 prisoners, — only 284 less than all the Englishmen who fell, or died of wounds received, in the great battles that I have named. Now, Mr. Speaker, I have simply given these results. Percentages pale and fade away in the presence of such horrible facts.

And the gentleman from Georgia denies the charge of atrocities at Andersonville, and charges us with greater ones! I will give his words as they are quoted in the morning papers: "When the gentleman from Maine speaks again, let him add that the atrocities of Andersonville do not begin to compare with the atrocities of Elmira, of Fort Douglas, or of Fort Delaware; and of all the atrocities, both at Andersonville and Elmira, the Confederate government stands acquitted from all responsibility and blame." I stand in the presence of that statement with an amazement that I am utterly incapable of expressing. I look upon the serene and manly face of the gentleman who uttered it, and I wonder what influence of the supernatural or nether gods could have touched him with madness for the moment, and led him to make that dreadful statement. I pause, and ask the three Democrats on this floor who happen to represent the Congressional districts wherein are located the three places named, if there is one of them who does not know that this charge is fearfully and awfully untrue. [A pause.]

Their silence answers me. They are strangers to me, but I know they will repel the charge with all the energy of their manhood.

[Here Mr. Garfield yielded the floor while the following letter, offered by Mr. Platt, was read, and Mr. Walker made the accompanying statement.

“BROOKLYN, N. Y., January 12, 1876.

“TO HON. T. C. PLATT, *House of Representatives, Washington, D. C.* : —

“The facts justify your denial of cruelty, inhumanity, or neglect in the treatment of prisoners at Elmira. There was no suffering there which is not inseparable from a military prison. First, there was no dead-line. No prisoner was ever shot for attempting to escape. Second, the food was ample and of the best quality. Thousands of dollars were expended in the purchase of vegetables, in addition to the army ration. No Congressman in Washington eats better bread than was given daily to the prisoners. The beef was good, and of the same quality and quantity as that distributed to our own soldiers guarding the camp. Third, the dead were not buried in trenches, but the remains were placed in neat coffins and buried in separate graves, with a head-board bearing the name, company, and regiment, and time of death, and all were buried in the public cemetery at Elmira. Fourth, there was no better supplied military hospital in the United States than the hospital in the prison camp. Fifth, all the prisoners were comfortably quartered in new wooden barracks, built expressly for them. From the time I took command, in September, all the sawmills in the vicinity of Elmira were kept constantly running to supply lumber for buildings, etc. The barracks for prisoners were first built, and in the extreme cold weather of winter the prisoners were all in barracks, while the soldiers guarding them were still in tents. I was criticised for this in the *Army and Navy Journal*, I think it was, at the time, by an officer of our army. Sixth, the camp and all the buildings were well policed, and kept scrupulously clean. Seventh, the mortality which prevailed was not owing to neglect or want of sufficient supplies or medical attention, but to other and quite different causes.

“B. F. TRACY,

*Late Commandant Military Post Union.*”

MR. WALKER. Mr. Speaker, as the member from the district in which Elmira Depot is located, I take pleasure in indorsing every word of Colonel Tracy's despatch. I was almost daily at Elmira during the war, and I know that Confederate prisoners had the same care and treatment that the Union soldiers had, and I never heard a complaint.]

Mr. Speaker, the lightning is our witness. From all quarters of the republic denials are pouring in upon us. Since I came

to the House this morning, I have received the following despatch from an honored soldier of Ohio, which tells its own story: —

“CLEVELAND, OHIO, January 12, 1876, — 10.33 A. M.

“TO GENERAL GARFIELD, *House of Representatives*: —

“By authority of Secretary of War I furnished fifteen thousand Rebel prisoners at Elmira with the same rations — coffee, tobacco, coal, wood, clothing, barracks, medical attendance — as were given to our own soldiers. The dead were decently buried in Elmira cemetery. All this can be proved by Democrats of that city.

“GENERAL J. J. ELWELL.”

MR. HILL. By permission of the gentleman from Ohio, I desire to say that there was no purpose on my part, by any of my remarks on yesterday, to charge inhumanity upon anybody at Elmira, or anywhere else. I only read the evidence from official sources, as I understood it. I simply say that I was reading the evidence of cruelties, in the language of that letter, “inseparable from prison life.” Then I read of the small-pox epidemic at Elmira, and its character. But the remark which the gentleman is now commenting on was not connected with any charge of inhumanity upon any person in the world. I wish it distinctly understood that I meant to charge inhumanity upon nobody. I was simply speaking of those horrors that are inseparable from all prison life; and I wound up my statement by saying that the official reports of Secretary Stanton, on the 19th of July, 1866, after the war was over, gave the relative mortality of prisoners in Federal hands and prisoners in Confederate hands, and that the mortality of Confederate prisoners in Northern prisons was twelve per cent, while the mortality of Federal prisoners in Confederate hands was less than nine per cent. Now, I simply said that, judging by that test, there was more atrocity (if you please to call it so) — I meant, of course, mortality — in the prisons of the North than in those of the South. Let the gentleman take the benefit of that statement. I simply referred to the report of Secretary Stanton. I do not undertake to say to what special cause the mortality on either side was attributable. I say it was attributable to those horrors inseparable from prison life everywhere; and I simply entered my protest against gentlemen seeking to stir up those old past horrors on either side to keep alive a strife that ought to be buried. That is all.

I am glad to hear what the gentleman says; and to give it more force by contrast, I quote again the words he used, as reported in the newspapers this morning: “When the gentleman from Maine speaks again, let him add that the atrocities of Andersonville do not begin to compare with the atrocities of

Elmira, of Fort Douglas, or of Fort Delaware; and of all the atrocities, both at Andersonville and Elmira, the Confederate government stands acquitted from all responsibility and blame."<sup>1</sup>

I refer to it to show why I could not —

MR. HILL. I have no doubt the gentleman's motive is good; but he will permit me to remind him that what he has just read was said by me after reading Secretary Stanton's report; and of course, while I mentioned prison places at the North, I did not mean to charge inhumanity upon any one as a class.

But let me say another word to close this branch of the subject. The only authority introduced to prove the pretended atrocity at Elmira was an anonymous letter, printed in the New York World. The Roman soldiers who watched at the sepulchre of the Saviour of mankind attempted to disprove his resurrection by testifying to what happened while they were asleep. Bad as this testimony was, it was not anonymous; but in this case the testimony is that of a shadow, an initial, — nobody. *Stat nominis umbra*. What the substance was we know not. But anonymous as this letter is, it would have been well for the cause of justice if the gentleman had been kind enough to quote it all. I read, I believe, from the very book from which the gentleman quoted, — the Life of Davis, — a sentence omitted by him, but which I hope he will have printed in his speech. It is this: "The facts demonstrate that, in as healthy a location as there is in New York, with every remedial appliance in abundance, with no epidemic," etc. So that even this anonymous witness testifies that we planted our Elmira prison in as healthy a place as there is in the State of New York. It ought to be added, that the small-pox broke out in that prison very soon after the date of this letter; and the mortality that followed was very much greater than in any other prison in the North.

How we have kept alive our vindictiveness will be seen by the fact that Congress, at its last session or the session before the last, passed a law making the Rebel cemetery at Elmira a part of the

<sup>1</sup> Neither this quotation, nor anything answering to it, can be found in Mr. Hill's speech in the Record. It will be observed that he does not, in his explanatory statements, claim that the quotation did him injustice, but only the construction placed upon it. It seems evident that Mr. Hill toned his speech down before its publication.



national-cemetery system; and to-day, this malignant Administration, this ferocious Constitution-hating and South-hating Administration, is paying an officer for tenderly caring for the enclosure that holds the remains of these outraged soldiers! At another place, Finn's Point, in Virginia, we have within the past few months brought another Rebel cemetery under the law and protection of our national-cemetery system. All this out of the depths of our wrath and hatred for our Southern brethren!

MR. HILL. In response to what the gentleman has said, I desire to state as a fact what I personally know, that on the last occasion of decorating soldiers' graves in the South, our people, uniting with Northern soldiers there, decorated in harmonious accord the graves of the fallen Federals and the graves of the fallen Confederates. It is because of this glorious feeling that is being awakened in the country that I protest against the revival of these horrors about any prison.

So do I. I wish this same fraternal feeling would come out of the graveyard and display itself toward the thirty or forty maimed Union soldiers who were on duty around this Capitol, but who have been displaced by an equal number of soldiers on the other side.

There is another point that the gentleman made which I am frank to say I am not now able to answer.

[Here followed a long colloquy touching the appointees of the House, and points of order, in which several members participated. Mr. Garfield proceeded:—]

Mr. Speaker, I was about to refer to another point made by the gentleman from Georgia in his statement of the number of prisoners taken by us and taken by them, and the relative number of deaths. I have this morning received from the Surgeon-General references to all the pages of official reports on that subject, but I have not been able, in the hurried moments of the session since I arrived here, to examine the figures. The gentleman from Illinois<sup>1</sup> has made up a part of the statement, which I am now able to present. That statement shows that during the war we took 476,169 prisoners, while on the other side they took 188,145 prisoners. This is a statement to which the Surgeon-General referred me in a note received since I took my seat in the House this morning; it is in a printed report on the treatment of prisoners of war by the Rebel authorities,<sup>2</sup> which gentlemen can examine at their leisure.

<sup>1</sup> Mr. Burchard.

<sup>2</sup> Third Session of Fortieth Congress, p. 228.

It ought to be added in this connection, that the conscription laws of the Confederate Congress forced all able-bodied citizens between the ages of seventeen and fifty into the service, while our laws limited the conscription to the usual military ages. This, of course, put into their army a large number of immature boys and broken-down old men, among whom the mortality would naturally be greater than in an army made up of men between the ordinary ages.

I turn now to another point. The gentleman from Georgia makes another answer concerning these atrocities, — that whatever was suffered by the prisoners, for at least a considerable portion of the time, was in consequence of our refusal to make an exchange of prisoners, — was because we would not give them the fresh men in our prisons, and take in return our shadows and skeletons that were in theirs. This is a part, and an important part, of a piece of history which must not be omitted in this debate; and I will very briefly refer to its leading points.

There was much trouble about the exchange of prisoners between the two belligerents; first, because for a long time we did not acknowledge the Confederates as belligerents. We hoped under the ninety-days theory of Mr. Seward to get through without recognizing them, but that hope failed. Our enemies were as gallant a people as ever drew the sword, and we were compelled to recognize them as a belligerent power. Finally, an arrangement was made under which it was possible to exchange prisoners; and on the 22d of July, 1862, a cartel was agreed upon between the belligerents, which provided that within ten days after a prisoner was taken he should be paroled and sent home; and whenever it was announced by either side that a certain number was relieved from the parole, a corresponding number should be relieved on the other side, and in that way the exchange was effected. There were two points of delivery of prisoners. One was at Vicksburg. Another was at a point near Dutch Gap, in Virginia. And the exchange went on for some time, until a series of events occurred which interrupted it. To these events I desire to call attention for a moment. The first in order of time was a proposition which was read before the House yesterday, and which I incorporate in my remarks, not for the sake of making any personal point, but to preserve the continuity of the history. In October, 1862, a reso-

lution was introduced into the Confederate Senate by Senator Hill, of Georgia, —

“That every person pretending to be a soldier or officer of the United States, who shall be captured on the soil of the Confederate States after the 1st of January, 1863, shall be presumed to have entered the territory of the Confederate States with intent to excite insurrection and to abet murder, and that, unless satisfactory proof be adduced to the contrary before the military court before which his trial shall be had, he shall suffer death.”

That was the first step in the complication in regard to the exchange of prisoners of war. That resolution appears to have borne early fruits. On the 22d of December, 1862, Jefferson Davis, the man for whom amnesty is now being asked, issued a proclamation, a copy of which I hold in my hand. I read a few paragraphs: —

“First. That all commissioned officers in the command of said Benjamin F. Butler be declared not entitled to be considered as soldiers engaged in honorable warfare, but as robbers and criminals deserving death; and that they and each of them be, whenever captured, reserved for execution.”

“Third. That all negro slaves captured in arms be at once delivered over to the executive authorities of the respective States to which they belong, to be dealt with according to the laws of said States.

“Fourth. That the like orders be executed in all cases with respect to all commissioned officers of the United States, when found serving in company with said slaves in insurrection against the authorities of the different States of this Confederacy.”

Two great questions were thus raised: first, that a certain class of officers, merely because they served under General Butler, should be declared not entitled to the rights of prisoners of war, but should be put to death when taken. These men were serving, not Benjamin F. Butler, but the Union. They did not choose him as their general. They were assigned to him; and by this proclamation that assignment consigned them to death at the hands of their captors. But the second question was still more important. It was an order that all men who had been slaves, and had enlisted under the flag of the Union, should be denied all the rights of soldiers, and when captured should be dealt with as runaway slaves under the laws of the States where they formerly belonged, and that commissioned officers who commanded them were to be denied the rights and privileges of

prisoners of war. The decision of the Union people everywhere was, that, great as was the suffering of our poor soldiers at Andersonville and elsewhere, we would never make an exchange of prisoners until the manhood and the rights of our colored soldiers were acknowledged by the belligerent power. And for long weary months we stood upon that issue, and most of the suffering occurred while we waited for that act of justice to be done on the other side.

To enforce Mr. Davis's proclamation a law was passed by the Confederate Congress, reported, doubtless, from the Judiciary Committee by the gentleman who spoke yesterday, and approved May 1, 1863, in which the principles of the proclamation were embodied and expanded. Here are three sections:—

“SEC. 4. That every white person, being a commissioned officer, or acting as such, who, during the present war, shall command negroes or mulattoes in arms against the Confederate States, or who shall arm, train, organize, or prepare negroes or mulattoes for military service against the Confederate States, or who shall voluntarily aid negroes or mulattoes in any military enterprise, attack, or conflict in such service, shall be deemed as inciting servile insurrection, and shall, if captured, be put to death, or be otherwise punished, at the discretion of the court.

“SEC. 5. Every person, being a commissioned officer, or acting as such, in the service of the enemy, who shall during the present war excite, attempt to excite, or cause to be excited, a servile insurrection, or who shall incite or cause to be incited a slave to rebel, shall, if captured, be put to death, or be otherwise punished, at the discretion of the court.”

“SEC. 7. All negroes and mulattoes who shall be engaged in war or be taken in arms against the Confederate States, or shall give aid or comfort to the enemies of the Confederate States, shall, when captured in the Confederate States, be delivered to the authorities of the State or States in which they shall be captured, to be dealt with according to the present or future laws of such State or States.”

“Approved, May 1, 1863.”

Now, Mr. Speaker, I am here to say that this position taken by the head of the Confederacy, indorsed by his Congress, and carried into execution by his officers, was the great primal trouble in all this business of the exchange of prisoners. There were minor troubles, such as claims by both sides that paroles had been violated. I think General Halleck reported that a whole division of four brigades, Stevenson's division, which had not been properly exchanged, fought us at Lookout Mountain; but

that may have been a mistake. It was one of the points in controversy. But the central question was that the government of the United States had committed itself to the doctrine that the negro was a man and not a chattel, and that being a man he had a right to help us in fighting for the Union; and we would perish rather than that he, being a soldier, should not be treated as a soldier. To show that I am not speaking at random, I will read from an official report which I hold in my hand, a report of the Secretary of War on the difficulty of the exchange of prisoners. This paper is dated August 24, 1864. I think it is a misprint for 1863; but no matter as to that. General Meredith reported: —

“To my demand ‘that all officers commanding negro troops, and negro troops themselves, should be treated as other prisoners of war, and be exchanged as such,’ Mr. Ould declined acceding, remarking that they (the Rebels) would ‘die in the last ditch’ before giving up the right to send slaves back to slavery as property recaptured. . . .

“I am, General, very respectfully, your obedient servant,

“S. A. MEREDITH,

*Brigadier-General and Commissioner for Exchange.*

“MAJOR-GENERAL E. A. HITCHCOCK, *Commissioner for Exchange of Prisoners, Washington, D. C.*”

Thus it appears that in the negotiation, as late as the month of August, 1863, the refusal of the Rebel authorities to treat the negro as a man and a soldier prevented the exchange of prisoners. One other point in that connection, and I will leave this subject.

I have here a letter, dated March 17, 1863, written by Robert Ould, Rebel agent for the exchange of prisoners, and addressed to that man of “bad eminence,” General Winder, in which Mr. Ould, speaking of his arrangement for the exchange of prisoners, says: “The arrangements that I have made work largely in our favor. We get rid of a set of miserable wretches, and receive some of the best material I ever saw.” Now, that single line, in a communication between two men, not *par nobile fratrum*, but *par turpe diabolorum*, is proof that the object of the atrocities at Andersonville was to make our men useless to us on their exchange; and it throws light upon the charge about our treatment of prisoners held in the North.

Now, Mr. Speaker, I return from all this to the direct discussion of the question touching Jefferson Davis. It seems to

me incontrovertible, that the records adduced lay at his door the charge of being himself the author, the conscious author, through his own appointed instrument, of the terrible work at Andersonville, for which the American people still hold him unfit to be admitted among the legislators of this nation.

Before I leave that subject, let me say another word on another point. I see around me here a large number of gentlemen who did not hesitate to take the oath of allegiance to the government of the United States, who did not hesitate to ask to be relieved of their political disabilities; and I ask if any one of them, in the years that they have served here with us, has ever been taunted with the fact that he was thus relieved of disabilities at his own request? Can any one of them recall a discourteous remark that has ever been made here in debate because he had asked and accepted the amnesty of the government? Do you want us to say that the remaining seven hundred and fifty need not ask what you asked? Do the honorable gentlemen who are here to-day want easier terms for the others than the terms on which they themselves came back?

MR. HILL. I desire to ask a question for information, for I want the facts, and my recollection differs from that of the gentleman from Ohio. The act of 1872, granting a partial amnesty to quite a large number, does not, as I understand it, make any such requisition as is contained in the amendment of the gentleman from Maine.

The gentleman is right.

MR. HILL. It was an unconditional amnesty, like that contained in the bill of the gentleman from Pennsylvania. It required no oath or anything of the sort.

Certainly not.

MR. HILL. I am very sure that it was under that act that I was relieved. And I never applied for any amnesty at all, but I would not have felt it any loss of pride had I done so.

Certainly not. I remember very well that we relieved a large number of soldiers in one act. But we did not relieve those who, at the time the Rebellion broke out, held offices and commissions under the government, which they had sworn before God they would protect and defend, and who afterward went into the Rebellion. Those are the people that we have required to ask for amnesty.

MR. HILL. Allow me to call the attention of the gentleman to a correction of his statement. The act of Congress of 1872 relieved all persons, as I understand it, from disabilities who had been members of any State legislature, or had been an executive or judicial officer of any State, and relieved all in civil or military service, or who had even been in the Congress of the United States, excepting the Thirty-fifth or Thirty-sixth Congress.

The Thirty-sixth and Thirty-seventh Congresses.

MR. HILL. Well, one or the other. It relieved all those who were not in Congress at the time of secession, all members of State legislatures, all civil and military officers, except the few remaining, some seven hundred and fifty. You granted them relief without any condition whatever.

The gentleman will observe that those to whom he refers did not, at the time the war broke out, hold commissions as United States officers.

MR. HILL. Yes.

We excepted from amnesty all those who held in their hands a commission from the Federal government, and who had sworn to be true to their commission; and we did this because they had added to rebellion — I must use words — the crime of perjury in the eyes of the law.

MR. TUCKER. Do I understand the gentleman from Ohio, speaking here to-day of kindness to gentlemen on this side of the House, to say that any man who held a commission under the United States at the time the war broke out, and who went into secession, was guilty of perjury?

I will repeat precisely the measured words I used. I said "the crime of perjury in the eyes of the law." In view of the fact of flaming war, I do not say those men should be regarded as ordinary perjurers; I never said that. But what will the gentleman call it? By what other name does the law know it? I did not make the dictionary, nor did I make the law. The gentleman certainly knows me well enough to know that I am incapable of making a reference to any personal matter in this discussion. He must see that I am using the word as it is used in the law.

MR. TUCKER. I do not ask to interrupt the gentleman that I may excuse myself, but to excuse some of the noblest men that I have ever known, and of whom the gentleman might be proud to claim to be a peer.

There were some passages in the speech of yesterday which make me less reluctant to speak of breaking oaths. The gentleman said: —

“We charge all our wrongs upon that ‘higher-law’ fanaticism that never kept a pledge nor obeyed a law. The South did seek to leave the association of those who, she believed, would not keep fidelity to their covenants; the South sought to go to herself; but so far from having lost our fidelity for the Constitution which our fathers made, when we sought to go we hugged that Constitution to our bosoms and carried it with us. . . . But to you, gentlemen, who seek still to continue strife, and who, not satisfied by the sufferings already endured, the blood already shed, the waste already committed, insist that we shall be treated as criminals and oppressed as victims only because we defended our convictions, — to you we make no concessions. To you, who followed up the war after the brave soldiers that fought it had made peace and gone to their homes, — to you we have no concessions to offer. Martyrs owe no apologies to tyrants.”<sup>1</sup>

There is a certain sublimity of assumption in this which challenges admiration. Why, the very men of whom we are talking, who broke their oaths of office to the nation, — when we are speaking of relieving them, we are told that they went out because we broke the Constitution and would not be bound by oaths. Did we break the Constitution? Did we drive them out? I invoke the testimony of Alexander H. Stephens, now a member of this House, who, standing up in the Secession Convention of Georgia, declared that there was no just ground for Georgia’s going out; declared that the election of a President according to the Constitution was no justifiable ground for secession, and declared that, if under the circumstances the South should go out, she would herself be committing a gigantic wrong, and would call down upon herself the thunders and horrors of civil war. Thus spoke Alexander H. Stephens in 1860. Over against anything that may be said to the contrary, I place his testimony that we did not force the South out; that they went out against all the protests, and prayers, and humiliation that a great and proud nation could make without absolute disgrace.

MR. DAVIS. The gentleman has used a term that touches the honor of more men than one in this House and in the South. I desire, therefore, to ask him this question: Whether the war did not result from a dif-

<sup>1</sup> Congressional Record, January 11, 1876, p. 351.



ference of views between gentlemen of the North and gentlemen of the South with regard to what was the true construction of the Constitution. That being so, I desire to ask him further, whether the oath of fidelity to the Constitution was best observed by those people of the section which he represents, — those of his own party, who declared that there was a law higher than the Constitution, and declined to obey that instrument, — or by those who observed faithfully their constitutional obligations, and who, when raids were made upon them, merely defended themselves, as they understand it, from unconstitutional aggression?

“ I wish to say, further, for myself and for those who are here with me, that the Constitution having been amended, — the ‘higher-law’ party having incorporated in that instrument the abolition of slavery, and certain other features which we have now sworn to support along with the rest of the instrument, — if in the future we fail to observe that oath before high Heaven, then we may be declared perjured; then we may be declared rebels; then we may be declared traitors.”

If the gentleman has understood me, he cannot fail to see that I have not used the word *traitor* in any offensive sense, but in its plain and ordinary acceptation, as used in the law. We held that the United States was a nation, bound together by a bond of perpetual union, — a union which no State or any combination of States, which no man or any combination of men, had the right, under the Constitution, to break. The attempt of the South to overthrow the Union was crime against the government, — the crime of rebellion. It can be described by no other name. It is so known to the laws of nations. It is so described in the decisions of the Supreme Court. The gentleman from North Carolina<sup>1</sup> calls the war on one side a raid. I will never consent to call our war for the Union “ a raid,” least of all a raid upon the rights of any human being. I admit that there was a political theory of State rights, — a theory held, I have no doubt, by gentlemen like the gentleman from Virginia<sup>2</sup> who spoke a moment ago, — believed in as sincerely as I believe the opposite, — which led them to think it was their duty to go when their State went. I admit that that greatly mitigates what the law calls a violation of an oath. But I will never admit — for history gives the lie to the statement in every line — that the men who fought for the Union were making a “raid” upon the rights of the South.

Read the Republican platforms of 1856 and of 1860. What did we contend for in those years? Simply that slavery should

<sup>1</sup> Mr. Davis.

<sup>2</sup> Mr. Tucker.

not be extended into any territory already free. That was all. We forswore any right or purpose on our part in time of peace to touch slavery in any State. We claimed only that in the Territories, the common heritage of all the Union, slavery should never travel another inch; and, thank God, it no longer pollutes our soil or disgraces our civilization. Now that slavery, the guilty cause of the Rebellion, is no more, and that, so far as I know, nobody wants it restored,—I do not believe these gentlemen from the South desire its restoration —

MR. HILL. We would not have it.

They would not have it, the gentleman from Georgia says. Then let us thank God that in the fierce flames of war the institution of slavery has been consumed; and let us hope that out of its ashes a better than the fabled Phœnix will arise,—a love of the Union high and deep, “As broad and general as the casing air,” enveloping us all, and that it shall not be counted shame for any man who is not still under political disabilities to say, with uplifted hand, “I will be true to it, and take the proffered amnesty of the nation.” But let us not tender it to be spurned. If it is worth having, it is worth asking for.

And now, Mr. Speaker, I close as I began. Toward those men who gallantly fought us on the field, I cherish the kindest feeling. I feel a sincere reverence for the soldierly qualities they displayed on many a well-fought battle-field. I hope the day will come when their swords and ours will be crossed over many a doorway of our children, who will remember with pride the glory of their ancestors. The high qualities displayed in that conflict now belong to the whole nation. Let them be consecrated to the Union and its future peace and glory. I shall hail that consecration as a pledge and symbol of our perpetuity. But there was a class of men referred to in the speech of the gentleman yesterday for whom I have never yet gained the Christian grace necessary to say the same thing. He said that amid the thunder of battle, through its dun smoke, and above its roar, they heard a voice from this side saying, “Brothers, come back.” I do not know whether he meant the same voice, but I heard a voice behind us. I heard that voice, and I recollect that I sent one of those who uttered it through our lines,—a voice owned by Vallandigham. General Scott said,

in the early days of the war, "When this war is over, it will require all the physical and moral power of the government to restrain the rage and fury of the non-combatants." It was that non-combatant voice behind us that cried, "Halloo!" to the other side; that always gave cheer and encouragement to the enemy in our hour of darkness. I have never forgotten and have not yet forgiven those Democrats of the North whose hearts were not warmed by the grand inspirations of the Union, but who stood back finding fault, always crying disaster, rejoicing at our defeat, never glorying in our victory. If these are the voices that the gentleman heard, I am sorry he is now united with those who uttered them. But to those most noble men, Democrats and Republicans, who together fought for the Union, I commend all the lessons of charity that the wisest and most beneficent men have taught. I join you all in every aspiration that you may express to stay in this Union, to heal its wounds, to increase its glory, and to forget the evils and bitternesses of the past; but do not, for the sake of the three hundred thousand heroic men who, maimed and bruised, drag out their weary lives, many of them carrying in their hearts horrible memories of what they suffered in the prison-pen,—do not ask us to restore the right to hold power to that man who was the cause of their suffering,—that man still unshriven, unforgiven, undefended.

## THE CURRENCY CONFLICT.

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IN the autumn of 1862 I spent several weeks with Secretary Chase, and was permitted to share his studies of the financial questions which were then engrossing his attention. He was preparing to submit to Congress his matured plans for a system of banking and currency to meet the necessities of the war, and this subject formed the chief theme of his conversation. He was specially anxious to work out in his own mind the probable relations of greenbacks to gold, to the five-twenty bonds, to the proposed national bank notes, and to the business of the country. One evening the conversation turned on some question relating to the laws of motion, and Mr. Chase asked for a definition of motion. Some one answered, "Matter is inert; spirit alone can move; therefore motion is the spirit of God made manifest in matter." The Secretary said, "If that is a good definition, then legal-tender notes must be the Devil made manifest in paper; for no man can foresee what mischief they may do when they are once let loose." He gravely doubted whether that war-born spirit, summoned to serve us in a dreadful emergency, would be mustered out of service with honor when the conflict should end, or, at the return of peace, would capture public opinion and enslave the nation it had served. To what extent his fears were well founded may be ascertained by comparing the present state of the public mind in regard to the principles of monetary science with that which prevailed when our existing financial machinery was set up.

More than a million votes will be cast at the next Presidential election by men who were schoolboys in their primers when the great financial measures of 1862 were adopted; and

they do not realize how fast or how far the public mind has drifted. The log-book of this extraordinary voyage cannot be read too often. Let it be constantly borne in mind that fourteen years ago the American people considered themselves well instructed in the leading doctrines of monetary science. They had enjoyed, or rather suffered, an extraordinary experience. There was hardly an experiment in banking and currency that they or their fathers had not fully tested.

In the first place, I shall examine the currency doctrines of 1862.

The statesmen of that period, the leaders of public thought, and the people of all political parties, were substantially unanimous in the opinion that the only safe instrument of exchange known among men was standard coin, or paper convertible into coin at the will of the holder. I will not affirm that this opinion was absolutely unanimous; for doubtless there was here and there a dreamer who looked upon paper money as a sort of fetish, and was ready to crown it as a god. There are always a few who believe in the quadrature of the circle and perpetual motion. I recently met a cultivated American who is a firm believer in Buddha, and rejoices in the hope of attaining Nirvana beyond the grave. The gods of Greece were dis-crowned and disowned by the civilized world a thousand years ago; yet within the last generation an eminent English scholar attested his love for classical learning and his devotion to the Greek mythology by actually sacrificing a bull to Jupiter, in the back parlor of his house in London. So, in 1862, there may have been followers of William Lowndes and John Law among our people, and here and there a philosopher who dreamed of an ideal standard of value stripped of all the grossness of so coarse and vulgar a substance as gold. But they dwelt apart in silence, and their opinions made scarce a ripple on the current of public thought.

No one can read the history of that year without observing the great reluctance, the apprehension, the positive dread, with which the statesmen and people of that day ventured upon the experiment of making treasury notes a legal tender for private debts. They did it under the pressure of an overmastering necessity, to meet the immediate demands of the war, and with a most determined purpose to return to the old standard at the earliest possible moment. Indeed, the very act that made the

greenbacks a legal tender provided the effective means for retiring them. Distressing as was the crisis, urgent as was the need, a large number of the best and most patriotic men in Congress voted against the act. The ground of their opposition was well expressed by Owen Lovejoy, of Illinois, who, after acknowledging the unparalleled difficulties and dangers of the situation, said, "There is no precipice, there is no chasm, there is no possible yawning bottomless gulf before this nation, so terrible, so appalling, so ruinous, as this same bill that is before us."<sup>1</sup>

Of those who supported the measure, not one defended it as a permanent policy. All declared that they did not abate a jot of their faith in the soundness of the old doctrines. Thaddeus Stevens said: "This bill is a measure of necessity, not of choice. No one would willingly issue paper currency not redeemable on demand, and make it a legal tender. It is never desirable to depart from that circulating medium which, by the common consent of civilized nations, forms the standard of value."<sup>2</sup>

In the Senate the legal-tender clause was adopted by only five majority. The Senators who supported it were keenly alive to its dangerous character. Mr. Fessenden, chairman of the Committee on Finance, said, "The bill proposes something utterly unknown in this government from its foundation: a resort to a measure of doubtful constitutionality, to say the least of it, which has always been denounced as ruinous to the credit of any government which has recourse to it; . . . a measure which, when it has been tried by other countries, as it often has been, has always proved a disastrous failure." With extreme reluctance he supported the bill, but said the committee was bound "that an assurance should be given to the country that it was not to be resorted to as a *policy*; that it was what it professes to be, but a *temporary measure*. . . . I have not heard anybody express a contrary opinion, or, at least, any man who has spoken on the subject in Congress. . . . All the gentlemen pretty much who have written on the subject, except some wild speculators in currency, have declared that as a policy it would be ruinous to any people; and it has been defended, as I have stated, simply and solely upon the ground that it is to be a single measure standing by itself, and not to be repeated. . . . It is put upon the ground of *absolute, overwhelming necessity*."<sup>3</sup>

<sup>1</sup> Congressional Globe, February 6, 1862, p. 691.

<sup>2</sup> Ibid., p. 687.

<sup>3</sup> Ibid., February 12, 1862, pp. 763, 764.

Mr. Sumner, who supported the bill, said: "Surely we must all be against paper money, — we must insist upon maintaining the integrity of the government, — and we must all set our faces against any proposition like the present, except as a temporary expedient, rendered imperative by the exigency of the hour. . . . A remedy which at another moment you would reject is now proposed. Whatever may be the national resources, they are not now within reach except by summary process. Reluctantly, painfully, I consent that the process should issue. And yet I cannot give such a vote without warning the government against the dangers from such an experiment. The medicine of the Constitution must not become its daily bread."<sup>1</sup>

Such was the unanimous sentiment which animated Congress in making its solemn pledge to return to the old path as soon as the immediate danger should pass.

The close of the war revealed some change of opinion, but the purpose of 1862 was still maintained. December 18, 1865, the House of Representatives resolved, "That this House cordially concurs in the views of the Secretary of the Treasury in relation to the necessity of a contraction of the currency, with a view to as early a resumption of specie payments as the business interest of the country will permit; and we hereby pledge co-operative action to this end as speedily as practicable." This resolution was adopted, on a call of the ayes and noes, by the decisive vote of one hundred and forty-four to six.

The last ten years have witnessed such a change of sentiment as seldom occurs in one generation. During that time we have had a Babel of conflicting theories. Every exploded financial dogma of the last two hundred years has been revived and advocated. Congresses and political parties have been agitated and convulsed by the discussion of old and new schemes to escape from the control of the universal laws of value, and to reach prosperity and wealth without treading the time-worn path of honest industry and solid values. All this recalls Mr. Chase's definition of irredeemable paper money.

The great conflict of opinion resulting from this change of sentiment finds expression in the cries of "hard money" and "soft money," which have been so constantly echoed from State to State during the last six months. Following these as rally-cries, the people are assembled in hostile political camps,

<sup>1</sup> Congressional Globe, February 13, 1862, pp. 799, 800.

from which they will soon march out to fight the Presidential battle of 1876.

The recently invented term "soft money" does not convey a very precise notion of the doctrine it is intended to describe. In fact, it is applied to the doctrines of several distinct groups of theorists, who differ widely among themselves, but who all agree in opposing a return to specie as the basis of our monetary system. The scope of these opinions will be seen in the declarations which recent public discussions have brought forth.

(1.) Most of the advocates of soft money deny that political economy is a universal science. They insist that each nation should have a political economy of its own. In pursuance of this opinion, they affirm that our country should have a standard of value peculiar to itself, and a circulating medium which other nations will not use; in short, a non-exportable currency. The following quotations will serve as examples.

W. D. Kelley: — "Beyond the sea, in foreign lands, it [our greenback currency] fortunately is not money; but, sir, when have we had such an unbroken career of prosperity in business as since we adopted this non-exportable currency?"

Henry C. Baird's motto: — "Money should be a thing of or belonging to a country, not of the world. An exportable commodity is not fitted to be money."

B. F. Butler: — "I desire the dollar to be made of such material that it shall never be exported or desirable to carry it out of the country."<sup>1</sup>

The venerable Henry C. Carey, under date of August 15, 1875, addressed a long letter to the chairman of the Detroit Greenback Convention, in which he argues that this country ought to "maintain permanently a non-exportable circulation." He says, "This important idea was first promulgated by Mr. Rauget, thirty-six years ago."

I will quote one other financial authority, which shows that the honor of this discovery does not belong to Rauget, nor to the present century. In his work entitled, "Money and Trade considered, with a Proposal for Supplying the Nation with Money," published in 1705, John Law says: "If a money is established that has no intrinsick value, and its extrinsick value be such as it will not be exported, nor will not be less than the demand for it within the country, wealth and power will be

<sup>1</sup> Speech at Cooper Institute, New York, October 15, 1875.



attained, and will be less precarious. . . . The paper money [herein] proposed being always equal in quantity to the demand, the people will be employed, the country improved, manufacture advanced, trade domestic and foreign carried on, and wealth and power attained; and not being liable to be exported, the people will not be set idle, etc., and wealth and power will be less precarious."<sup>1</sup> The subsequent experiments of Law are fitting commentaries.

(2.) They propose to abandon altogether the use of gold and silver as standards of value or instruments of exchange, and hold that the stamp of the government, not the value of the material on which it is impressed, constitutes money.

B. F. Butler: — "I want the dollar stamped on some convenient and cheap material, of the least possible intrinsic value, . . . and I desire that the dollar so issued shall never be redeemed."

Governor Allen of Ohio: — "A piece of pig-metal is just as much money as a piece of gold, until the public authority has stamped it, and said that it shall be taken for so much. . . . Suppose then that, instead of taking a bar of silver or a bar of pig-metal, the government of the United States takes a piece of paper called a greenback, and says that this shall pass for a legal tender in the receipt and expenditure of government dues, and in all the transactions of the people. Suppose this government to be a government of good standing, of sound credit, and responsible for its paper. This dollar thus stamped, instead of a piece of metal being stamped, is to all intents and purposes equivalent to a silver dollar when it has been made such by the government of the United States."<sup>2</sup>

W. P. Groom: — "The use of gold or other merchandise as money is a barbarism unworthy of the age."

Britton A. Hill: — "The pretence of redemption in gold and silver is of necessity a delusion and an absurdity."

O. S. Halsted: — "The government can make money of any material, and of any shape and value it pleases."

(3.) They are not agreed among themselves as to what this new soft money shall be. They do agree, however, that the national banking system shall be abolished, and that whatever currency may be adopted shall be issued directly from the

<sup>1</sup> Glasgow, 1750, pp. 191, 192.

<sup>2</sup> Speech at Gallipolis, Ohio, July 21, 1875.

treasury as the only money of the nation. Three forms are proposed: —

First. The legal tenders we now have, their volume to be increased and their redemption indefinitely postponed. The advocates of this form are the inflationists proper, who care more for the volume than the character of the currency.

Second. "Absolute money"; that is, printed pieces of paper, called dollars, to be the only standard of value, the only legal tender for all debts, public and private, the only circulating medium. The advocates of this kind of "money," though few in numbers, claim the highest place as philosophers. The ablest defence of this doctrine will be found in a *brochure* published in St. Louis during the present year, in which the author says: "If such national legal-tender money is not of itself sovereign and absolute, but must be convertible into some other substance or thing, before it can command universal circulation, what matters it whether that other substance or thing be interest-bearing bonds or gold or silver coin? . . . . The coin despotism cannot be broken by substituting in its place the despotism of interest-bearing bonds." <sup>1</sup>

Third. A legal-tender note not redeemable, but exchangeable, at the will of the holder, for a bond of the United States bearing 3.65 per cent interest, which bond shall in turn be exchangeable, at the will of the holder, for legal-tender notes. In order that this currency shall be wholly emancipated from the tyranny and barbarism of gold and silver, most of its advocates insist that the interest on the bonds shall be paid in the proposed paper money. This financial perpetual motion is regarded as the great discovery of our era, and there are numerous claimants for the honor of being the first to discover it. Mr. Wallace P. Groom, of New York, has characterized this currency in a paragraph which has been so frequently quoted, that it may be fairly called their creed. It is in these words: "In the interchangeability (at the option of the holder) of *national paper money* with government bonds bearing a fixed rate of interest, there is a subtle principle that will regulate the movements of finance and commerce as accurately as the motion of the steam-engine is regulated by its governor. Such PAPER MONEY TOKENS would be much nearer perfect measures of value than gold or silver ever have been or ever can be. The

<sup>1</sup> Absolute Money, by Britton A. Hill, p. 53.

use of gold or other merchandise as money is a barbarism unworthy of the age."

(4.) The paper-money men are unanimous in the opinion that the financial crisis of 1873 was caused by an insufficient supply of currency, and that a large increase will stimulate industry, restore prosperity, and largely augment the wealth of this country. Hon. Alexander Campbell, of Illinois, a leading writer of the soft-money school, thinks there should now be in circulation not less than \$1,290,000,000 of legal-tender notes.<sup>1</sup> John G. Drew, another prominent writer, insists that, "as England is an old and settled country, and we are just building ours," we ought to have at least \$60 *per capita*, or an aggregate of \$2,500,000,000.<sup>2</sup>

No doubt, the very large vote in Ohio and Pennsylvania in favor of soft money resulted, in great measure, from the depressed state of industry and trade, and a vague hope that the adoption of these doctrines would bring relief. The discussion in both States was able; and, toward the close of the campaign, it was manifest that sound principles were every day gaining ground. Important as was the victory in those States, it is a great mistake to suppose that the struggle is ended. The advocates of soft money are determined and aggressive, and they confidently believe they will be able to triumph in 1876.

It ought to be observed, as an interesting fact of current history, that the soft-money men are making and collecting a literature which cannot fail to delight the antiquarian and the reader of curiosities of literature. They are ransacking old libraries to find any

"Quaint and curious  
Volume of forgotten lore"

which may give support to their opinions. In a recent pamphlet, Henry Carey Baird refers to Andrew Yarranton as "the father of English political economy." The forgotten treatise which is now enrolled among the patristic books of the new school was published in London in 1677, and is entitled, "England's Improvement by Sea and Land. To outdo the Dutch without Fighting, to pay Debts without Moneys, and to set at work all the Poor of England with the Growth of our own Lands." The author proposes a public bank, based on the

<sup>1</sup> Northwestern Review, November, 1873, p. 152.

<sup>2</sup> Our Currency: What it is, and what it should be.

registered value of houses and lands, "the credit whereof making paper go in trade equal with ready money, yea better, in many parts of the world, than money." He was, perhaps, the first Englishman who suggested a currency based on land. On pages 30-33 of his book may be found his draft of a proposed law, which provides "that all bonds or bills issued on such registered houses may be transferable, and shall pass and be good from man to man in the nature of bills of exchange."

The writings of John Law are also finding vigorous defenders. Britton A. Hill, in the pamphlet already quoted, devotes a chapter to his memory, compares him favorably with Leibnitz and Newton, and says, "John Law is justly regarded as one of the most profound thinkers of his age, in that he originated the first fundamental principle of this proposed absolute money." The admirers of "father" Yarranton should see to it that the outdoer of the Dutch is not robbed of his honors by the great Scotsman.

English history is being hunted through to find some comfort for the new doctrines in the writings of that small minority who resisted the Bullion Report of 1810, and the resumption of cash payments in 1819, and continued to denounce them afterwards. History must be rewritten. We must learn that Mathias Attwood (who?), not Lord Liverpool, Huskisson, or Peel, was the fountain of financial wisdom. Doubleday, whom no English writer has thought it worth while to answer, is much quoted by the new school, and they have lately come to feel the profoundest respect for Sir Archibald Alison, because of his extravagant assault upon the Resumption Act of 1819. Alison holds a place in English literature chiefly because he wrote a work which fills a gap in English history not otherwise filled. In 1846 he wrote a pamphlet entitled, "England in 1815 and 1845; or, a Sufficient and a Contracted Currency," which the subsequent financial and commercial events in his country have so fully refuted, that it has slept for a generation in the limbo of things forgotten. It is now unearthed, and finds an honored place in the new literature. As a specimen of Alison's financial wisdom, I quote the following: "The eighteen years of war from 1797 to 1815 were, as all the world knows, the most glorious, and, taken as a whole, the most prosperous, that Great Britain had ever known. . . . Never has a prosperity so universal and unheard of pervaded every department of the empire." He then enumerates the evidences of this prosperity, and prominent

among them is this: "While the revenue raised by taxation was but £21,000,000 in 1796, it had reached £72,000,000 in 1815; the total expenditures from taxes and loans had reached £117,000,000."<sup>1</sup> Happy people, whose burdens of taxation were quadrupled in eighteen years, and whose expenses, consumed in war, exceeded their revenues by the sum of \$225,000,000 in gold!

The inflationists have not been so fortunate in augmenting their literary store from the writings and speeches of our early American statesmen. Still, they have made vigorous efforts to draft into their service any isolated paragraph that can be made useful for their purpose. So far as I have seen, they have found no comfort in this search except in very short extracts from three of the great leaders of public thought.

The first is from a juvenile essay in defence of paper money, written by Benjamin Franklin in 1729, when he was twenty-two years of age. This has been frequently quoted during the last four years. They are not so fond of quoting Franklin the statesman and philosopher, who after a life-long experience wrote, in 1783, these memorable words: "I lament with you the many mischiefs, the injustice, the corruption of manners, etc., that attended a depreciated currency. It is some consolation to me that I washed my hands of that evil by predicting it in Congress, and proposing means that would have been effectual to prevent it if they had been adopted. Subsequent operations that I have executed demonstrate that my plan was practicable; but it was unfortunately rejected."<sup>2</sup>

A serious attempt has been made to capture Thomas Jefferson, and bring him into the service. The following passage from one of his letters to John W. Eppes has been paraded through this discussion with all the emphasis of italics, thus: "*Bank paper must be suppressed, and the circulating medium must be restored to the nation, to whom it belongs.* It is the only fund on which they can rely for loans; it is the only resource which can never fail them, and it is an abundant one for every necessary purpose. *Treasury bills bottomed on taxes, bearing or not bearing interest, as may be found necessary, thrown into circulation, will take the place of so much gold and silver, which last, when crowded, will find an efflux into other countries, and thus keep the quantum of medium at its salutary level.*"<sup>3</sup>

<sup>1</sup> Pages 2, 3.

<sup>2</sup> Works, Vol. X. p. 9.

<sup>3</sup> Works, Vol. VI. p. 199.

This passage was quoted as a strong point for the soft-money men in their campaign documents in Ohio, last fall. They did not find it convenient to quote the great Virginian more fully. When this letter was written, the United States was at war with England, with no friendly nation from whom to obtain loans. The demand for revenue was urgent, and the treasury was empty. Mr. Jefferson had long been opposed to the State banks, and he saw that by suppressing them and issuing treasury notes, with or without interest, the government could accomplish two things: destroy State bank currency, and obtain a forced loan, in the form of circulating notes. In enforcing this view, he wrote from Monticello to Mr. Eppes, June 24, 1813: —

“ I am sorry to see our loans begin at so exorbitant an interest. And yet, even at that, you will soon be at the bottom of the loan-bag. We are an agricultural nation. . . . In such a nation there is one and one only resource for loans, sufficient to carry them through the expense of a war ; and that will always be sufficient, and in the power of an honest government, punctual in the preservation of its faith. The fund I mean is *the mass of circulating coin*. Every one knows that, although not literally, it is nearly true that every paper dollar emitted banishes a silver one from the circulation. A nation, therefore, making its purchases and payments with bills fitted for circulation, thrusts an equal sum of coin out of circulation. This is equivalent to borrowing that sum ; and yet the vendor, receiving payment in a medium as effectual as coin for his purchases or payments, has no claim to interest. . . . In this way I am not without a hope that this great, this sole resource for loans in an agricultural country might yet be recovered for the use of the nation during war ; and, if obtained *in perpetuum*, it would always be sufficient to carry us through any war, provided that in the interval between war and war all the outstanding paper should be called in, coin be permitted to flow in again, and to hold the field of circulation until another war should require its yielding place again to the national medium.”<sup>1</sup>

From this it appears that Jefferson favored the issue of treasury notes to help us through a war ; but he insisted that they should be wholly retired on the return of peace. His three long letters to Eppes are full of powerful and eloquent denunciations of paper money. The soft-money men appeal to Jefferson. We answer them in his own words: “ The truth is, that capital may be produced by industry, and accumulated

<sup>1</sup> Works, Vol. VI. pp. 139, 141.

by economy; but jugglers only will propose to create it by legerdemain tricks with paper."<sup>1</sup>

Their third attempt to elect some eminent statesman as an honorary member of the new school affords a striking illustration of a method too often adopted in our politics. It was very confidently stated by several advocates of soft money that John C. Calhoun had suggested that a paper money, issued directly by the government and made receivable for all public dues, would be as good a currency as gold and silver. Mr. Hill finally claimed Calhoun's authority in support of his absolute money, and printed a passage from a speech of Calhoun's.<sup>2</sup> This extract was used in the Ohio campaign of 1875 with much effect, until it was shown that there had been omitted from the passage quoted these important words: "*leaving its creditors to take it [treasury-note circulation] or gold and silver at their option.*" After this exposure, the great Nullifier was left out of the canvass.

Thus far I have attempted no more than to exhibit the state of public opinion in regard to the currency in 1861-62, the changes that have since occurred, and the leading doctrines now held by the soft-money men. Most of these dogmas are old, and have long ago been exploded. All are directly opposed to principles as well established as the theorems of Euclid. Believing that this generation of Americans is not willing to ignore all past experience, and to decide so great an issue as though it were now raised for the first time, I shall attempt to state, in brief compass, the grounds on which the doctrine of hard money rests.

Hard money is not to be understood as implying a currency consisting of coin alone, (though many have held, with Benton, that no other is safe,) but that coin of ascertained weight and fineness, duly stamped and authenticated by the government, is the only safe standard of money; and that no form of credit currency is safe unless it be convertible into coin at the will of the holder.

As preliminary to this discussion, it is necessary to determine the functions which money performs as an instrument of exchange. As barter was the oldest form of exchange, so it was and still is the ultimate object and result of all exchanges. For example: I wish to exchange my commodities or services for

<sup>1</sup> Works, Vol. VI. p. 241.

<sup>2</sup> See pp. 56, 57 of his pamphlet.

commodities or services of a different kind. I find no one at hand who has what I want, and wants what I have. I therefore exchange, or, as we say, sell, my commodities for money, which I hold until I find some one who wishes to sell what I want to buy. I then make the purchase. The two transactions have, in fact, resulted in a barter. It amounts to the same thing as though, at the start, I had found a man who wanted my commodities, and was willing to give me in exchange the commodities I desired. By a sale and a purchase I have accomplished my object. Money was the instrument by which the transactions were made. The great French economist, J. B. Say, has justly described a sale as half a barter, for we see, in the case above stated, that two sales were equivalent, in effect, to one act of simple barter. But some time may elapse between my sale and the subsequent purchase. How are my rights of property secured during the interval? That which I sold carried its value in itself as an exchangeable commodity; when I had exchanged it for money, and was waiting to make my purchase, the security for my property rested wholly in the money resulting from the sale. If that money be a perfect instrument of exchange, it must not only be the lawful measure of that which I sold, but it must, of itself, be the actual *equivalent* in value. If its value depends upon the arbitrary acts of government or of individuals, the results of my transaction depend not upon the value of that which I sold nor of that which I bought, nor upon my prudence and skill, but upon an element wholly beyond my control,—a medium of exchange which varies in value from day to day.

Such being the nature of exchanges, we should expect to find that, so soon as man begins to emerge from the most primitive condition of society and the narrowest circle of family life, he will seek a measure and an instrument of exchange among his first necessities. And in fact it is a matter of history that, in the hunting state, skins were used as money, because they were the product of chief value. In the pastoral state, — the next advance in civilization, — sheep and cattle, being the most valuable and negotiable form of property, were used as money. This appears in the earliest literature. In the Homeric poems oxen are repeatedly mentioned as the standard by which wealth was measured. The arms of Diomed are declared to be worth nine oxen, and those of Glaucus to be worth one hundred. In the



twenty-third book of the Iliad, a tripod, the first prize for wrestlers, is valued at twelve oxen, and a woman captive skilled in industry at four.<sup>1</sup> In many languages the name for money is identical with that for some kind of cattle. Even our word "fee" is said to be the Anglo-Saxon "feoh," meaning both money and cattle. Sir H. S. Maine, speaking of the primitive state of society, says that kine, being counted by the head, were called *capitale*, whence the economic term *capital*, the law term *chattel*, and our common name *cattle*.<sup>2</sup> In the agricultural and manufacturing stage of civilization, many forms of vegetable and manufactured products were used as money, such as corn, wheat, tobacco, cacao nuts, cubes of tea, colored feathers, shells, nails, etc.

All these species of wealth were made instruments of exchange, because they were easily transferable, and their value was the best known and least fluctuating. But the use of each as money was not universal; in fact, was but little known beyond the bounds of a single nation. Most of them were non-exportable; and though that fact would have commended them to the favor of some of our modern economists, yet the mass of mankind have entertained a different opinion, and have sought to find a medium whose value and fitness to be used as money would be universally acknowledged.

It is not possible to ascertain when and by whom the precious metals were first adopted as money; but for more than three thousand years they have been acknowledged as the forms of material wealth best fitted to be the measure and instrument of exchange. Each nation and tribe, as it has emerged from barbarism, has abandoned its local, non-exportable medium, and adopted what is justly called "the money of the world." Coinage was a later device, employed for the sole purpose of fashioning into a convenient shape the metal to be used as money, and of ascertaining and certifying officially the weight and fineness of each piece. And here has arisen the chief error in reference to the nature of money. Because the government coins it, names its denominations, and declares its value, many have been led to imagine that the government creates it, — that its value is a gift of the law.

The analogy of other standards will aid us at this point. Our Constitution empowers Congress to fix the standard of weights

<sup>1</sup> Jevons's Money and the Mechanism of Exchange, p. 21.

<sup>2</sup> Ibid., p. 23.

and measures, as well as of values. But Congress cannot create extension, or weight, or value. It can measure that which has extension, it can weigh that which is ponderable, it can declare, and subdivide, and name a standard; but it cannot make length of that which has no length, it cannot make weight of that which is imponderable, it cannot make value of that which has no value. *Ex nihilo nihil fit*. The power of Congress to make anything it pleases receivable for taxes is a matter wholly distinct from the subject now under discussion. Legislation cannot make that a measure of value which neither possesses nor represents any definitely ascertained value.

Now apply to the operations of exchange a given coin, whose weight and fineness are certified by public authority. We cannot do this better than by borrowing the language of Frederic Bastiat, found in his *Maudit Argent*: —

“You have a crown. What does it signify in your hands? It is the testimony and the proof that you have at some time performed a work; and, instead of profiting by it yourself, you have allowed the community to enjoy it in the person of your client. This crown is the evidence that you have rendered a service to society; and it states the value of that service. Moreover, it is the evidence that you have not drawn from the community the real equivalent, as was your right. In order to enable you to exercise that right when and as you please, society, by the hand of your client, has given you a *recognition, a title, a bond of the commonwealth, a token, in short a crown*, which differs from other fiduciary titles only in this, that it carries its value in itself; and if you can read with the eyes of the mind the inscription which it bears, you will distinctly decipher these words: ‘*Render to the bearer a service equivalent to that which he has rendered to society; a value received, stated, proved, and measured by that which is in me.*’ . . . If you now give that crown to me as the price of a service, this is the result: your account with society for real services is found regular, is balanced and closed, . . . and I am justly in the position where you were before.”<sup>1</sup>

Edmund Burke expressed the same opinion when he said, “Gold and silver are the two great, recognized species that represent the lasting conventional credit of mankind.”

Three thousand years of experience have proved that the precious metals are the best materials of which to make the standard of value, the instrument of exchange. They are themselves a store of value; they are durable, divisible, easily trans-

<sup>1</sup> Œuvres Complètes, etc., (Paris, 1854.) Vol. V. pp. 80, 81.

ported, and more constant in value than any other known substances. In the form of dust and bars, as merchandise, their value is precisely equal to their declared value as money, less the very small cost of coinage. Coin made of these metals measures wealth, because it represents wealth in itself, just as the yardstick measures length, and the standard pound measures weight, because each has in itself that which it measures.

Again, the precious metals are products of labor, and their value, like that of all other merchandise, depends upon the cost of production. A coin represents and measures the labor required to produce it; it may be called an embodiment of labor. Of course, this statement refers to the average cost of production throughout the world, and that average has varied but little for many centuries. It is a flat absurdity to assert that such a reality as labor can be measured and really represented by that which costs little or no labor. For these reasons the precious metals have been adopted by the common law of the world as the best materials in which to embody the unit of money.

The oldest and perhaps the most dangerous delusion, in reference to money, is the notion that it is a creation of law; that its value can be fixed and maintained by authority. Yet no error has been more frequently refuted by experience. Every debasement of the coin, and every attempt to force its circulation at a higher rate than the market value of the metal it contains, has been punished by the inevitable disasters that always follow the violation of economic laws. The great Parliamentary debate of 1695, on the recoinage of English money, affords an absolute demonstration of the truth, that legislatures cannot repeal the laws of value. Mr. Lowndes, the Secretary of the Treasury, though he held that a debasement of the coinage should be rejected as "dangerous and dishonorable," really believed, as did a large number of members of Parliament, that, if by law they raised the name of the coin, they would raise its value as money. As Macaulay puts it, —

"Lowndes was not in the least aware that a piece of metal with the king's head on it was a commodity of which the price was governed by the same laws which govern the price of a piece of metal fashioned into a spoon or a buckle; and that it was no more in the power of Parliament to make the kingdom richer by calling a crown a pound, than to make the kingdom larger by calling a furlong a mile. He seriously believed, incredible as it may seem, that if the ounce of silver were divided

into seven shillings instead of five, foreign nations would sell us their wines and their silks for a smaller number of ounces. He had a considerable following, composed partly of dull men who really believed what he told them, and partly of shrewd men who were perfectly willing to be authorized by law to pay a hundred pounds with eighty."<sup>1</sup>

It was this debate that called forth those masterly essays of John Locke on the nature of money and coin, which still remain as a monument to his genius, and an unanswerable demonstration that money obeys the laws of value, and is not the creature of arbitrary edicts. At the same time, Sir Isaac Newton was called from those sublime discoveries in science which made his name immortal, to aid the King and Parliament in ascertaining the true basis of money. After the most thorough examination, this great thinker reached the same conclusions. The genius of these two men, aided by the enlightened statesmanship of Montague and Somers, gave the victory to honest money, and preserved the commercial honor of England for a century.<sup>2</sup>

In discussing the use of paper as a representative of actual money, we enter a new field of political science, namely, the general theory of credit. We shall go astray at once if we fail to perceive the character of this element. Credit is not capital. It is the permission given to one man to use the capital of another. It is not an increase of capital; for the same property cannot be used as capital by both the owner and the borrower of it, at the same time. But credit, if not abused, is a great and beneficent power. By its use the productiveness of capital is greatly increased. A large amount of capital is owned by people who do not desire to employ it in the actual production of wealth. There are many others who are ready and willing to engage in productive enterprise, but have not the necessary capital. Now, if the owners of unemployed capital have confidence in the honesty and skill of the latter class, they lend their capital at a fair rate of interest, and thus the production of wealth is greatly increased. Frequently, however, the capital loaned is not actually transferred to the borrower, but a written evidence of his title to it is given instead. If this title is transferable, it may be used as a substitute for money; for, within certain limits, it has the same purchasing power. When these

<sup>1</sup> History of England, Vol. IV. p. 593.

<sup>2</sup> See Macaulay's History, Vol. IV. pp. 493-512.

evidences of credit are in the form of checks and drafts, bills of exchange and promissory notes, they are largely used as substitutes for money, and very greatly facilitate exchanges. But all are based upon confidence, upon the belief that they represent truly what they profess to represent, — actual capital, measured by real money, to be delivered on demand.

These evidences of credit have become, in modern times, the chief instruments of exchange. The bank has become as indispensable to the exchange of values as the railroad is to the transportation of merchandise. It is the institution of credit by means of which these various substitutes for money are made available. It has been shown that not less than ninety per cent of all the exchanges in the United States are accomplished by means of bank credits. The per cent in England is not less than ninety-five. Money is now the small change of commerce. It is perhaps owing to this fact, that many are so dazzled by the brilliant achievements of credit as to forget that it is the shadow of capital, not its substance; that it is the sign, the brilliant sign, but not the thing signified. Let it be constantly borne in mind that the check, the draft, the bill of exchange, the promissory note, are all evidences of debt, of money to be paid. If not, they are fictitious and fraudulent. If the real capital on which they are based be destroyed, they fall with it, and become utterly worthless. If confidence in their prompt payment be impaired, they immediately depreciate in proportion to the distrust.

We have mentioned among these instruments of credit the promissory note. Its character as an evidence of debt is not changed when it comes to us illuminated by the art and mystery of plate-printing. Name it national bank note, greenback, Bank of England note, or what you will, — let it be signed by banker, president, or king, — it is none the less an evidence of debt, a promise to pay. It is not money, and no power on earth can make it money. But it is a title to money, a deed for money, and can be made equal to money only when the debtor performs the promise, delivers the property which the deed calls for, pays the debt. When that is done, and when the community knows, by actual test, that it will continue to be done, then, and not till then, this credit currency will in fact be the honest equivalent of money. Then it will, in large measure, be used in preference to coin, because of its greater conve-

nience, and because the cost of issuing new notes in place of those which are worn and mutilated is much less than the loss which the community suffers by abrasion of the coin. To the extent, therefore, that paper will circulate in place of coin, as a substitute and an equivalent, such circulation is safe, convenient, and economical. And what is the limit of such safe circulation? Economic science has demonstrated, and the uniform experience of nations has proved, that the term which marks that limit, the sole and supreme test of safety, is the exchangeability of such paper for coin, dollar for dollar, at the will of the holder. The smallest increase in volume beyond that limit produces depreciation in the value of each paper dollar. It now requires more of such depreciated dollars to purchase a given quantity of gold or of merchandise than it did before depreciation began. In other words, prices rise in comparison with such currency. The fact that it is made a legal tender for taxes and private debts does not free it from the inexorable law that increase of volume decreases the value of every part.

It is equally true that an increase of the precious metals, coined or uncoined, decreases their value in comparison with other commodities; but these metals are of such universal currency, on account of their intrinsic value, that they flow to all parts of the civilized world, and the increase is so widely distributed that it produces but a small increase of prices in any one country. Not so with an inconvertible paper money. It is not of universal currency. It is national, not international. It is non-exportable. The whole effect of its depreciation is felt at home. The level of Salt Lake has risen ten feet during the last thirty years, because it has no outlet. But all the floods of the world have made no perceptible change in the general level of the sea.

The character of inconvertible paper money, the relation of its quantity to its value, and its inevitable depreciation by an increase of volume, were demonstrated in the Bullion Report of 1810 by facts and arguments whose force and conclusiveness have never been shaken. In the great debate that followed, in Parliament and through the press, may be found the counterpart of almost every doctrine and argument which has been advanced in our own country since the suspension of specie payments. Then, as now, there were statesmen, doctrinaires, and business men, who insisted that the bank-notes were not

depreciated, but that gold had risen in value; who denied that gold coin was any longer the standard of value, and declared that a bank-note was "abstract currency." Castlereagh announced, in the House of Commons, that the money standard was "*a sense of value, in reference to currency as compared with commodities.*" Another soft-money man of that day said: "The standard is neither gold nor silver, but *something set up in the imagination, to be regulated by public opinion.*" Though the doctrines of the Bullion Report were at first voted down in Parliament, they could not be suppressed. With the dogged persistency which characterizes our British neighbors, the debate was kept up for ten years. Every proposition and counter proposition was sifted, the intelligence and conscience of the nation were invoked; the soft-money men were driven from every position they occupied in 1811, and at last the ancient standard was restored. When the Bank redeemed its notes, the difference between the mint price and the market price of bullion disappeared, and the volume of paper money was reduced in the ratio of its former depreciation. During the last half-century few Englishmen have risked their reputation for intelligence by denying the doctrines thus established.

These lessons of history cannot be wholly forgotten. It is too late to set up again the doctrines of Lowndes and Vansittart. They may disturb and distract public opinion, but can never again triumph before an intelligent tribunal. I commend to the soft-money men of our time the study of this great debate, and that of 1695. When they have overturned the doctrines of Locke and Newton, and of the Bullion Report, it will be time for them to invite us to follow their new theories.

But we need not go abroad to obtain illustrations of the truth that the only cure for depreciation of the currency is convertibility into coin. Our American Colonies, our Continental Congress, and our State and national governments, have demonstrated its truth by repeated and calamitous experiments. The fathers who drafted our Constitution believed they had "shut and bolted the door against irredeemable paper money"; and since then no President, no Secretary of the Treasury, has proposed or sanctioned a paper currency, in time of peace, not redeemable in coin at the will of the holder. Search our records from 1787 to 1861, and select from any decade twenty of our most illustrious statesmen, and it will be found that not less than

## THE CURRENCY CONFLICT.

eteen of them have left on record, in the most energetic language, their solemn protest and warning against the very doctrines we are opposing.

The limits of this article will allow only the briefest statement of the evils that flow from a depreciated currency, — evils both to the government and to the people, which overbalance, a thousand to one, all its real or supposed benefits. The word "dollar" is the substantive word, the fundamental condition, of every contract, of every sale, of every payment, whether at the treasury or at the stand of the apple-woman in the street. The dollar is the gauge that measures every blow of the hammer, every article of merchandise, every exchange of property. Forced by the necessities of war, we substituted for this dollar the printed promise of the government to pay a dollar. That promise we have not kept. We have suspended payment, and have compelled the citizen to receive dishonored paper in place of money. The representative value of that paper has passed, by thousands of fluctuations, from one hundred cents down to thirty-eight, and back again to ninety. At every change millions of men have suffered loss. In the midst of war, with rising prices and enormous gains, these losses were tolerable. But now, when we are slowly and painfully making our way back to the level of peace, now when the pressure of hard times is upon us, and industry and trade depend for their gains upon small margins of profit, the uncertainty is an intolerable evil. That uncertainty is increased by doubts as to what Congress will do. Men hesitate to invest their capital in business, when a vote in Congress may shrink it by half its value. Still more striking are the evils of such a currency in its effects upon international commerce. Our purchases from and sales to foreign nations amount in the aggregate to \$1,200,000,000 per annum, every dollar of which is measured in coin. Those who export our products buy with paper and sell for gold. Our importers buy with gold and sell for paper. Thus the aggregate value of our international exchanges is measured, successively, by the two standards. The loss occasioned by the fluctuation of these currencies in reference to each other falls wholly on us. We alone use paper as a standard. And who among us bears the loss? The importer, knowing the risk he runs, adds to his prices a sufficient percentage to insure himself against loss. This addition is charged over from importer to jobber, from



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jobber to retailer, until its dead weight falls at last upon the laborer who consumes the goods. In the same way, the exporter insures himself against loss by marking down the prices he will pay for products to be sent abroad. In all such transactions capital is usually able to take care of itself. The laborer has but one commodity for sale, his day's work. It is his sole reliance. He must sell it to-day, or it is lost forever. What he buys must be bought to-day. He cannot wait till prices fall. He is at the mercy of the market. Buying or selling, the waves of its fluctuations beat against him. Daniel Webster never uttered a more striking truth than when he said: "Of all the contrivances for cheating the laboring classes of mankind, none has been more effectual than that which deludes them with paper money. This is the most effectual of inventions to fertilize the rich man's field by the sweat of the poor man's brow."

But here we are met by the interconvertible-bond-and-currency men, who offer to emancipate us from the tyranny of gold and secure a more perfect standard than coin has ever been. Let us see. Our five per cent bonds are now on a par with gold. Any actuary will testify that in the same market a 3.65 bond, payable, principal and interest, in gold, and having the same time to run, is worth but seventy-five cents in gold; that is, thirteen cents less than the present greenback. How much less the bond will be worth if its interest be made payable in the proposed interconvertible currency, no mortal can calculate. It is proposed, then, to make the new currency equivalent to a bond which, at its birth, is thirteen cents below the greenback of to-day. We are to take a long leap downward at the first bound. But "interconvertibility" is the charm, the "subtle principle," the great "regulator of finance," which will adjust everything. The alternate ebb and flow of bond into paper dollar, and paper dollar into bond, will preserve an equilibrium, an equipoise; and this equipoise is the base line from which to measure the new standard of value. The lad who sold his two-dollar dog for fifty dollars, and took his pay in pups at ten dollars each, never doubted that he had made a profit of forty-eight dollars until he found how small a sum the whole litter would sell for in the market.

Undoubtedly the beam will lie level that is weighted with the bond at one end and the paper money at the other. But what

will be the relation of that level to the level of real values? Both the bond and the currency are instruments of credit, evidences of debt. They cannot escape the dominion of those universal laws that regulate prices. If made by law the only legal tender, such a currency would doubtless occupy the field. But what would be the result? To a certain extent the bonds themselves would be used as currency. The clearing-house banks of New York would doubtless be glad to get interest-bearing bonds instead of the government certificates of indebtedness bearing no interest, which for convenience they now use in the settlement of their balances. The reserves of public and private banks, which now amount to more than \$200,000,000, would largely be held in these interest-bearing bonds. Thus the first step would result in compelling the government to pay interest on a large portion of the reserves of all the banks, public and private. It will hardly be claimed, however, that anybody will part with his property for bonds of this description, to hold as a permanent investment. Capital in this country is worth more than 3.65 per cent. How then will the new currency be set afloat? The treasury can pay it out only in exchange for the new bonds, or in payment of public dues. Shall we violate public faith by paying the gold bonds already outstanding in this new and greatly depreciated paper? Or shall we, as some of the soft-money men have proposed, enter upon a vast system of public works in order to put the new currency in circulation? No doubt means would be found to push it into circulation, so long as enterprise or speculation should offer a hope of greater profits than 3.65 per cent. Once out, it would inevitably prove a repetition of the old story: an artificial stimulation of business and of speculation; large issues of currency; inflation of prices, depreciation of paper, delirium, prostration; "up like a rocket, then down like a stick." They tell us that this cannot happen, because, as the volume of paper increases, the rate of interest will fall, and when it reaches 3.65 per cent the currency will be exchanged for bonds. But all experience is against them. Inflation has never brought down the rate of interest. In fact, the rate is always highest in countries afflicted with irredeemable paper money. For all practical purposes, the proposed currency would be unredeemed and irredeemable; and this is what its advocates desire. General Butler sees "no more reason for redeeming the measure of value than for redeeming

the yardstick or the quart pot." This shows the utmost confusion of ideas. We do not *redeem* the yardstick or the quart pot. They are, in reality, what they profess to be. There is nothing better for measuring yards than a yardstick. But, in regard to the yardstick, we do what is strictly analogous to redemption when applied to currency. We preserve our yardstick undiminished and unchanged; and, by the solemn sanction of penal law, we require that it shall be applied to the purchase and sale of all commodities that can be measured by the standard of length. The citizen who buys by a longer yardstick or sells by a shorter one than our standard, is punished as a felon. Common honesty requires that we restore, and with equal care preserve from diminution or change, our standard of value.

It has been already shown that the soft-money men desire a vast increase of currency above the present volume. The assumed necessity for such an increase was a leading topic in the debates that preceded the late elections. The argument, often repeated, ran substantially thus: —

"Fellow-citizens, you are in great distress. The smoke of your furnaces no longer ascends to the sky; the clang of your mills and workshops is no longer heard. Your workers in metal and miners in coal are out of employment. Stagnation of trade, depression of business, and public distress are seen on every hand. What has caused these disasters? Manifestly, a lack of money. Is there any man among you who has money enough? If there be let him stand forth and declare it. Is there one who does not need more money to carry on his business? [Cries of No! No!] The hard-money men have brought you to this distress, by contracting the volume of the currency, by destroying the people's money, your money. And they propose to complete your ruin by forcing the country to resume specie payments. We come to save you from this ruin. We insist that you shall have more money, not less. We are resolved to make and keep the volume of currency 'equal to the wants of trade.' "

These assumptions were answered by undeniable facts. It was shown that our large volume of paper currency had helped to bring on the crisis of 1873, and had greatly aggravated its effects; but that the main cause was speculation, overtrading, and, in some branches of business, a production beyond the demands of the market. A striking illustration of the effect of over-production was drawn from the history of one of the interior counties of Northern Ohio.

In the midst of a wilderness, far away from the centres of trade, the pioneers commenced the settlement of the county at the beginning of the present century. Year by year their number was augmented. Each new settler was compelled to buy provisions for his family until he could raise his first crop. For several years this demand afforded a ready market, at good prices, for all the products of the farm. But in 1818 the supply greatly exceeded the demand. The wheat market was so glutted that twenty bushels were frequently offered for one pound of tea, and often refused, because tea could be bought only for money, and wheat could hardly be sold at all. If the soft-money men of our time had been among those farmers, they would have insisted that more money would raise the price of their wheat and set the ploughboys at work. But the pioneers knew that, until the stock on hand was reduced, the production of another bushel to be sold would be labor wasted. The cry for more currency shows that soft-money men confound credit with capital, and that they vaguely imagine that if more paper dollars were printed they could be borrowed without security.

In whatever form the new currency be proposed, whether in the so-called absolute money or in the "interconvertible paper money tokens," as a relief from distress it is a delusion and a snare. All these schemes are reckless attempts to cut loose from real money, — the money known and recognized throughout the world, — and to adopt for our standard that which a great gold gambler of Wall Street aptly called "phantom gold." Their authors propose a radical and dangerous innovation in our political system. They desire to make the national treasury a bank of issue, and to place in the control of Congress the vast money power of the nation, to be handled as the whim, the caprice, the necessities, of political parties may dictate. Federalist as Hamilton was, he held that such a power was too great to be centralized in the hands of one body. This goes a hundred leagues beyond any measure of centralization that has yet been adopted or suggested.

In view of the doctrines herein advocated, what shall be said of the present condition of our currency? It is depreciated. Its purchasing power is less than that of real money by about fourteen per cent. Our notes are at a discount; not because the ability of the nation to redeem them is questioned, but partly because its good faith is doubted, and partly because the

volume of these notes is too great to circulate at par. What that volume ought to be no man can tell. Convertibility into coin is a perfect test, and is the only test. The duty of the government to make its currency equal to real money is undeniable and imperative.

First, because the public faith is most solemnly pledged, and this alone is a conclusive and unanswerable reason why it should be done. The perfidy of one man, or of a million men, is as nothing compared with the perfidy of a nation. The public faith was the talisman that brought to the treasury thirty-five hundred million dollars in loans, to save the life of the nation, which was not worth saving if its honor be not also saved. The public faith is our only hope of safety from the dangers that may assail us in the future. The public faith was pledged to redeem these notes in the very act which created them, and the pledge was repeated when each additional issue was ordered. It was again repeated in the act of 1869, known as the "Act to strengthen the Public Credit," and yet again in the act of 1875, promising redemption in 1879.

Second, the government should make its currency equal to gold because the material prosperity of its people demands it. Honest dealing between man and man requires it. Just and equal legislation for the people, safety in trade, domestic and foreign, security in business, just distribution of the rewards of labor,—none of these are possible until the present false and uncertain standard of value has given place to the real, the certain, the universal standard. Its restoration will hasten the revival of commercial confidence, which is the basis of all sound credit.

Third, public morality demands the re-establishment of our ancient standard. The fever of speculation, which our fluctuating currency has engendered, cannot be allayed till its cause is destroyed. A majority of all the crimes relating to money that have been committed in public and private life since the war have grown out of the innumerable opportunities for sudden and inordinate gains which this fluctuation has offered.

The gold panic of 1869, which overwhelmed thousands of business men in ruin, and the desperate gambling in gold which is to-day absorbing so many millions of capital that ought to be employed in producing wealth, were made possible only by the difference between paper and gold. Resumption will destroy all that at a blow. It will enable all men to see the real situa-

tion of their affairs, and will do much toward dissipating those unreal and fascinating visions of wealth to be won without industry which have broken the fortunes and ruined the morals of so many active and brilliant citizens.

My limits will not allow a discussion of the hardship and evils which it is feared will accompany the restoration of the old standard. Whatever they may be, they will be light and transient in comparison with those we shall endure if the doctrine of soft money prevails. I am not able to see why the approach to specie may not be made so gradual that the fluctuations in any one month will be less than those which we have suffered from month to month since 1869. We have travelled more than half the distance which then separated us from the gold standard.

A scale of appreciation like that by which England resumed in 1821 would greatly mitigate the hardships arising from the movement. Those who believe that the volume of our currency is but little above its normal level need not fear that there will be much contraction; for, with free banking, they may be sure that all the paper which can be an actual substitute for money will remain in circulation. No other ought to circulate.

The advocates of soft money are loud in their denunciation of the English Resumption Act of 1819, and parade the distorted views of that small and malignant minority of English writers who have arraigned the act as the cause of the agricultural distress of 1822, and the financial crash which followed, in 1825. The charge is absolutely unjust and unfounded. In 1822 a committee of the House of Commons, having investigated the causes of the agricultural distress of that and the preceding year, found that it was due to the operation of the corn laws, and to the enormous wheat crops of the two preceding seasons. Their report makes no reference to the resumption act as a cause of the distress. In both that and the following year, a few of the old opponents of hard money offered resolutions in the House of Commons, declaring that the resumption act was one of the causes of the public distress. The resolution of 1822 was defeated by a vote of one hundred and forty-one to twenty-seven, and that of 1823 was defeated by the still more decisive vote of one hundred and ninety-two to thirty. An overwhelming majority of intelligent Englishmen look back with pride and satisfaction upon the act of resumption as a just and beneficent measure.

But methods and details of management are of slight importance in comparison with the central purpose so often expressed by the nation. From that purpose there should be no retreat. To postpone its fulfilment beyond the day already fixed is both dangerous and useless. It will make the task harder than ever. Resumption could have been accomplished in 1867 with less difficulty than it can be in 1879. It can be accomplished more easily in 1879 than at any later date. It is said that we ought to wait until the vast mass of private debts can be adjusted. But when will that be done? Horace has told us of a rustic traveller who stood on the bank of a river, waiting for its waters to flow by, that he might cross over in safety: "At ille labitur et labetur in omne volubilis ævum." The succession of debts and debtors will be as perpetual as the flow of the river.

We ought to be inspired by the recent brilliant example of France. Suffering unparalleled disasters, she was compelled to issue a vast volume of legal-tender notes in order to meet her obligations. But as soon as the great indemnity was paid, she addressed herself resolutely to the work of bringing her currency up to the standard of gold. During the last two years she has reduced her paper currency nearly 750,000,000 francs; and now it is substantially at par. Amidst all her disasters she has kept her financial credit untarnished. And this has been her strength and her safety. To meet the great indemnity, she asked her people for a loan of 3,000,000,000 francs; and twelve and a half times the amount was subscribed. In August, 1874, the American Minister at Paris said, in one of his despatches: "Though immense amounts were taken abroad, yet it seems they are all coming back to France, and are now being absorbed in small sums by the common people. The result will be, in the end, that almost the entire loan will be held in France. Every person in the whole country is wishing to invest a few hundred francs in the new loan, and it has reached a premium of four and one half to five per cent."

Our public faith is the symbol of our honor and the pledge of our future safety. By every consideration of national honor, of public justice, and of sound policy, let us stand fast in the resolution to restore our currency to the standard of gold.

## THE DIPLOMATIC AND CONSULAR SERVICE.

REMARKS MADE IN THE HOUSE OF REPRESENTATIVES,

FEBRUARY 7, 1876.

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MR. GARFIELD made the following remarks in the Committee of the Whole, pending the bill making appropriations for the diplomatic and consular expenses of the government for the fiscal year ending June 30, 1877, and for other purposes.

MR. CHAIRMAN,—I do not desire to detain the House long, nor to make anything like an elaborate argument on this bill; but I wish, if possible, to appeal to the judgment of the House as I would to a board of trade in an important business transaction. There is, I think, no bill on the whole list of appropriation bills more commercial in its character, more largely based upon business principles, than the bill which makes appropriations for our diplomatic and consular expenditures. There ought to be no party politics in such a bill. We ought to go to work upon it as though we were a board of railway directors making provision for the management of our road. And in what I shall say, I hope there will not be found a tinge of partisanship.

I will say, in the outset, that I sympathize with the Committee on Appropriations in all their laudable efforts to cut down expenditures. I know how hard that task is; I know how much of local pressure is brought to bear upon them from every quarter from interested parties who desire to swell appropriations; and I know, moreover, that every executive department tends to enlarge the field of expenditure within its jurisdiction, so that it is the business of that committee to resist pressure from all sides,—pressure from the Administration, pressure from this



House, and pressure from their friends outside, who are always asking for more.

Now, I sympathize with the committee in their efforts at reform. I think there are several places where they can cut down very decidedly. Without stopping to indicate particulars, I will say generally that on the Fortification Bill, (though it was smaller the last year than ever before,) they can make and ought to make a good deal of reduction. In all that relates to public works, public buildings, rivers and harbors, whole establishments in the way of construction can be and ought to be considerably reduced. I have no doubt, also, that the same is true of many of our civil establishments here in Washington, that grew largely out of the war, and became greatly overgrown in consequence of the work which the war threw upon them. I think there ought to be a reduction of ten or fifteen millions below the appropriations of last session. But I am not a little surprised, I must confess, to find the bill now before us reported in its present shape by the Committee on Appropriations.

I believe every gentleman of intelligence on this floor will admit that the foreign service of the United States, the State Department, both as it is exhibited at home in its civil functions and abroad in its diplomatic and consular functions, has been for years the most economically conducted, the most honestly managed, the most carefully kept up, of any of our departments. All men of all parties in years past have given their testimony to that general truth. Now, when I remember that our diplomatic expenses, in recent years, have been only about a million and a third of dollars per annum for all our complicated relations, consular and diplomatic, it seems to me a surprising thing, considering the magnitude of our government and the extent of our relations to the world, that we have been able to keep them down to so low a figure.

The bill proposes, I believe, a reduction of \$435,000 on an aggregate of about \$1,350,000. A little more than \$174,000 of this reduction, as I understand, it is proposed to make in the diplomatic service by cutting off six ministers, by reducing the salaries of others, and by reducing the contingent and other expenses relating to the diplomatic service. In the consular service the proposed reduction is about \$260,000. The committee propose to abolish forty-four consulates and consular

agencies, and to make a reduction in contingent and other expenses connected with the consular service.

I will say but little in regard to the salaries of ministers abroad, or in regard to the general treatment that our foreign ministers receive in this bill. If gentlemen will examine the statutes as they stood prior to the act of 1855, they will find that our laws regulating the salaries of foreign ministers had stood unchanged since 1803. Yet in that period our ministers of the highest grade were receiving in some instances as high as \$23,250 a year in salary and allowances, on account of the method then followed of giving an outfit and an infit, and in consequence of their remaining in service for a very short time. Under that system great evils grew up. A man would get his outfit, which was equivalent to one year's salary; he would stay at home six or eight months before starting for his post of duty, drawing pay from the date of accepting his commission; he would then go abroad and stay a few months, get his year's salary, together with an infit of \$2,250, and come home. To show that I do not speak at random, I quote the following paragraph from a speech made by Mr. Mason, of Virginia, in the United States Senate, when the bill of 1855 was under discussion.

“Under the present system, — I cannot call it the present law, there being very little legislation applicable to the subject, — the actual allowance to a minister plenipotentiary to any of the courts for the first year of his mission is \$23,250. The amounts, very briefly, which make up that sum are, outfit, \$9,000; salary, \$9,000; infit, \$2,250; and the average of the overlapping salary, \$3,000; making \$23,250 as the actual expenses to the government in the case of a foreign minister who remains abroad one year. If he remains abroad two years upon a full mission, under the present system, the actual expense to the government is \$32,250, and the receipts of the minister, \$16,250 [annually]. If he remains abroad four years, or one Presidential term, the actual expense to the government is \$50,250, and the receipts of the minister are \$12,562 [annually].”<sup>1</sup>

It was found that some of our representatives abroad were paid far too much, while the majority of those who served any great length of time were paid such small salaries that none but wealthy men could enter the service. And so, after a most elaborate debate, which gentlemen will find in the *Globe* for

<sup>1</sup> Congressional Globe, February 24, 1855, p. 917.

1855, with full tables and exhibits showing the working of our consular and diplomatic system, — information very instructive indeed, — a discussion in which the giants of debate in both houses took part, — it was found that the majority of our ministers who served any considerable time were wretchedly underpaid, considering the cost of living abroad at that time. So the salary of \$17,500, without allowances, without outfit or infit, was fixed upon as a fair, reasonable compensation for first-class ministers. The bill passed in 1855, Whigs and Democrats alike agreeing to it as a wise measure.

Now, every man knows that the cost of living throughout the world has almost doubled in the last ten years, and more than doubled in many countries in the last twenty years. Yet with the cost of living so greatly increased, with all the items going to make up that cost so greatly enhanced, the Committee on Appropriations think they ought to cut down the salaries about twenty per cent below the rates fixed twenty-one years ago. It occurs to me, Mr. Chairman, that they have departed from all just principles of business management in their judgment of that subject. I submit this suggestion without going into details.

Of course the result will be that these places can be held only by rich men. By the law of natural selection it brings wealthy men into our offices, and shuts out those who are unable out of private fortunes to live abroad and do duty for the government. If that is so, if gentlemen desire to establish a plutocracy in this country, let us have it, but let us have it with our eyes open to the fact.

I do not care much about some of the missions which it is proposed to abolish, and perhaps some of them can be abolished without much damage. But there is one class of missions whose abolition I should regret to see, as a great calamity to this country. I speak of our missions to the South American States, Japan, and China. There is no part of the world where the United States has so much right and so great a duty to be chief in the councils of international powers as in South America on the one side, and Japan and China on the other. And yet our friends seem, by a sort of fatuity, to have seized upon those very countries as the places in which to limit and restrict our diplomatic relations. I do not believe they intended to do it. I must believe it was an accident, an oversight. We are to

send ministers to represent us at three or four South American republics, at a salary of \$6,500 a year apiece. As an example of the effect of this bill, I submit a table showing the British diplomatic service in South America, taken from the Blue Book of January 1, 1875, contrasted with that of the United States as fixed by the present bill.

[The table is here omitted. It shows that, while Great Britain expended \$59,500 a year on her diplomatic service in Chili, Peru, Ecuador, Colombia, and the Argentine Republic, the United States expended but \$19,500.]

It is proposed that we shall spend but \$19,500 a year to keep up diplomatic relations with these countries of South America, in which Great Britain is spending \$59,500 for the same purpose. We allow Great Britain, if this bill shall pass, to spend more than three times as much as we spend. Can any man be surprised hereafter, if we shall cut the cords which bind us to the South American republics and allow Great Britain to have a stronger hold on them, — that the trade, the business, and other interests of that great continent shall gravitate, not toward us, as they ought to do, but toward Great Britain, as they will?

MR. SPRINGER. Will the gentleman from Ohio tell us what effect the residence of a minister will have upon our commerce with those countries?

I will speak of their commerce when I come to speak of the consular service. Of course, the object of ministers to these countries is to keep up political relations; but their political headship is the power controlling all their commercial relations. We need at the capitals of these States intelligent, cultivated American gentlemen, to keep us informed of their political condition and necessities. We need our men there, not only to inform us, but to encourage these young republics. On every account let us keep up our relations with them. I would rather blot out five or six European missions than these South American ones. It is far more important to us to keep them up. I beseech gentlemen, therefore, to strike at some other nations than these South American republics. They are our neighbors and friends.

Let me now call your attention to our consular relations. This bill proposes to strike out forty consulates and to dispense with four commercial agencies, making in all forty-four. And the chief ground for this is that we do not get enough money back from these consular posts to make up the expenses, and

therefore we must cut them off. Now I hold in my hand, and I will print in my remarks, a statement concerning some of the consulates cut off by this bill; and in order to show how Great Britain treats interests of this class, I have also embraced in the table a statement of how much she pays for consular service at the same places.

[The consulates abolished were those of Ningpo, Hakodadi, Odessa, Beirut, Tamatave, Nantes, La Rochelle, Algiers, Barcelona, Oporto, Santa Cruz, Copenhagen, Port Said, Tampico, Stettin, Maranham, Rio Grande, Cyprus, Bucharest, Talcahuano, and Venice, at which the United States paid \$32,500 in salaries. Great Britain paid \$81,350 in salaries and allowances to support consulates in the same places.]

At twenty-one of the consular stations which by this bill are abolished, and for which we have hitherto been paying \$32,500, and by cutting off which we save the same sum,—at those same ports Great Britain is paying \$81,350 a year for consular officers to keep up her commercial relations. While she receives a total of only \$6,010, she pays \$81,350 a year, not for the sake of the money she gets back now, but for the trade in the future, for keeping up commercial relations in pursuance of her far-reaching policy as a great commercial nation. And yet to save \$32,500 we propose to abolish at a blow all those consulates, and abandon the field to Great Britain.

MR. RANDALL. Does the gentleman not understand what is the law about that,—that wherever a consulate such as we have disposed of becomes in the least necessary, the law gives the consul-general the right to appoint what is known as a consular agent, who takes the fees? In no instance—and I defy the gentleman to show any such instance—where we have cut off these consulates have we in the least degree interfered with the commerce of the country.

I think my friend will agree with me that it would be far wiser for us to keep that interest in our own hands, and not let it be delegated to a step-mother, under no special, central, directing control, like our present consular system.

But, Mr. Chairman, the general statement which I have just made is not sufficient. I want to apply it more closely to our consular relations with South America. Here is a table showing what our consular service at the several countries costs us. The amount is \$34,500; we get back from the same countries \$36,942.83. I have given it here by countries and by aggregates. In other words, we receive from the whole of

South America over \$2,000 a year more than the service costs us. And yet in these very South American countries our friends have cut down almost as much as in any other part. Some of those consulates pay as much as they cost; some less, some more. But the balance-sheet for South America is in our favor. Shall we pick out some of the consulates that do not now pay in our present depressed condition, and blot them out? If so, we abandon all hope of making them pay in the years to come.

[Here Mr. Garfield presented a memorandum of the relative cost of the consular service of the United States and Great Britain, and of the amount received by each for fees in several South American States; viz. the Argentine Republic, Brazil, Chili, Colombia, Ecuador, Peru, Uruguay, and Venezuela.]

From this table we see that Great Britain pays \$94,250 at the same consular ports in South America where we pay \$34,500; and she gets back only \$23,270, while we get back \$36,942.83. She expends \$70,980 a year at these ports more than she receives, while we spend less than we receive from them. And yet our friends propose to cut still deeper into our consular relations with South America, and leave the field to Great Britain. I cannot believe that, when gentlemen reflect upon this from a business point of view, they will persist in this course. Why, sir, the great business houses of New York spend more money in proportion to their wealth in keeping up their commercial relations with South America, and with the ports where they trade, than the United States spends. Intelligent selfishness would do more than is here proposed. Let us be as intelligent at least as the ordinary commercial traders of our cities.

Turn now to our relations with Japan and China. By the addition of Alaska to our domain, we have established relations most important for our commercial future with those two great countries of Asia. I once said on this floor, on another subject, that it seemed to me just to say that at all eras of the world civilization has been grouped around some one sea as the focal centre of its life and activity. Once the Mediterranean Sea was the centre of the civilization of the world. The great empires that then governed mankind had their home and seat on its shores. After a lapse of centuries the human race, leaving ruined empires in its track, turned away and sought a broader theatre than the Mediterranean. The Atlantic became

what the Mediterranean had been, and it is the great sea of to-day. But if there be anything in the lessons of history, the central sea of the future will be still grander; for the time will yet come when the centre of civilization shall be shifted to the Pacific Ocean, and our republic, holding the northern half of its eastern shore and reaching out an arm of islands a thousand miles to the northwest, ought to be the arbiter of that sea, the controller of its commerce, and the chief nation that inhabits its shores. For that reason we have extended commercial relations, have opened up close and intimate relations of commerce and amity with China and Japan. The old East has approached the new West, and we, the youngest born of Time, have clasped hands with the most ancient nations of the world. We have sent ministers to China and Japan; we have sent out commercial agents and consuls to carry on our business with those countries; and now we send them from our mint half a million a week of coined dollars to be the trade dollars of Asia. Now what have our friends of the Appropriation Committee done in regard to our relations with the Japanese and Chinese governments? They have shorn us down to the smallest and narrowest proportions, such as will in effect drive us out of those countries as a power. Let me state a few facts.

In Japan the United States pays consular, etc.		
salaries . . . . .	\$14,500.00	
Received consular fees (1873) . . . . .	8,001.27	
	<hr/>	\$6,498.73
Pays diplomatic salaries . . . . .		17,000.00
Total payments . . . . .		\$23,498.73
Great Britain pays consular salaries . . . . .	\$67,285.00	
Received no fees.		
Pays diplomatic salaries . . . . .	27,750.00	
Total payments . . . . .	<hr/>	\$95,035.00
In China the United States pays consular salaries	\$43,200.00	
Received fees (1873) . . . . .	20,848.12	
	<hr/>	\$22,351.88
Pays diplomatic salaries . . . . .		17,000.00
Total payment . . . . .		\$39,351.88
Great Britain pays consular salaries . . . . .	\$255,535.00	
Received no fees (1873).		
Pays diplomatic salaries . . . . .	38,000.00	
Total payments . . . . .	<hr/>	\$293,535.00

From this it will be seen that England pays nearly four hundred thousand dollars a year and receives nothing, and yet our friends of the Appropriation Committee think we are far too extravagant. They can make a little fun at the expense of our ministers, by talking about their conversation in broken Chinese with the Celestials, and they seem to think that is enough to laugh out of Congress all our efforts to keep up our relations with that great nation of more than five hundred million people. Gentlemen, I beg of you, do not cripple and utterly ruin this young and growing commerce that shall bind Asia to the United States.

Our friends of the Appropriation Committee seem to have adopted the rule that, when they have any doubt about an appropriation, in the absence of any definite knowledge as to how it should be cut down, they will divide it by two. For example: the contingent expenses of our foreign and diplomatic service they have divided by two, making the amount \$50,000, instead of \$100,000 as heretofore. I hold in my hand a table, prepared at the State Department, which shows the total contingent expenses of our foreign missions and foreign intercourse service since 1853. The table shows, among other things, the average contingent expenses of foreign missions and intercourse per year for the several administrations since July 1, 1853. The summaries are given :—

Pierce, 1853-57 . . . . .	\$109,810.67
Buchanan, 1857-61 . . . . .	120,336.95
Lincoln, 1861-65 . . . . .	132,283.75
Johnson, 1865-69 . . . . .	140,731.69
Grant, 1869-73 . . . . .	109,759.91

From this it will be seen that, during the last twenty-four years, the average expenditure for the contingent expenses of foreign missions and foreign intercourse has been considerably more than \$100,000. In no administration, except the first term of General Grant, have the appropriations been brought down to the average of \$100,000 a year. Now, the average of the last forty years has not been as low as \$100,000; yet the Committee on Appropriations, following their principle of dividing by two, have cut down this contingent item to \$50,000. Sir, it exceeded that amount fifty years ago, and has never been lower than that since the time of Thomas Jefferson. Now,



upon what principle have the committee acted? Is it simple division, to save labor, or what is it? You may ask the Secretary of State to furnish you the exact details of contingent expenses for any year for the last half-century, and you will find that the sum will not be so small as you have put it in this bill.

I next call the attention of the Committee of the Whole to the clause found in lines 271 and 272 of the bill, "For the relief and protection of American seamen in foreign countries, \$60,000." Now, section 4577 of the Revised Statutes provides that

"It shall be the duty of the consuls, vice-consuls, commercial agents, and vice-commercial agents, from time to time, to provide for the seamen of the United States who may be found destitute within their districts, respectively, sufficient subsistence, and passages to some port in the United States, in the most reasonable manner, at the expense of the United States, subject to such instructions as the Secretary of State shall give. The seamen shall, if able, be bound to do duty on board the vessels in which they may be transported, according to their several abilities."

The consul cannot neglect this duty without violating the law. He must send the American sailor home. Now, the experience of years shows that from \$75,000 to \$150,000 a year is used in this way, and that we cannot get along with less. I remember that, two years ago I think it was, we had to make an extra appropriation of a large amount, because of the wrecking of our whaling fleet by the ice in the Pacific. I have here a table furnished me by the State Department, showing how much has actually been expended for the relief of American seamen, with the amounts paid for transportation to the United States and loss by exchange, in each year since 1861, by which it is seen that in no year has the amount been so small as that proposed by this bill for this purpose. The range is from \$64,640.72, in 1874, to \$226,705.63, in 1863. The amount expended in 1872 for relief of seamen at Honolulu, in consequence of the disasters to shipping in the Pacific in that year, was \$121,855.42. The total average for fourteen years, since 1861, is \$125,000.

Now, if you appropriate for this purpose only \$60,000, this will be the result. When the \$60,000 shall have been exhausted, drafts will be sent in from all parts of the world from which American seamen are sent home; and of course they

will be dishonored, for there will be no money to pay them. There may be a hundred little drafts, amounting in all to thirty or forty thousand dollars, from twenty different countries, sent by our consuls, and they will be dishonored simply because of this unnecessary effort to show a cutting down of expenses. There will be no more of this fund used than is called for under the strict letter of the law. Let us appropriate enough to cover what we understand to be the fair expectation of expenditures for this purpose. If it is not all used, there will be no harm done. It is true the Democratic party will not have the credit of cutting down our expenditures by a few thousand dollars; but you will have saved American seamen from distress, and also our government from shame and protest. Let us do that.

I have one other matter to refer to, and that is a very small one. It has been our custom for many years to appropriate a small fund with which to pay foreigners who, by acts of gallantry, save any of our citizens from shipwreck. Whenever some gallant English or French sailor has leaped into the sea and rescued an American seaman from death, our State Department has made him a small present, it may be a chronometer, a watch, a compass, or a medal, or fifty dollars in money, with a letter of recognition of his courage. During the last forty years about \$5,000 a year has been used, and never has the amount gone above \$7,500. Now, if there is anything in the world which we ought to keep untouched, it is that little appropriation of \$5,000 for this worthy purpose, to let men all over the world know that, if they take care of an American citizen, or save his life, they will have the thanks of the United States as a memorial to carry with them. Now the committee come to that estimate, and, following their new rule, divide it by two, making it \$2,500. Why should they higggle about a matter like this, which, though small in amount, is in its relations to the world and to our honor and our pride a great and important matter? I presume the provision of the bill on this point is an oversight; I do not think anybody would make such a reduction except as the result of oversight. Let it be corrected.

I have here a table, carefully prepared in the office of the Fifth Auditor, showing how much the great nations of the world — France, Russia, Great Britain, Spain, and the United States — expend at the various consular ports where they all have consular offices. This table is very interesting, for it

shows at a glance how valuable the consular service is supposed to be by these great powers, and how we regard it. It is a little mortifying to find that in every case the United States is away down at the foot of the list, even right at our very doors, — in Cuba, in the islands of the Atlantic, and on the coasts of South America. So far as we can practise economy while doing our work as well as they, let us practise it; but I trust that this bill will not finally be put in such a shape that before the nations of the world we shall be ashamed of the way we treat our foreign and consular service.

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On the 10th of December, 1878, pending the Consular and Diplomatic Appropriation Bill for the fiscal year ending June 30, 1879, Mr. Garfield said, in Committee of the Whole :—

MR. CHAIRMAN,—So far as I have studied the current of public thought and of political feeling in this country, no feeling has shown itself more strongly than the tendency of the public mind in the past few months. The man who attempts to get up a political excitement in this country on the old sectional issues will find himself without a party and without support. The man who wants to serve his country must put himself in the line of its leading thought, and that is the restoration of business, trade, commerce, industry, sound political economy, honest money, and honest payment of all obligations. And the man who can add anything in the direction of the accomplishment of any of these purposes is a public benefactor.

# HENRY H. STARKWEATHER.

REMARKS MADE IN THE HOUSE OF REPRESENTATIVES,

FEBRUARY 24, 1876.

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MR. GARFIELD made the following remarks while these resolutions were pending in the House : —

*“ Resolved,* That this House has heard with deep regret the announcement of the death of Henry H. Starkweather, late a member of this House from the State of Connecticut.

*“ Resolved,* That, as a testimony of respect to the memory of the deceased, the officers and members of the House will wear the usual badge of mourning for thirty days.

*“ Resolved,* That a copy of these resolutions be transmitted by the Clerk to the family of the deceased.

*“ Resolved,* That, as a further mark of respect, the House do now adjourn.

*“ Resolved,* That the foregoing resolutions be forthwith transmitted to the Senate.”

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MR. SPEAKER, — In some respects this hall is the coldest, the most isolated place in which the human heart can find a temporary residence. We are in the service of distant constituencies, each of us representing the wishes and aspirations of separate communities, people with whom we are far more closely connected than with each other. Few of us have been neighbors, or even acquaintances. We are here, not for each other, but for the public; and the duties of our temporary sojourn are such as necessarily to keep us isolated from each other. I have often been saddened by the thought that in no place where my life has been cast have I seen so much necessary isolation as here. True, our work brings us together every day; we see each other's faces; we compare opinions

upon public questions; we divide, combine, clash, agree, attack, and defend; but, after all, this life is a wonderful isolation. The accidents of committee service, of the seats we may occupy in this hall, of the places in the city where we may reside, — all these frequently determine whether we shall really know much or little of each other. And usually it is difficult without the favorable concurrence of these accidents for two busy members of this House to become very intimately acquainted with each other.

Mr. Starkweather was a member of this House several years before I could say that I had any intimate acquaintance with him. It was only when our duties brought us together upon the same committee that I came to realize how much I had lost in the four years during which he had been a member of this body. Our service together on a very laborious committee gave me unusual opportunities to study the character of his mind and heart, and to know that, in the best meaning of the words, he was a true, genuine, manly man. Foremost among his high qualities was his unselfishness. He was one of the few men we meet, in this ambitious tussle of public life, who are willing to take up a difficult and tangled subject, patiently work it out, and put his results into the common fund of work as cheerfully and faithfully as if the duties and honors were all his own. Without complaining, quietly, patiently, and faithfully he did his work, finding his reward in the consciousness of duty well done.

There was another circumstance that enabled us to know more of his character than would otherwise have been possible. I have sometimes thought that we cannot know any man thoroughly well while he is in perfect health. As the ebb-tide discloses the real lines of the shore and bed of the sea, so feebleness, sickness, and pain bring out the real character of a man. Who knew better than he the sacred ministry of pain? Who fought more bravely for life? Who struggled more courageously to do his duty uncomplainingly and appear to be well? I have seen him in the committee-room in such paroxysms of coughing that it seemed he must die in his chair. Yet, with a rare hopefulness and courage that rejected help, he waved his friends off, as if annoyed that they should notice his weakness. Thus, for years, he pushed away the hand that was reaching for his heart-strings, and bravely worked on until his last hour. I do

not doubt that his will and cheerful courage prolonged his life many years.

He was a man of uncommon soundness of judgment, of rare common sense. I recently heard one of our foremost scholars and thinkers say that, of all the men who had made the most enduring impress upon the character and history of our institutions, the men of sound judgment had done vastly more for us than all our brilliant men had accomplished. He noticed, especially, the example of Washington.

Hamilton was the master of a brilliant style, — clear and bold in conception and decisive in execution; Jefferson was profoundly imbued with a philosophic spirit, — could formulate the aspirations of a brave and free people in all the graces of powerful rhetoric; and other master minds of that period added their great and valuable contributions to the common stock; but, whether in the camp or in the cabinet, the quality that rose above all the other great gifts of that period was the comprehensive and unerring judgment of Washington. It was that all-embracing sense, that calmness of solid judgment, that made him easily chief; not only the first man of his age, but foremost “in the foremost files of time.”

I was deeply impressed with this tribute to the value of sound judgment, of saving common sense, as contrasted with the more flashing qualities of genius. And I may say that our departed friend was girded with a calm, balanced judgment, that made him a man to be trusted in moments of doubt and difficulty. I have known but few men who knew so perfectly the drift and current of public thought, and what it would be just right and fitting and wise to do. It was this which made Mr. Starkweather so valuable a member of the committees on which he served. They found him never fickle, always wise, never extreme, always steady, having the courage of his opinions and always ready to defend them.

He had one experience that almost every man must have before his character can be fully tested. He was tried in the fiery furnace of detraction and abuse. I remember well, in that period of assault, how calmly, how modestly, and yet how bravely, he bore himself,— without bitterness, without shrinking,— boldly meeting all assaults, calmly answering, bearing himself through the storm like a genuine man, as he was. That was the test which set the seal of character and gave assurance that he

was made of the real stuff of which genuine, heroic men are made.

But, after all, we have but small ground to judge of a man's real merits here. We can judge of many qualities; but if we would know a man's heart and learn how the foundations of his character have been laid, we must enter that circle where he has been known from his youth, and in which his life has been developed. Well as I knew Mr. Starkweather, I confess that I never knew until we bore his body back to his home, and saw his neighbors gathered around his bier, how true, how tender, and how noble a soul was his.

We know but little of each other here. Behind this public life lies a world of history, of quiet, beautiful home-life, within which the religious opinions and sentiments are manifested, — a world of affection, the features of which are rarely brought out in this forum. Who of us knew the deep, the profound religious life of our departed friend? None of us ever saw anything in him inconsistent with the highest religious character; but who of us had learned that, at home, in the circle of his family and his church, he was a steady, clear light, illuminating the whole circle in which he moved, and filling with the radiance of a sweet and beautiful religious life the hearts of all who knew him. On the evening of his very last day at home, only a month before he came here to die, he spoke in his own church, in a quiet social gathering, such words as we found were echoing and trembling in the stricken hearts of those who came to follow his bier.

There was no religious cant in this man, — no ostentatious parade of piety. It was with him, as he said of Senator Ferry, not a sentiment merely, but a controlling force, that lighted his pathway and moulded his whole life. And it was this that bowed my soul in reverence and love as I stood beside his grave. I believe we may say, in every good sense of the word, that his life has been a noble and worthy success, — a life that we ought to remember for our own sakes and for the sake of our country, — a life that those who knew him can never forget.

ALMEDA A. BOOTH :  
HER LIFE AND CHARACTER.

ADDRESS DELIVERED AT HIRAM COLLEGE, HIRAM, OHIO,

JUNE 22, 1876.<sup>1</sup>

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"The crown and head,  
The stately flower of female fortitude."

MR. PRESIDENT, — You have called me to a duty at once most sad and most sacred. At every step of my preparation for its performance, I have encountered troops of thronging memories, that swept across the field of the last twenty-five years of my life, and so filled my heart with the lights and shadows of their joy and sorrow, that I have hardly been able to marshal them into order, or give them coherent voice. I have lived over again the life of this place. I have seen again the groups of young and joyous students ascending these green slopes, dwelling for a time on this peaceful height in happy and workful companionship, and then, with firmer step and with more serious and thoughtful faces, marching away to their posts in the battle of life. And still nearer and clearer have come back the memories of that smaller band of friends, the leaders and guides of those who encamped on this training-ground. On my journey to this assembly it has seemed that they, too, were coming, and that here I should once more meet and greet them. And I have not yet been able to realize that Almeda Booth will not be with us.

After our great loss, how shall we gather up the fragments of the life we lived in this place? We are mariners, treading the

<sup>1</sup> The following is Mr. Garfield's dedication of this Address: "To the thousands of noble men and women whose generous ambition was awakened, whose early culture was guided, and whose lives have been made nobler, by the thoroughness of her instruction, by the wisdom of her counsel, by the faithfulness of her friendship, and the purity of her life, this tribute to the memory of Almeda A. Booth is affectionately dedicated."



lonely shore in search of our surviving comrades and the fragments of our good ship, wrecked by the tempest. To her, indeed it is no wreck. She has landed in safety, and ascended the immortal heights beyond our vision. What manner of woman she was, by what steps and through what struggles her character was developed, to what ends her life was directed, what she accomplished for herself and for us, and what rich fruitage may be gathered from the trees of her planting, I shall attempt to portray as best I can.

We can study no life intelligently except in its relations to causes and results. Character is the chief element, for it is both a result and a cause,—the result of all the elements and forces that combined to form it, and the chief cause of all that is accomplished by its possessor.

Who, then, was Almeda Ann Booth? and what were the elements and forces that formed her character and guided her life?

Every character is the joint product of nature and nurture. By the first, we mean those inborn qualities of body and mind inherited from parents, or, rather, from a long line of ancestors. Who shall estimate the effect of those latent forces infolded in the spirit of a new-born child, which may date back centuries, and find their origin in the unwritten history of remote ancestors,—forces, the germs of which, enveloped in the solemn mystery of life, have been transmitted silently from generation to generation, and never perish? All-cherishing Nature, provident and unforgetting, gathers up all these fragments, that nothing may be lost, but that all may reappear in new combinations. Each new life is thus the "heir of all the ages," the possessor of qualities which only the events of life can unfold. By the second element—nurture, or culture—we designate all those influences which act upon this initial force of character to retard or strengthen its development. There has been much discussion to determine which of these elements plays the more important part in the formation of character. The truth doubtless is, that sometimes the one and sometimes the other is the greater force; but, so far as life and character are dependent upon voluntary action, the second is no doubt the element of chief importance.

Not enough attention has been paid to the marked difference between the situation and possibilities of a life developed here in the West during the first half of the present century, and

those of a life nurtured and cultivated in an old and settled community like that of New England. Consider, for example, the measureless difference between the early surroundings of John Quincy Adams and Abraham Lincoln. Both were possessed of great natural endowments. Adams was blessed with parents whose native force of character and whose vigorous and thorough culture have never been surpassed by any married pair in America. Young Adams was thoroughly taught by his mother until he had completed his tenth year; and then, accompanying his father to France, he spent two years in a training-school at Paris, and three years in the University at Leyden. After two years of diplomatic service under the skilful guidance of his father's hand, he returned to America, and devoted three years to study at Harvard, where he was graduated at the age of twenty-one; and three years later was graduated in the law under the foremost jurist of his time. With such parentage and such opportunities, who can wonder that, by the time he reached the meridian of his life, he was a man of immense erudition, and had honored every great office in the gift of his country?

How startling the contrast in every particular, between Adams's early life and that of Abraham Lincoln! The facts concerning the latter are too well known to require a statement. Born to an inheritance of the extremest poverty, wholly unaided by his parents, surrounded by the rude forces of the wilderness, only one year in any school, never for a day master of his own time until he reached his majority, forcing his way to the profession of the law by the hardest and roughest road, and beginning its practice at twenty-eight years of age, yet by the force of unconquerable will and persistent hard work he attained a foremost place in his profession.

Who can tell what the results might have been if the situations of these two men had been reversed? It is often remarked, as ground of encouragement to young men, that just such struggles as these in which Lincoln engaged are necessary to bring out the native force of character, and produce great results; and no doubt this is partly true. But where one succeeds under such circumstances, how many thousands fail!

Our people frequently refer with pride to the exceptionally prominent place which Ohio has taken in all the walks of public and professional life during the last twenty years. That prominence is probably due to the fact, that those citizens of Ohio

who have been leaders of their generation during the last twenty years are the first-born of the pioneer founders of our State. The inspirations of the Revolution were still acting in full vigor upon the people of the original thirteen States when the settlement of Ohio began. By the law of natural selection, only those became pioneers who were best fitted by natural energy and force of character to conquer the difficulties attending such a career; and their children have not only inherited a part of that energy, but have enjoyed means of culture which were far beyond the reach of the pioneers themselves. In old and settled communities we find more culture; in pioneer life, more force. And it will doubtless prove true that, in succeeding generations, Ohio will produce a higher type of scholars, — men of arts and letters; but it is also probable that they will lose in rugged force a part at least of what they gain in culture.

Striking as was the difference between the two examples referred to, the contrast of such conditions is still greater when applied to the possibilities of the culture and development of woman. Man is better fitted for a rough struggle with rude elements. His is a coarser fibre, his "the wrestling thews that throw the world."

"Iron-jointed, supple-sinewed, they shall dive, and they shall run,  
Catch the wild goat by the hair, and hurl their lances in the sun."

But woman's nature is of a finer fibre, — her spirit attuned to higher harmonies. "All dipped in angel-instincts," she craves more keenly than man the celestial food, — the highest culture which earth and heaven can give; and her loss is far greater than his when she is deprived of those means of culture so rarely found in pioneer life. Success in intellectual pursuits, under such conditions, is the strongest possible test of her character.

With these general reflections as guides to the study of the life we have met to commemorate, let us inquire what were the elements and conditions out of which that life grew.

Almeda Ann Booth was a child of the pioneers, and of hardy New England stock. Her father, Ezra Booth, was born near the Housatonic River, in Newton, Fairfield County, Conn., February 14, 1792; and her mother, Dorcas Taylor, was born in Great Barrington, Mass., June 30, 1800. Both were swept westward, in early childhood, by that tide of emigration which, in the beginning of the present century, began to people the

wilderness of Northeastern Ohio. The precise date at which Ezra Booth came to the West, I have not ascertained. The parents of Dorcas Taylor came in 1813, and found a home in the woods of Nelson, Portage County.

As we know the Western Reserve to-day, with its 350,000 people, its growing cities, its vast industries, and its thousands of comfortable and elegant homes, we can hardly realize what it was when the parents of Miss Booth first saw it. At the beginning of the century it was an unbroken wilderness, with but 1,302 white inhabitants. Indeed, in 1810 the whole number of white inhabitants within the present limits of Portage County was considerably less than the population of Hiram to-day. Between 1810 and 1830, 17,000 pioneers had settled in this county, and 70,000 had found homes in the Western Reserve. They brought with them little wealth, and few of the comforts of life. Patient and courageous toil was the first necessity of the men and women who transformed that wilderness into the beautiful and happy homes inherited by their children. But the pioneers did not forget the faith and traditions of their fathers. While building their homes, they planted also the school and the church, and thus laid deep and strong the foundations of prosperity.

In the midst of such stirring scenes, Ezra Booth began his career. He was a man of more than ordinary powers of mind, — gentle, affectionate, impressible, and deeply religious. His early intellectual training did not go beyond the rudiments taught in the common schools of Connecticut; but he was an inveterate reader of books, and the armful of choice volumes that lay on the shelves of his little library was probably a greater number than could have been found in one house out of every thousand on the Reserve. Possessed of slender means, he adopted a profession which rendered the acquirement of wealth wellnigh impossible. He early entered the ministry of the Methodist Episcopal Church, and was assigned to a circuit of nearly a thousand miles, embracing in its range the township of Nelson; and there, in 1819, he married Dorcas Taylor, and fixed his home. Soon after entering the ministry, he sent eleven silver dollars to England to purchase a Greek lexicon; and he so far mastered the language as to read the Greek Testament with ease. He used to say that, in the early days of his ministry, he and a Mr. Charles Elliott were the only Methodist

preachers west of the Alleghanies who were able to read Greek.

In a small frame house about three and a half miles eastward from this place, on the farm now owned by Mr. Ferris Couch, Almeda, the only child of Ezra and Dorcas Booth, was born, on the 15th of August, 1823. She inherited a hardy and vigorous constitution, a clear and powerful intellect, and a spirit of remarkable sweetness and gentleness. These qualities of mind and heart shone with clear and steady light from early childhood until her last hour. Her life appears to fall into three very distinct periods, separated from each other by marked events. Indeed, she may be said to have lived three separate lives. These will appear as we review her history.

Her first twelve years were passed in Nelson. All the traditions that have come to us from that period are redolent of the fragrance of a sweet and loving childhood. In her fourth year she attended the district school at Nelson Centre, a mile and a half distant from her home. The school was taught at that time by Miss Jane Hopkins, afterwards Mrs. Nathan Wadsworth. How long she continued with this teacher I have not learned; but at the close of Miss Hopkins's school Almeda received a locket, the prize for making the greatest progress in spelling. Miss Clarissa Colton was also her teacher in Nelson for several terms, and was remembered with great affection in after years. I have not been able to learn the names of her other teachers in that place. The honored President of the Board of Trustees of this College, who saw her frequently when she was a little child, tells us this pleasing and characteristic incident.

When Almeda was about twelve years of age, she used to puzzle her teachers with questions, and distress them by correcting their mistakes; and one of them (a male teacher, of course), who was too proud to acknowledge the corrections of a child, called upon Mr. Udall, the President, for help and advice in regard to a point in dispute between them. Mr. Udall told him he was evidently in error, and must acknowledge his mistake. The teacher was manly enough to follow this wise advice, and thereafter made the little girl his friend and helper in the scholastic difficulties which he encountered. It was like her to help him quietly, and without boasting. During her whole life, what one of her friends ever heard an intimation from her that she

had ever achieved an intellectual triumph over anybody in the world?

In 1835 her family removed to Mantua, about four miles to the northwest of this place, where they resided for more than thirty years. Her progress had been so great under the instruction of her favorite teacher, Miss Colton, that her parents induced that young lady also to remove to Mantua. Almeda's progress as a scholar was continuous and rapid. Dr. Squire, who knew her well from the time she first attended the district school at Mantua, in the winter of 1835-36, tells us that "she was known as a thorough scholar, the best speller in the district, and, though dressed in the plainest style possible, was the pride of the neighborhood for her youthful attainments and gentleness." Hon. A. G. Riddle, who knew her as a child in Mantua, has drawn this charming picture: —

"You ask me for my recollections of Almeda Booth. What I can recall of her associates her with a single spring and summer, — idyllic, as one long day of green foliage, apple blossoms, humming bees, and sunshine, coming from nothing which preceded, and connected with nothing which followed.

"There was a beautiful, secluded neighborhood in the northeastern part of Mantua, where two little travelled highways crossed. In the northwest angle thus formed stood the farmhouse, the homestead of Deacon Seth Harmon, my home at that time. The east and west road in its front was filled with cherry-trees. South of this highway stood a grand old and quite extensive apple orchard, over the tops of which, and two or three hundred yards away, embowered in fruit and forest trees, could be seen the roof of Almeda's home. A winding footpath led down from it to the road in front of the Harmon homestead.

"I knew Almeda as an only child, — a maiden of twelve or thirteen years, well grown, ruddy-cheeked, and buxom. Martha Harmon, dark and slight, was of about the same age. They were quite constant companions.

"About the Harmon house and grounds, in the highway, along that footpath, through the orchard, amid falling apple blossoms and humming bees, I can see and hear these two laughing, light-hearted girls; and that is all. I can connect them with no incident, or any certain time.

"I have a sort of an impression, and only that, of attending a winter school with Almeda.

"She must have had the power of fixing herself well in one's memory. I did not see her again for ten years, and knew her at once; and I recall

the lively satisfaction I felt at being remembered by her. Through all the years since, I have been familiar with her name, though meeting her but seldom."

There must necessarily be much loneliness in the life of an only child. That Almeda felt this is evident from one of her early essays which has been preserved, and in which she says, "I am one of those unfortunate beings whom Mrs. Sigourney so much pities, — a person destitute of brothers and sisters." And yet, for a thoughtful child, such a life had its compensations. She found early and sweet companionship with her father in his studies, and, like him, became an ardent lover of books. At that period few juvenile books were published; and the stirring works of legend and romance rarely found their way to the shelves of a preacher's library. The extent and character of her early reading I have not learned; but she once told me that she read Rollin's Ancient History and Gibbon's "Decline and Fall of the Roman Empire" when she was twelve years of age. I doubt if, at so early an age, any person in this assembly had done as much. At the age of fourteen she had pretty thoroughly mastered the studies then taught in the district school; and, for a short time, she attended a select school in Painesville, boarding at the house of a Rev. Mr. Winans.

When she was seventeen, she taught her first school, in a log schoolhouse, near her home in Mantua. She next engaged to teach, for five months, the school near what was known as the "Brick Tavern," south of Mantua Centre. There, as in her first school, she was very popular; but she became homesick, and by the aid of friends secured a change in the contract, by which the term was shortened to three months. She greatly disliked the custom of that time, which required her to "board around the district"; because it resulted in such a waste of her time, and cut her off from the opportunity of reading which she so highly prized. But she conquered all the discomforts of the work, and continued to teach, using for the advancement of her own culture the pittance then paid to a woman teacher, which sometimes did not exceed four dollars per month.

In 1842 and 1843 she attended during several terms the Asbury Seminary, at Chagrin Falls, which at that time was under the charge of L. D. Williams, who was afterwards a distinguished Professor in Meadville College. In later years she frequently spoke of him in terms of the highest respect and

reverence. I have not been able to learn the range of her studies at Chagrin Falls; but she has left a small package of essays, written as school exercises while there, which exhibit that clearness and masterful force of expression so characteristic of her style in later years. The penmanship bears a few traces of the formal schoolgirl hand, especially in the construction of the capital letters; but it also shows the outline of that elegant and graceful chirography with which we are now so familiar. The brief marginal notes and criticisms of her instructors indicate the pride and satisfaction they felt in her development. One of these notes is signed "Mattison"; another, "H. H. Moore"; and another is in these words: "Very good. The errors are few, and none of them bad ones. L. D. W." (evidently L. D. Williams). I have read these short essays with a deep and mournful interest. Though written as formal school exercises, they are charming pictures of the progress of her mind and the genuine earnestness of her convictions. To quote them here, however, would be unjust to her maturer fame. Among them is a dialogue, in her handwriting, between herself and Miss Elizabeth Hayden, daughter of the late Rev. William Hayden. Even at that early age, Miss Booth exhibited unusual aptitude for that species of dramatic composition in which she subsequently developed so much power.

Until she reached the age of twenty-four, her life had been devoted to home duties, to study, and teaching. In the family of her nearest neighbor, she had formed the intimate acquaintance of Martyn Harmon, a young man of rare and brilliant promise. Like herself, he was an enthusiastic student. Ambitious of culture, he had pushed his way through the studies of Meadville College, and was graduated with honor. He had given Almeda his love, and received in return the rich gift of her great heart. The day of their wedding had been fixed. He was away in Kentucky teaching; while she was in Mantua preparing to adorn and bless the home of their love. On the 6th of March, 1848, he died of some sudden illness, and was buried near Frankfort, Kentucky. Funeral services were held in Mantua, at which Almeda took her place as chief mourner. Her plans of life and the hopes of her earthly future seemed buried in his grave.

This event closes the first period of her history. It seemed for a time to end her ambition and her hopes. Her heart was



wedded by ties as sacred as any which marriage can consecrate. From that time forward she walked alone in the solitude of virgin widowhood. In her subsequent life she rarely spoke of the suffering of that period; but she never ceased to cherish the memory of Martyn Harmon, as that of an immortal husband who awaited her coming in the life beyond. Her faithfulness to him excluded the thought of marriage with any other.

After such a loss, what was left to a soul like hers? To her heart, the consolations of the Christian faith; and to her life, the power of serving and blessing others. It is one of the precious mysteries of sorrow, that it finds solace in unselfish work. Patient and uncomplaining, with a spirit chastened and sweetened by her great sorrow, Almeda gathered up the fragments of her broken life, and devoted her powers to the work of teaching.

Making her father's home the centre of her activities, she commenced teaching in the most difficult and unpromising school-districts in her neighborhood. Her success was such as few teachers in a similar field have ever achieved. She found happiness in her work, and was rewarded with the admiration and love of those whose minds were moulded and guided by her influence. Besides this, she found solace and strength in her old habit of reading. Her spirit, ranging beyond the narrow circle of her every-day life, found in books a noble companionship with the good and great of other days. I find among her papers a few pages of personal reminiscences, written twenty-one years ago, which probably refer to the period of her life of which I am now speaking. I am sure her friends will listen to her own words with more pleasure than to anything that I can say. She writes: —

“Through the mists and clouds of later life, remembrance brings a warm glow to our hearts, as we think of the friends we loved, and the books we read. Yes, the books! Who has not some old, torn, dingy favorite of a book, that he remembers with more affection than any volume he has seen for many a year? I remember one that to me, in those years, was a source of never-failing delight. I fondly cherish the memory of that old book, both for itself and its pleasant associations. I chanced to find it in a family where I was allowed to visit, into whose possession it had come in payment of a debt for which nothing else could be obtained. It was a bound volume of a periodical that had been started in Philadelphia by some lover of literature who mistook the

tastes of the age ; and his magazine soon failed for want of patronage. It *had* been bound ; but when I was so happy as to make its acquaintance, its leaves had escaped from their confinement, causing me no little trouble as I turned over the unwieldy mass. It contained no original matter, but choice selections from English and American literature. Here I first read 'L' Allegro' and 'Il Penseroso' ; and, though I was delighted with the

' Goddess fair and free,  
In heaven ycleped Euphrosyne,  
And by men heart-easing Mirth,'

yet by the time I had read through to

' These pleasures, Melancholy, give,  
And I with thee will choose to live,'

I usually felt like giving in my adhesion to the 'goddess sage and holy.' There, too, I read 'Mazeppa,' — that wild ride related

' After dread Pultowa's day,  
When fortune left the royal Swede,' —

and I could never understand how, when 't was done, the king could have been 'an hour asleep.' There were Mackenzie's 'Man of Feeling' ; Goldsmith's simple, natural, and inimitable 'Vicar of Wakefield' ; also, those stories of exquisite beauty and pathos, 'The Lights and Shadows of Scottish Life.' And there I first found the letters of our own Dr. Franklin, and his life, written by himself, for his son, which I could never sufficiently admire : it seemed so truthful and honest, as he related the indiscretions of his early years, and remembered his errors, one by one. But I read nothing in that book with more thrilling interest than the old English ballad of 'Chevy Chase.' As I read how that famous hunt fell out, how noble knights and barons bold went down in death, how brave Lord Percy fell, and Scotland's pride, Earl Douglas, too, my enthusiasm was never chilled by a thought that I was reading events 'totally fictitious,' as Spaulding tells us they are. But, of all the treasures I there found, I oftenest read the letters of Lady Mary Wortley Montagu, which have always been regarded as models of epistolary composition. It is objected that she sometimes seems unamiable and unfeeling ; yet, even then, she is so witty and charming, one is almost tempted to forgive her. Still, I think, there is reason for this charge against her earliest letters. The absurdities and follies of the gay and courtly circle in which she moved appeared so ridiculous, in the light of her strong understanding, that, in letters to her friends, she often hit off those she met with the severest sarcasm. Addison, Pope, and other distinguished writers of that age, were proud of her friendship ; but Pope quailed before her peerless wit and sarcasm, and from a most ardent friend turned to an implacable enemy."

After describing, at some length, the character and career of Lady Montagu, the manuscript concludes: —

“ She [Lady Montagu] was proficient in Greek and Latin, and seems to have read almost everything that had ever been written in any language. In a letter to her daughter, in relation to the education of her granddaughter, she says: ‘ Learning, if she has a real taste for it, will not only make her contented, but happy. No entertainment is so cheap as reading, nor any pleasure so lasting.’ Thus much for the old book. I saw its friendly, honest face, soiled and time-worn, only a few months ago; but it is not so perishable as earth’s frail children. I gazed upon it with mingled emotions of pain and pleasure; for I remembered that the dear ones, who in those happy hours had read from that book with me, were all gone. The glad voices of seven children once rang through that home; but now every one is hushed in death, and the poor, stricken parents are left alone. I remembered when the father — a man of uncommon tenderness of feeling — said to me, a few days before his last child was laid in the grave, his voice trembling, and his eyes full of tears, ‘ Oh! I had hoped the Lord would spare me one child; but his will be done.’

“ So that old book is very dear to me.”

This charming sketch of the old book is a striking picture of her own mind and heart during the early days of her sorrow.

But, by slow degrees, her sorrow gave place to ambition for larger culture. In the autumn of 1848 she attended a select school at Mantua Centre, taught by Norman Dunshee, and, among her other studies, began Latin. In the winter of 1849–50 she taught the school in the Darwin-Atwater district, and in the winter of 1850–51 taught at Hiram Rapids her last district school. She is still remembered with enthusiastic affection by the people of that neighborhood.

Her success as a teacher was well known to Charles D. Wilber, at whose suggestion President Hayden secured her services to the young Eclectic; and in the spring of 1851 she came here as a teacher in the English department. Up to that time no lady had taught in the Eclectic, except in the primary department, which was established at the opening of the institution in November, 1850, and maintained for several years. Before the end of her first term, the Trustees found that, in securing her services, they had drawn a rich prize.

The Eclectic was compelled to create its own scholarship and culture. Very few of its early students had gone beyond the

ordinary studies of the district school; and a large majority of them needed thorough discipline in the common English branches. I doubt if any teacher at Hiram was equal to Miss Booth in the power to inspire such students with the spirit of earnest, hard work, for the love of it.

In August next it will be twenty-five years since I first saw her. I came to the Eclectic as a student in the fall term of 1851, and, a few days after the beginning of the term, I saw a class of three reciting in mathematics, — geometry, I think. They sat on one of the red benches, in the centre aisle of the lower chapel. I had never seen a geometry; and, regarding both teacher and class with a feeling of reverential awe for the intellectual height to which they had climbed, I studied their faces so closely that I seem to see them now as distinctly as I saw them then. And it has been my good fortune since that time to claim them all as intimate friends. The teacher was Thomas Munnell; and the members of his class were William B. Hazen, George A. Baker, and Almeda A. Booth.

Let us pause here to consider the situation and attainments of Miss Booth in 1851, at the beginning of what we may call her second life. She was twenty-eight years of age. In many respects her character was fully matured. She had enjoyed somewhat better advantages than most women of that period, who, born of the pioneers and unblessed by wealth, were reared in the narrow circle of country life. Though she had made the most of her opportunities, yet she had hardly entered the circle of that larger scholarship and broader culture which women enjoy in older communities. As a means of estimating more accurately her abilities and merits, let us contrast her attainments at that time with those of a woman of wider fame, who was greatly admired by Miss Booth, and who was very like her in intellectual force.

Margaret Fuller was born at Cambridge, Mass., and from early life breathed the atmosphere of the highest culture of New England. Her father, a graduate of Harvard, an accomplished French scholar, thoroughly read in general history and literature, a prominent lawyer, and for many years a distinguished member of Congress, early devoted himself personally to the work of his daughter's education. At six years of age she was able to read Latin; and soon her young imagination was fired by the strong and beautiful legends of classic history

and mythology. Wandering at will in her father's well-filled library, and gathering such food as her young spirit could assimilate, she read, when eight years of age, "Romeo and Juliet," the quaint and wonderful humor of Cervantes, and the bright pictures of Parisian life portrayed in the pages of Molière. In her nineteenth year she had finished a thorough course in one of the best training-schools of Massachusetts. At twenty-two she had mastered the German language, and read the principal German authors. At twenty-three she was teaching the languages, and attracting to herself the minds and hearts of all who came within her reach. Mr. Emerson says of her at that period, "She was an active and inspiring companion and correspondent; and all the heart, thought, and nobleness of New England seemed at that moment related to her and she to it." At twenty-five she was translating the correspondence of Goethe, was devouring the works of Madame de Staël in French, and of Epictetus in Latin, and was ranging at will through the realms of English literature and philosophy. At twenty-eight she became the editor of a literary journal, and was assisted by Ralph Waldo Emerson, George Ripley, and many other prominent writers. Her wide acquaintance, and still wider correspondence, placed at her command the culture and literary wealth of both hemispheres. From that time forward she rose rapidly from height to height, until a tragic death closed her career in 1850. Her native powers of mind were undoubtedly great, and she would not have remained unknown in any sphere of life, however humble; but it must be acknowledged that very much of her success was due to her rare opportunities for early culture.

Contrast with this brilliant picture the situation of Miss Booth at twenty-eight years of age. We have followed the history of her toilsome life up to that period. We saw her moving in a narrow and humble sphere, creating her own means of culture, unaided by the companionship of superior minds to inspire and guide her development. After the light of her young life had been quenched in a great sorrow, we saw her turning sadly away from the wreck of her hopes, and beginning the hard task of creating the new conditions out of which she might gain a broader, deeper culture, and become more useful to her generation. We found her not farther advanced in technical scholarship at twenty-eight years of age than Margaret Fuller

was at seventeen; and even then her further advancement depended upon what she could accomplish for herself, while teaching six or seven great classes a day, and discharging the other numberless duties which fell to her lot as chief lady teacher in a mixed school of two hundred and fifty scholars.

Highly as I appreciate the character of Margaret Fuller, greatly as I admire her remarkable abilities, I do not hesitate to say, that in no four years of her life did her achievements, brilliant as they were, equal the work accomplished by Miss Booth during the four years that followed her coming to Hiram.

I was never a member of a class that recited to her, and I cannot speak of her work as a teacher as seen from the standpoint of a pupil; but I know from personal observation, and from the unanimous testimony of thousands who were so fortunate as to be her pupils, that her power over classes as a whole, and over every member, was very great and beneficent. In the earlier years of her teaching here she frequently took advanced classes in grammar and arithmetic, numbering from ninety to one hundred each. Without any parade of authority, without appearing to govern at all, she always held them in most admirable order. What was still more remarkable, each pupil felt that his relations to her were those of very direct personal responsibility and sympathy, and that he owed her a personal apology for any dereliction or failure on his part, and a debt of affectionate gratitude for the largest measure of his success.

Her classes in botany and astronomy were always filled with enthusiasm for their work, and with affectionate admiration for Miss Booth. She did not deliver formal lectures on these subjects, but she carried to almost every recitation a memorandum of brief notes, from which, during the course of the lesson, she threw out fertile and striking suggestions, which illuminated the subject, and made every pupil feel that to be absent from a recitation of her class was to suffer personal loss. I have found among her papers many of these memoranda, full of strong and beautiful suggestions.

Besides doing her full share of the heavy work of the classroom, Miss Booth had special charge of the ladies, and from 1852 onward devoted much time to them as their confidential counsellor and friend. There are hundreds of noble women

who have worn the royal crown of maternity these many years, — and some of them are present to-day, — whose hearts are still full of precious memories of those familiar lectures, or rather conversations, in the lower chapel, in which Miss Booth gave them the benefit of her rich experience and wise counsel in the conduct of life. The notes of some of these conversations I have found among her manuscripts. One was written out in full, in which she unfolded her conception of how solemn a thing it is to live and to perform those duties which fall to the lot of woman.

She aided in organizing and maintaining the first ladies' literary society in the Eclectic, and for several years took an active part in its proceedings. Her essays prepared for its meetings are models of sound judgment and of finished, graceful style.

I first became acquainted with her qualities as a writer in the spring term of 1852, when Corydon E. Fuller and I were appointed to aid her in writing a colloquy for the public exercises at the close of the school year. Having chosen a theme founded on historical events in the time of Pope Leo X., she sketched the outline of the piece, assigned portions to her two associates, set them to reading up the history of the period to which the piece related, directed and corrected their work, adapted it to her own, cast the parts, criticised and trained those who were to perform them, took the most difficult and least desirable part herself, and put the piece on the stage with such skill as to surprise and delight the great audience that assembled under the bower built among the apple-trees north of the College. I esteemed myself especially fortunate and highly honored in being chosen to aid her in that work. My admiration of her knowledge and ability was unbounded. And even now, after the glowing picture painted upon my memory in the strong colors of youthful enthusiasm has been shaded down by the colder and more sombre tints which a quarter of a century has added, I still regard her work on that occasion as possessing great merit. I have read again some of the pages of the faded manuscript, a few of which survive; and I find that her part of it still justifies much of my early enthusiasm.

To her marked success in this piece is due the fact that, during many subsequent years, an original drama — or, in the school dialect, a "colloquy" — was the most attractive feature of commencement days. There are many present to-day who

remember these colloquies; — that of 1853, founded on the Book of Esther; "Burr and Blennerhassett," in 1854, when O. P. Miller and Philip Burns played the heavy parts of Adams and Jefferson, and Rhodes and Pettibone the less pious but more exciting rôles of Burr and Blennerhassett; "Lafayette," in 1856; "Ivanhoe," in 1857, in which the stirring scenes of the Crusades were revived; "The Conspiracy of Orsini," in 1858, (suggested by the reading of Ruffini's "Doctor Antonio,") in which Elias A. Ford trod the stage as Louis Napoleon, — with Electa Beecher as empress and Amzi Atwater as prime minister, — while White, Chamberlain, and Ferry were treacherously seeking his imperial life. Then there was "The Highland Chiefs," in 1859, in which Henry James and Henry White were Lochiel and McAlpine, in deadly feud with Chamberlain and Dudley, Lords of Glencoe and Keppoch, mustering their clans for battle to determine which of these fierce knights should win the hands of Sophia Williams and Myra Robbins, the Ellen and the Margaret of the hour. There was "Pickwickian Politics," in 1860, with Brown and Bennett as stars; and "Zenobia," in 1861, in which Mary E. White was the proud Queen of Palmyra, with half a score of young men as bold Romans leading her away in triumph. In all these pieces, the parts which were surest to touch the heart and win approval were those written by Miss Booth. They showed how varied were her intellectual resources, and with what power and grace she could employ them.

Occupied as she was in the daily discharge of such exacting duties, one would think she had small leisure for any other work. But we shall see what more she was able to accomplish. She saw that, so long as she taught only the English studies, the bright and ambitious pupils to whom she was so strongly attached would pass out of her reach, by entering upon studies in which she could not guide them. The desire to avoid this gave a new impulse to her ambition for higher scholarship; and in the autumn of 1851 she began those studies necessary to fit her for teaching in the higher grades. When a class was formed in anything she had not mastered, she arranged to have it recite before or after school hours, and took her place as one of its members. Thus she kept in advance of her own pupils, and abreast with the foremost students of the institution.

I am not certain when she began Greek; but I remember



that she and I were members of the class that began Xenophon's *Anabasis*, in the fall term of 1852. Near the close of that term, I also began to teach in the Eclectic, and thereafter, like her, could only keep up my studies outside of my own teaching hours. In mathematics and the physical sciences I was far behind her; but we were nearly at the same place in Greek and Latin, each having studied them about three terms. She had made her home at President Hayden's almost from the first; and I became a member of his family at the beginning of the winter term of 1852-53. Thereafter, for nearly two years, she and I studied together, and recited in the same classes, frequently without other associates, till we had nearly completed the classical course.

From a diary which I then kept, and in which my own studies are recorded, I am able to state, quite accurately, what she accomplished in the classics, from term to term, in the two following years. During the winter and spring terms of 1853, she read Xenophon's *Memorabilia* entire, reciting to Professor Dunshee. In the summer vacation of 1853, twelve of the more advanced students engaged Professor Dunshee as a tutor for one month. John Harnit, H. W. Everest, Philip Burns, C. C. Foote, Miss Booth, and I were of the number. A literary society was formed, in which all took part. During those four weeks, besides taking an active part in the literary exercises of the society, Miss Booth read thoroughly, and for the first time, the *Pastorals* of Virgil,—that is, the *Georgics* and *Bucolics* entire,—and the first six books of Homer's *Iliad*, accompanied by a thorough drill in the Latin or Greek Grammar at each recitation. I am sure that none of those who recited with her would say she was behind the foremost in the thoroughness of her work or the elegance of her translations.

During the fall term of 1853, she read one hundred pages of Herodotus, and about the same amount of Livy. During that term, also, Professors Dunshee and Hull, and Miss Booth and I, met at her room two evenings of each week, to make a joint translation of the *Book of Romans*. Professor Dunshee contributed his studies of the German commentators De Wette and Tholuck; and each of the translators made some special study for each meeting. How nearly we completed the translation I do not remember; but I do remember that the contributions and criticisms of Miss Booth were remarkable for suggestive-

ness and sound judgment. Our work was more thorough than rapid; for I find this entry in my diary for December 15, 1853: "Translation Society sat three hours at Miss Booth's room, and agreed upon the translation of nine verses."

During the winter term of 1853-54, she continued to read Livy, and also read the whole of Demosthenes "On the Crown." The members of the class in Demosthenes were Miss Booth, A. Hull, C. C. Foote, and myself. During the spring term of 1854, she read the *Germania* and *Agricola* of Tacitus, and a portion of Hesiod.

In the autumn of 1854, having secured from the Board of Trustees a leave of absence for one year, she entered the Senior class of Oberlin College. Though she had not yet completed several of the important Junior studies, yet during her one year in college she not only brought up all arrears, but thoroughly accomplished all the work of the Senior year, and in August, 1855, was graduated as Bachelor of Arts in the full classical course, ranking among the very first in her class. Three years later she received the honorary degree of Master of Arts.

A student no further advanced than Miss Booth was in 1851 usually needs three years of preparatory study to enter the Freshman year, and four years more to complete the course. But in the four years that followed her coming to Hiram, she taught ten full terms, prepared herself for college, and completed with remarkable thoroughness the full course of college study. If any man or woman has done more in the same length of time, I do not know it. It should be mentioned, to the honor of Oberlin College, that, but for the wise and liberal policy which opened the full course of study to women, Miss Booth could hardly have taken the bachelor's degree anywhere in this country.

She returned to Hiram at the beginning of the fall term of 1855, and for ten years, without intermission, devoted herself to the work of teaching. Each year added to her thoroughness in the class-room, and increased her influence over students. Besides taking a few of the more advanced classes in the ordinary studies, she taught the higher mathematics, and Latin and Greek, maintaining her habit of making special preparation for each recitation. She handled these classes also with remarkable thoroughness and success. I cannot speak from personal knowledge of the later teachers of Latin and Greek in this insti-

tution; but during the time she was here no one of her associates was her superior in those studies.

As the earlier teachers were called away to other fields of duty, their places were supplied by selection from those who had been Eclectic students; and thus Miss Booth found herself associated with teachers whose culture she had guided, and who were attached to her by the strongest ties of friendship. I know how apt we are to exaggerate the merits of those we love; but, making due allowance for this tendency, as I look back upon the little circle of teachers who labored here under the leadership of our honored and venerable friend, Mr. Hayden, during the first six years of the Eclectic, and upon the younger group associated with me from 1856 until the breaking out of the war, I think I wrong no one of them by saying, that for generous friendship and united earnest work, I have never seen, and never expect to see, their like again. Enough new members were added to the corps of teachers from year to year to keep alive the freshness of young enthusiasm; and yet enough experience and maturity of judgment were left to hold the school in a steady course of prosperity.

The influence of Miss Booth, especially during the later period to which I have referred, was not surpassed by any member of that circle. A majority of her associates had been her students, — the children of her intellect and heart. She had watched their growth with something akin to maternal pride; and she welcomed them to that circle with no touch of envy, but with most generous and helpful friendship. I am sure that Rhodes, Everest, Atwater, Hinsdale, Miss Wilson, and the rest, can never forget that golden age of our lives; and all will agree with me, that one light at least shone always steady and clear, — the light that beamed upon us from the mind and heart of Almeda A. Booth.

The few spare hours which the school work left us were devoted to such pursuits as each preferred; but much study was done in common. I can name twenty or thirty books which will forever be doubly precious to me, because they were read and discussed in company with her. I can still read, between the lines, the memories of her first impression of the page, and her judgment of its merits. She was always ready to aid any friend with her best efforts. When I was in the hurry of preparing for a debate with Mr. Denton, in 1858, she read not less

than eight or ten volumes, and made admirable notes for me, on those points which related to the topics of discussion. In the autumn of 1859 she read a large portion of Blackstone's Commentaries, and enjoyed with keenest relish the strength of the author's thought and the beauty of his style. From the rich stores of her knowledge she gave with unselfish generosity. The foremost students had no mannish pride that made them hesitate to ask her assistance and counsel. In preparing their orations and debates, they eagerly sought her suggestions and criticisms. Everywhere the literary life of Hiram bore abundant marks of her guiding hand.

It is quite probable that John Stuart Mill has exaggerated the extent to which his own mind and works were influenced by Harriet Mill. I should reject his opinion on that subject as a delusion, did I not know from my own experience, as well as that of hundreds of Hiram students, how great a power Miss Booth exercised over the culture and opinions of her friends.

From what I have said of her influence over young men, it must not be inferred that she was wanting in sympathy or influence with her own sex. It is true, that giddy and superficial women, who care more for the adornment of their bodies than for the enlightenment of their minds, were not strongly attracted to Miss Booth; but by all the better class of thoughtful and earnest women she was loved with ardent and enthusiastic devotion.

The war for the Union, which broke up so many happy circles, and changed the plans of so many lives, wrought great changes in Hiram, and swept into the fiery current a hundred of our best students. Their fortunes were watched with patriotic pride and affection by those who remained to sustain the institution and promote its success. During those trying years, Miss Booth stood at her post of duty, always loyally faithful to her associates, and more indispensable to the institution than ever. In one of her letters to me, written in August, 1861, she said: —

“ In all my early forecastings of your future, and that of the noble men who went with you, I never counted upon the possibility of war; and I hardly know how to adjust my mind to its dreadful realities. Ah me! to think what may come! We shall follow you all with our hearts, and do our best to keep the light of the Eclectic burning. The task is a great one; but at a time of such anxiety hard work is a blessing, and just now our hands are very full of it.”

Through the darkness of the war, and into the light of victory and peace, she worked on, reaping each year a larger and richer harvest of results.

About the end of 1865 a new and sacred duty called her to leave the field in which for nearly fifteen years she had achieved such remarkable success. Her parents had become old and feeble, and her father had so far failed in body and mind as to need those tender personal services which none but she could render. Without a murmur, she closed the long period of her brilliant career at Hiram; and, leaving a circle of which she was the chief ornament, she removed with her parents to Cuyahoga Falls, established a quiet and unpretending home, and began a new life of uncomplaining self-sacrifice. During the first year of her residence there, she was manager and sole servant of her household, and with the tenderest filial piety devoted herself wholly to the care of her parents. In the autumn of 1866, her father's health had so far recovered, that, in addition to her home cares, she accepted the place of Assistant Principal in the Union School at Cuyahoga Falls, then under the superintendence of V. P. Kline, one of her Hiram students, and a cherished friend. There she continued to teach four years, when she was chosen Superintendent of all the schools of the village, and for three years discharged the duties of that position with her wonted success.

Her life at Cuyahoga Falls exhibited all her peculiar powers, and attracted the same enthusiastic love which she had enjoyed among the students at Hiram. But her long and arduous work had begun to make inroads upon her health; and, withdrawing from the superintendency of the schools, she gave private lessons to select classes in French and German and other advanced studies during the two succeeding years. At the close of 1874 her health was prostrated by a dangerous and painful disease, which required the most skilful professional treatment. Few, even of her most intimate friends, knew through what a terrible ordeal of bodily suffering she passed the last year of her life. In the autumn of 1875, she determined to remove to Cleveland, where she could receive the more constant attention of eminent physicians.

Just before leaving Ohio, in October last, I called on her in Cleveland, where she was spending a week near her physicians, and making arrangements for a change of residence. She

showed no signs of depression of spirits. Patient and cheerful, she looked forward to the hope of regaining her health, and finding a home near the friends of her earlier life. I expressed the desire that she might yet do me the very great favor to train my boys for college. The tears filled her eyes as she said, "I should dearly love to do that; it would seem like living our own lives over again"; and then, pausing as if in doubt whether it were not self-praise, she added, "I believe I can teach the classics better than I could when I was in Hiram." She spoke of her friends in that warm and earnest way so peculiarly her own; and I bade her good by with the promise, and in the confident hope, that I would meet her in the Centennial summer, and enjoy again the blessings of that friendship which for nearly a quarter of a century was one of the noblest and richest gifts that Heaven has vouchsafed to me. But it was ordered otherwise by a wisdom higher than ours. She removed to Cleveland on the 10th of November last, with health apparently improving. She set in pleasant order her new home, in the midst of a little colony of her dear old friends. Jennie Eggleston was living with her; Harry Rhodes and his wife, Henry James, and Virgil Kline, all familiar Hiram names, were her neighbors; and she and they looked forward to a pleasant winter, to be made brighter by frequent renewals of old memories; and the reunions had begun.

On the 8th of December she and Miss Eggleston spent the evening at Kline's, where they read and conversed several hours. Almeda read aloud Emerson's essay on "Compensation," and appeared to be all herself again. She seemed so bright and so well that her friends thought a long life of health and happiness was before her. But that reunion was her last. Let me repeat the last half-page she ever read:—

"The compensations of calamity are made apparent to the understanding also after long intervals of time. A fever, a mutilation, a cruel disappointment, a loss of wealth, a loss of friends, seems at the moment unpaid loss and unpayable. But the sure years reveal the deep remedial force that underlies all facts. The death of a dear friend, wife, brother, lover, which seemed nothing but privation, somewhat later assumes the aspect of a guide or genius; for it commonly operates revolutions in our way of life, terminates an epoch of infancy or of youth which was waiting to be closed, breaks up a wonted occupation, or a household, or style of living, and allows the formation of new ones more friendly to the

growth of character. It permits or constrains the formation of new acquaintances, and the reception of new influences, that prove of the first importance to the next years; and the man or woman who would have remained a sunny garden-flower, with no room for its roots, and too much sunshine for its head, by the falling of the walls and the neglect of the gardener, is made the banian of the forest, yielding shade and fruit to wide neighborhoods of men.”<sup>1</sup>

I cannot doubt that she felt the truth of these words; for they portray with singular fidelity the course of her own life. Late that night she was taken ill; and after a week of great suffering, borne with uncomplaining fortitude, she died on the morning of December 15, 1875. One of her friends, who stood by her at the closing scene, wrote me: —

“She passed quietly away. Her face was so peaceful in death, no trace of pain upon it. There she lay before us, as though, weary with labor, she had fallen asleep. All that loving hands could do for her we did. We wreathed her coffin with flowers, and bore her remains to Cuyahoga Falls, where a mournful and tearful audience awaited us at the church. In the hearts of her last pupils, as in the hearts of her earlier ones, there was deepest grief. All felt, as we stood by her grave, that no nobler, grander, purer spirit ever dwelt on the earth, or went up to heaven.”

Such is the story of her life, all too poorly told. I have attempted to trace her long and toilsome progress through its several stages. We have seen that, in fact, she lived three lives in one; — first, the life of early struggle, promising to culminate in the happy contentment of a home, with the companionship and love of a husband; second, the larger life, born of a great sorrow, but leading her along a rugged path to the calm heights of a broad and beautiful culture, — a life devoted to great and successful achievements as one of the very foremost teachers of her time; and, third, a life of heroic and unselfish devotion to a sacred filial duty, with added years of noble and beautiful work as a teacher.

It remains to inquire what she has left to us as a legacy and a lesson. Her life was so largely and so inseparably a part of our own, that it is not easy for any of us, least of all for me, to take a sufficiently distant standpoint from which to measure its proportions.

We shall never forget her sturdy, well-formed figure; her

<sup>1</sup> Emerson's Works, Vol. I. p. 281 (Boston, 1882).

head that would have appeared colossal but for its symmetry of proportions; the strongly marked features of her plain, rugged face, not moulded according to the artist's lines of beauty, but so lighted up with intelligence and kindness as to appear positively beautiful to those who knew her well.

The basis of her character, the controlling force which developed and formed it, was strength, — extraordinary intellectual power. Blest with a vigorous constitution and robust bodily health, her capacity for close, continuous, and effective mental work was remarkable. No stronger illustration is possible than the fact, already exhibited, that she accomplished in four years the ordinary work of ten.

It is hardly possible for one person to know the quality and strength of another's mind more thoroughly than I knew hers. From long association in her studies, and comparing her with all the students I have known here and elsewhere, I do not hesitate to say that I have never known one who grasped with greater power, and handled with more ease and thoroughness, all the studies of the college course. I doubt if in all these respects I have ever known one who was her equal. She caught an author's meaning with remarkable quickness and clearness; and, mastering the difficulties of construction, she detected, with almost unerring certainty, the most delicate shades of thought. She abhorred all shams in scholarship, and would be content with nothing short of the whole meaning. When crowded with work, it was not unusual for her to sit by her lamp, unconscious of the hours, till far past midnight.

Her powers were well balanced. When I first knew her, it was supposed that her mind was specially adapted to mathematical study. A little later, it was thought she had found her fittest work in the field of the natural sciences; later still, one would have said that she had found her highest possibilities in the languages; and Professor Monroe tells us with what ease she fathomed the depths of so severe an argument as Butler's Analogy.

Her mind was many-sided, strong, compact, symmetrical. It was this symmetry and balance of qualities that gave her such admirable judgment, and enabled her to concentrate all her powers upon any work she attempted.

To this general statement concerning her faculties there was, however, one marked exception. While she enjoyed, and in



some degree appreciated, the harmonies of music, she was almost wholly deficient in the faculty of musical expression. After her return from college, she determined to ascertain by actual test to what extent, if at all, this defect could be overcome. With a patience and courage I have never seen equalled in such a case, she persisted for six months in the attempt to master the technical mysteries of instrumental music, and even attempted one vocal piece. But she found that the struggle was nearly fruitless; the music in her soul would not come forth at her bidding. A few of her friends will remember that, for many years, to mention "The Suwanee River" was the signal for not a little good-natured merriment at her expense, and a reminder of her heroic attempt at vocal and instrumental music.

The tone of her mind was habitually logical and serious, not specially inclined to what is technically known as wit; but she had the heartiest appreciation of genuine humor, such as glows on the pages of Cervantes and Dickens. Clifton Bennett and Levi Brown will never forget how keenly she enjoyed the quaint drollery with which they once presented, at a public lyceum, a scene from Don Quixote; and I am sure there are three persons here to-day who will never forget how nearly she was once suffocated with laughter over a mock-presentation speech by Harry Rhodes.

Though possessed of very great intellectual powers, or, as the arrogance of our sex accustoms us to say, "having a mind of masculine strength," it was not at all masculine in the opprobrious sense in which that term is frequently applied to women. She was a most womanly woman, with a spirit of gentle and childlike sweetness, with no self-consciousness of superiority, and not the least trace of arrogance.

I take pleasure in re-enforcing my own views of the combined strength and gentleness of her character, by quoting the following letter from the Hon. James Monroe, who was one of her esteemed professors at Oberlin.

"HOUSE OF REPRESENTATIVES, WASHINGTON, D. C.,  
May 28, 1876.

"MY DEAR GENERAL,—I learn that you are preparing an address upon the life and character of Miss Almeda A. Booth; and I cannot resist the impulse to write you a note upon this interesting subject, thus contributing my rill of memories to your broader and deeper current.

"It is among the gratifying recollections of my life that Miss Booth was a pupil of mine for a considerable period of time, in connection with a college class at Oberlin. Soon after I began to observe the habit of her mind, I discovered that she was a remarkable woman. What at first struck my attention was the union in her character, in a degree very uncommon, of masculine intellectual strength and perfect womanly gentleness.

"Her intellectual powers were such as would at once have attracted attention in any undergraduate in any college. She had not only great force, but force which worked with evident ease, without friction, and without conscious effort. I shall never forget her recitations in Butler's Analogy. Often, when one member in the class after another had failed rightly to interpret some difficult paragraph, Miss Booth, when called upon, would at once, without hesitation, without self-consciousness, and with no idea whatever of being superior to others, set the passage in the truest and clearest light, both as to its intrinsic meaning and its relation to the context. She used to recite the Analogy as if she had written it. I remember the pleased expression of relief which passed over the faces of her classmates when she extricated them from some difficulty. They all esteemed and praised her, and her superiority made no one envious.

"Her gentleness of character was as remarkable as her strength of intellect. She seemed to think well of all her acquaintances, and never, to my knowledge, thought she had a grievance. She was noticeably kind and helpful to those who needed attention, and loved her fellow-creatures with the same love which led Christ to die for them. On the whole, she was as good an example of combined 'sweetness and light' as I have ever met with.

"After she left Oberlin you knew much more of her than I did. I often regretted that I could not continue my acquaintance with her. But I frequently heard of her great usefulness, and of the high esteem in which she was held wherever she resided. She was a large, strong, loving soul; and any community which was favored with her presence must have been the better for it.

"Yours very truly,

"JAMES MONROE."

Though possessing these great powers, she was not unmindful of those elegant accomplishments, the love of which seems native to the mind of woman.

In her earlier years she was sometimes criticised as caring too little for the graces of dress and manner; and there was some justice in the criticism. The possession of great powers, no doubt, carries with it a contempt for mere external show.

In her early life Miss Booth dressed neatly, though with the utmost plainness, and applied herself to the work of gaining the more enduring ornaments of mind and heart. In her first years at Hiram she had devoted all her powers to teaching and mastering the difficulties of the higher studies, and had given but little time to what are called the more elegant accomplishments. But she was not deficient in appreciation of all that really adorns and beautifies a thorough culture. After her return from Oberlin she paid more attention to the mint, anise, and cumin of life. During the last fifteen years of her life, few ladies dressed with more severe or elegant taste. As a means of personal culture, she read the history of art, devoted much time to drawing and painting; and acquired considerable skill with the pencil and brush.

She did not enjoy miscellaneous society; great crowds were her abhorrence; but in a small circle of congenial friends she was a delighted and a delightful companion.

Her religious character affords an additional illustration of her remarkable combination of strength and gentleness. At an early age she became a member of the Methodist Episcopal Church, and continued in faithful and consistent relations with that organization until she united with the Disciples, soon after she came to Hiram. Her firmness was severely tested by the religious changes which occurred in her own home. Her father's enthusiastic temperament led him to study any new phases of religious opinion, with a somewhat impressible credulity. The Mormon movement of 1830-32 swept him for a time into its turbulent current; ten or fifteen years later, he was interested in the socialistic theories of the Shakers, with whom, as I understand, he united for a short time; later still, he paid much attention to the Spiritualistic philosophy. But while Miss Booth thoroughly respected the sincerity of her father's opinions, and from them doubtless became wisely tolerant and liberal in her opinions, she maintained firmly, but without bigotry, her faith in God and in the life to come. She cared little for mere differences of ecclesiastical form, and abhorred every species of ostentatious and noisy piety; but her life was full of the calmness and beauty of religion; her heart was filled with the charity that "suffereth long and is kind," and, still greater, that "thinketh no evil." At the memorial meeting held here soon after her death, the very just and striking statement was made

by one who had known her from childhood, that he "had never heard her speak evil of any human being."

I venture to assert, that in native powers of mind, in thoroughness and breadth of scholarship, in womanly sweetness of spirit, and in the quantity and quality of effective, unselfish work done, she has not been excelled by any American woman. What she accomplished with her great powers, thoroughly trained and subordinated to the principles of a Christian life, has been briefly stated.

She did not find it necessary to make war upon society, in order to capture a field for the exercise of her great qualities. Though urging upon women the necessity of the largest and most thorough culture, and demanding for them the amplest means for acquiring it, she did not waste her years in bewailing the subjection of her sex, but employed them in making herself a great and beneficent power. She did far more to honor and exalt woman's place in society than the thousands of her contemporaries who struggle more earnestly for the barren sceptre of power than for fitness to wield it.

She might have adorned the highest walks of literature, and doubtless might thus have won a noisy fame. But it may be doubted whether in any other pursuit she could have conferred greater or more lasting benefits upon her fellow-creatures, than by the life she so faithfully and successfully devoted to the training and culture of youth. With no greed of power or of gain, she found her chief reward in blessing others.

I do not know of any man or woman, who, at fifty-one years of age, had done more or better work. I have not been able to ascertain precisely how long she taught before she came to Hiram; but it was certainly not less than fifteen terms. She taught forty-two terms here, twenty-one terms in the Union School at Cuyahoga Falls, and, finally, two years in private classes; in all, nearly twenty-eight years of faithful and most successful teaching, to which she devoted the wealth of her great faculties and admirable scholarship.

How rich and how full was the measure of gratitude poured out to her, from many thousands of loving hearts! And today, from every station in life, and from every quarter of our country, are heard the voices of those who rise up to call her blessed, and to pay their tearful tribute of gratitude to her memory. On my own behalf I take this occasion to say, that

for her generous and powerful aid, so often and so efficiently rendered, for her quick and never-failing sympathy, and for her intelligent, unselfish, and unswerving friendship, I owe her a debt of gratitude and affection for the payment of which the longest term of life would have been too short. To this institution she has left the honorable record of a long and faithful service, and the rich legacy of a pure and noble life. I have shown that she lived three lives. One of these, the second, in all its richness and fulness, she gave to Hiram. More than half of all her teaching was done here, where she taught much longer than any other person has taught; and no one has done work of better quality. She has here reared a monument which the envious years cannot wholly destroy. As long as the love of learning shall here survive; as long as the light of this College shall be kept burning; as long as there are hearts to hold and cherish the memory of its past; as long as high qualities of mind and heart are honored and loved among men and women,—so long will the name of Almeda A. Booth be here remembered, and honored, and loved. All who knew her at any period of her career will carry her memory as a perpetual and precious possession. With the changing of a single word, we may say of our friend what the Poet Laureate of England said of Isabel: —

“The intuitive decision of a bright  
 And thorough-edged intellect to part  
 Error from crime; a prudence to withhold;  
 The laws of friendship characterized in gold  
 Upon the blanched tablets of her heart;  
 A love still burning upward, giving light  
 To read those laws; . . . .  
 A courage to endure and to obey;  
 A hate of gossip parlance, and of sway;  
 . . . . the world hath not another  
 (Though all her fairest forms are types of thee,  
 And thou of God in thy great charity)  
 Of such a finished chastened purity.”

# THE HAWAIIAN ISLANDS.

REMARKS MADE IN THE HOUSE OF REPRESENTATIVES,

APRIL 6, 1876.

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ON the 30th of January, 1875, the representatives of the United States and of the king of the Hawaiian Islands signed a commercial reciprocity treaty in the city of Washington. Legislation was necessary to carry it into effect. Pending the bill introduced for that purpose in the Committee of the Whole, Mr. Garfield made these remarks.

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MR. CHAIRMAN,—I do not approve of the Hawaiian treaty because it looks in the direction of securing possession of those islands. I wish to state distinctly that, except in the north,—I make an exception there,—I trust we have seen the last of our annexations; and in this remark I include the whole group of West India Islands and the whole of the Mexican territory contiguous to the United States. Both these islands and Mexico are inhabited by people of the Latin races strangely degenerated by their mixture with native races,—a population occupying a territory that naturally enfeebles man,—a population and a territory that I earnestly hope may never be made an integral part of the United States. I cannot more strongly state my view of that subject than by saying that, if the island of Cuba were offered to us with the consent of all the powers of the world, and \$100,000,000 in gold were offered as a bonus for its acceptance, I would unhesitatingly vote to decline the offer. We occupy a portion of that great northern zone which girdles the world, and which has been the theatre of the greatest achievements of civilization, especially in the history of the Anglo-Saxon race; and should we extend our possessions into the tropical belt, we should weaken the powers of our people and government. Hence I

disclaim any purpose or suggestion of annexing the Hawaiian Islands as any part of my reason for supporting the treaty. On the contrary, one of the reasons why I favor the treaty is that it will be a satisfactory substitute for all probable schemes of annexation. It is the best solution of the question.

Mr. Chairman, there are two reasons why I specially desire the passage of this bill. The first is on the ground of the duty which the nation owes to the Pacific coast; the second is on the ground of the general good of the whole country.

The Pacific coast, the latest born of our possessions, was in a most perilous position fifteen years ago. Far remote from us, there was great danger that a feeling of isolation and of alienation would spring up between the people of that coast and the people east of the Rocky Mountains; hence arose the conviction that these distant commercial and industrial interests should be more closely united. And to me it is one of the sublimest facts in our recent history, that, in the face of the opening horrors and dangers of our great war, when it was in question whether our republic would live or die, the great men of that period who filled these seats and the seats in the other chamber dared to show their faith in the future of the republic by proposing and finally carrying a measure to make the largest appropriation that, up to that time, had ever been made in a single act by any nation of the world. It was substantially to appropriate \$100,000,000 in order to bind by material bonds of iron the Pacific coast to the Atlantic, and thus hold together in nearer ties of commerce, amity, and brotherhood the two coasts of this republic. I speak, of course, of the legislation that looked toward the construction of the Pacific Railroad. It was a great act of statesmanship. The purchase of Alaska was another step in that direction, not so marked, not so important, but yet important, for it secured to us the extreme northern American coast of this great Pacific Sea.

Now, as we still desire to complete the work of amity with our Pacific brethren, we must get a foothold on the southern line of our western border. The whole Pacific coast, with hardly a dissenting voice, comes and asks us for this legislation; and if we have doubts ourselves on the ground of general policy, we owe it to these men, our brethren, who are among the choicest, bravest, and most enterprising spirits from all our Eastern, Middle, Western, and Southern States, who have

planted that wonderful civilization on the Pacific coast, to meet their wishes, unless there be strong reasons why we should not. Their wishes are strong with me as controlling my view of this question.

The other reason relates to the interests of the whole country. It seems to me that no man can look into the remote, or even the near future of this country, remembering the vastly important relations which have sprung up between us and the two ancient kingdoms of the East, where our young country has met the old in that strange union which recent years have developed, and where the quaint civilizations of those old countries are pouring their influence upon us, and we answer back with our fresh young life, — no man, I say, thinking of that new and vast development of the relations of our country to these can be insensible to or neglectful of anything, however insignificant, that may be considered necessary to perpetuate the new relations of these two civilizations.

Now, here is a group of islands midway between Asia and the United States, the resting-place for the great caravans of the sea, — the halting-ground whereon travellers on the ocean stop to recruit their shattered ships, it may be, or supply themselves with needed materials for carrying on the work of commerce. This group of islands, fortunately for us, is to-day dominated in all its leading influences by Americans, our own brethren. Their hearts warm toward us as their first choice in forming alliances. They are ours in blood and sympathy, and in this treaty they offer us the first place, an exceptionally favorable place, in their relations to the world. And they are so situated that, if we reject it, they must go elsewhere for alliances. If we reject this treaty they will be compelled to go to England or to France. Both of these countries have for years and years been longing for just such an opportunity in reference to this group of islands as we have to-day. It is the simple logical result of the rejection of this treaty, that before many months these islands will be taken, controlled, and dominated either by England or by France; and it is for us to say whether we shall consent to that alien union by rejecting this offer, or shall make that other union impossible by closing with this one ourselves.

I have heard no argument against this treaty that appears to me to have any considerable weight beyond the one of cost; and, as applied to this bill, it is a strange argument. It is not



that cost which we must pay out of the treasury from revenues we have collected as taxes from the people. It is only that cost which declines to tax. It is not an expenditure, but a remission of taxation, that the treaty calls for. It does not call for the appropriation of a dollar. It simply calls for the repealing of taxes as to a class of our citizens.

Now, our friends on both sides of the House have already shown themselves anxious to reduce expenditures to such an extent that they could remit taxes. The most grateful work that an American legislator is ever called upon to do for his people, is to remit some of their burdens of taxation. And the thing proposed to be done by this bill, and the only thing that is seriously criticised, is that by it we do remit a little less than \$400,000 of duties which our people are now required to pay upon Hawaiian products that they import. That objection, it seems to me, wholly fails to rise to the height of this great question.

I have but a few more words to add. Remembering that every Secretary of State, of whatever political party, before whom this subject ever came, has recommended this policy earnestly; that the men whom we are most willing to regard as our political teachers have held it strongly; remembering also that it is clear that this group of islands must seek an alliance, if not with us, then with our rivals, — I cannot conceive that the grounds upon which gentlemen base their opposition to this treaty can overcome the reasons in its favor.

I said in the outset of my remarks, that one of my reasons for favoring this treaty is that it will obviate any necessity for annexing these islands. Let us make this alliance, and while it lasts, the respect which the name of the United States carries with it among the nations of the earth will prevent any attempt on the part of any other nation to obtain control there. They will not undertake any scheme of annexation at the risk of quarrelling with the United States. But if we do not conclude this treaty, schemes of annexation will vex us from year to year, until we shall be compelled to annex these islands as a matter of self-protection. This treaty will completely avoid such a result as that.

## THE GENEVA AWARD.

REMARKS MADE IN THE HOUSE OF REPRESENTATIVES,

JULY 5, 1876.

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THE Tribunal of Award constituted by virtue of the Treaty of Washington, concluded May 8, proclaimed July 4, 1871, to consider the Alabama and other similar claims, awarded the United States an indemnity of \$15,500,000 in gold, which was duly paid into the treasury of the United States. Distribution was made to the claimants for damages directly resulting from the depredations of the Rebel cruisers Alabama, Florida, and Shenandoah, under the act of June 23, 1874, creating a "Court of Commissioners of Alabama Claims," subject to certain limitations and restrictions contained in the act. But when such distribution had been made, a large sum remained undisposed of. The law provided that such surplus should remain in the treasury, as a special fund, subject to future action. In July, 1876, three bills for the distribution of this surplus were pending in the House of Representatives. What Mr. Garfield calls "the bill of the majority" (of the Committee on the Judiciary) proposed to distribute the money, first, to such vessel owners as had suffered loss from Rebel cruisers and who had been excluded by the act of June, 1874, as not coming within the scope of the Geneva Award; and secondly, to vessel owners who had paid premiums for war risks, whether to insurance companies or to individuals. The "Lawrence Bill" proposed to apply the unexpended balance to paying the national debt. The "Knott Bill" proposed to give the money to insurers of vessel property who had suffered losses from the Rebel cruisers. The bill of the majority was carried in the House, but fell without action in the Senate. Mr. Garfield opposed the first two bills, and supported the third, in the following remarks. An act approved June 5, 1882, is virtually the majority bill of 1876.

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**M**R. SPEAKER, — It is too late in this debate to make any argument on this great question. But I have desired to state very briefly the general grounds on which my mind has

finally come to rest in the consideration of this subject. I have felt a very deep anxiety about this bill; first, for the credit of the United States, for the national name; second (and I say second not in importance, perhaps, but in order of statement), that exact justice shall be done to all parties concerned. The conclusions to which I have come can be stated in very few words.

It seems to me that very few grander phenomena have ever been witnessed in the affairs of nations than the settling of so great difficulties as we were involved in with Great Britain on the basis of friendly judicial arbitration. It was substantially the setting up of a high court, — a court probably higher than any other the world has known, — to consider and adjudge a great international dispute, and to make a final settlement. The two governments established the high tribunal, and filed the case and the counter case, the argument and the reply. When all were in, both governments pledged the sanctity of their national faith to abide by the result. The award was given by the Geneva tribunal in language very specific in every respect save one. The pecuniary part of the award was a gross sum, not distributed item by item to the several parties on whose account it was granted. But the tribunal did what was the next most definite thing. They named in the solemn and precise words of the judgment itself every vessel for whose depredations the government of Great Britain was responsible, and they also stated specifically the names of all the vessels for which the United States had claimed such responsibility, but for which they did not find that Great Britain was liable. They discriminated so far, for example, as to state that one vessel, the *Shenandoah*, before she departed from the harbor of Melbourne, did nothing for which Great Britain was liable, but that after her departure from Melbourne all the damage that she inflicted upon American commerce was justly to be charged against Great Britain. So specific and careful were they in all the items of the award, that they gave the grounds affirmatively and negatively on which the award was made.

And here I pause to notice an argument which has frequently been urged in this debate: that since the tribunal awarded "to the United States a sum of \$15,500,000 in gold as indemnity to be paid by Great Britain to the United States for the satisfaction of all the claims referred to the consideration of the

tribunal," therefore the amount of the indemnity may be applied to any of the alleged claims. It is a most singular use of words to say that a clause authorizes payment for claims which the award itself rejects as not valid. This argument proceeds upon a narrow and indefensible use of the word "award," as though the money alone was the award. The language of the judgment of the tribunal is decisive of this question. After reciting the authority by which they acted, and the proceedings of the high contracting parties, by their agents and attorneys, the tribunal say that, having "fully taken into their consideration the treaty, and also the cases, counter-cases, documents, evidence, and arguments, and likewise all other communications made to them by the two parties during the progress of their sittings, and having impartially and carefully examined the same, has arrived at the decision embodied in the present award."<sup>1</sup>

Then follow the decision and award, which consist, first, of conclusions of law, in which the legal ground of the responsibility of Great Britain is stated; secondly, of conclusions of fact, in which it is stated for what cruisers and for what time Great Britain was responsible; and, thirdly, the amount of indemnity to be paid. This triple statement is the judgment, and nothing but the most violent construction can separate its elements and call any one of them the judgment of the tribunal.

Now, in my opinion, we are bound by the whole judgment, and every sentiment of national honor should lead us to follow the award in its letter and its spirit. We have no right to inquire into the wisdom or unwisdom of the judgment. No doubt there were citizens who suffered as great and as grievous losses from the depredations of the exculpated cruisers as from any which the tribunal included in the list of inculpated cruisers; but this is a question, not of making an award, but of executing a judgment, and from that duty we should not be diverted by any considerations but the language and command of the judgment itself.

Now, what is the award? The claims filed by the United States were of two kinds, national claims and claims of private citizens. In regard to the claims known as national claims, the tribunal of arbitration announced, —

"That, after the most careful perusal of all that has been urged on the part of the government of the United States in respect of these claims,

<sup>1</sup> Executive Documents, 1872-73, Geneva Arbitration, Vol. IV. p. 50.

they have arrived, individually and collectively, at the conclusion that these claims do not constitute, upon the principles of international law applicable to such cases, good foundation for an award of compensation, or computation of damages between nations, and should, upon such principles, be wholly excluded from the consideration of the tribunal in making its award, even if there were no disagreement between the two governments as to the competency of the tribunal to decide thereon.”<sup>1</sup>

After this solemn decision, how can it be affirmed that any part of the indemnity belongs to the nation as the payment of *national* damages? They were “*wholly* excluded from the consideration of the tribunal in making its award.” So they must be from our consideration in distributing the indemnity.

In order to learn precisely what was excluded by the above judgment, I read the following from the order of the President of the United States to the agent, which was read to the tribunal and made a part of its proceedings: —

“The declaration made by the tribunal, individually and collectively, respecting the claims presented by the United States for the award of the tribunal, for, first, the losses in the transfer of the American commercial marine to the British flag; second, the enhanced payment of insurance; and, third, the prolongation of the war, and the addition of a large sum to the cost of the war and the suppression of the rebellion, is accepted by the President of the United States as determinative of their judgment upon the important question of public law involved. The agent of the United States is authorized to say that, consequently, the above-mentioned claims will not be further insisted upon before the tribunal by the United States, and may be excluded from all consideration in any award that may be made.”<sup>2</sup>

This specific statement by our government would be conclusive and binding upon us, even if the judgment of the tribunal were not.

There remained still two grounds of controversy: first, the direct losses growing out of the destruction by the cruisers of the vessels which the tribunal should adjudge “*inculpated*”; and, secondly, the expenses incurred by the United States in the pursuit of these cruisers. In reference to this second class the judgment of the tribunal is in the following language: —

“Whereas, so far as relates to the particulars of the indemnity claimed by the United States, the costs of pursuit of the Confederate cruisers are not, in the judgment of the tribunal, properly distinguishable from the

<sup>1</sup> Executive Documents, 1872-73, Geneva Arbitration, Vol. IV. p. 20.

<sup>2</sup> See *Ibid.*, Vol. II. pp. 579, 580: Minister Schenck to Secretary Fish.

general expenses of the war carried on by the United States ; the tribunal is therefore of opinion, by a majority of three to two voices, that there is no ground for awarding to the United States any sum by way of indemnity under this head.”<sup>1</sup>

Thus was excluded the only remaining form of national claims ; and we have the authority of the tribunal for declaring that no part of the \$15,500,000 was allowed for any form of national claims.

There then remained only the losses to American citizens by the depredations of the inculpated cruisers within the time for which the tribunal found that Great Britain was responsible. Now, with such limitations fixed by the tribunal and acknowledged by the United States, an estimate was made of the amount of damages to private citizens, and the award was made in a gross sum, for two reasons: first, that the United States might have it immediately to distribute to the people who were entitled to it; and, secondly, that England should not be required to dribble it out in small payments, but might discharge herself of all further obligation by a single payment. After this came the final result of fifteen and a half millions of gold paid into our hands under the award for specific damages described in the judgment of the tribunal.

In view of the facts I have stated, it seems to me that we cannot, without the greatest national dishonor, use one dollar of this money for any other purposes than those declared in the award itself. When we have distributed the indemnity in strict accordance with the finding of the tribunal, if there be left a surplus of one million or five million, national honor demands that we return that surplus to Great Britain. I should consider it a proud honor for the American Congress to vote to send it back to Great Britain, with this message: “When we examined more carefully the items of loss, we found they were not so great as we had supposed. The difference is yours, not ours, and we return it.”

Let us not put our nation in the shameful position of driving a sharp bargain to get a large sum on behalf of our citizens, and then put the difference into our treasury, or vote it away to parties to whom it was not awarded. I shall vote against the bill of the majority, against the bill of my colleague,<sup>2</sup> and in favor of the bill of the gentleman from Kentucky.<sup>3</sup>

<sup>1</sup> Executive Documents, 1872-73, Geneva Arbitration, Vol. IV. p. 53.

<sup>2</sup> Mr. Lawrence.

<sup>3</sup> Mr. Knott.

## PHASES OF THE SILVER QUESTION.

REMARKS MADE IN THE HOUSE OF REPRESENTATIVES ON  
VARIOUS OCCASIONS.

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ON the 27th of March, 1876, "A Bill to provide for a Deficiency in the Printing and Engraving Bureau in the Treasury Department, and for the Issue of Silver Coin of the United States in place of Fractional Currency," was considered in the House of Representatives. The second section, which related to silver, was as follows:—

"That the Secretary of the Treasury is hereby directed to issue silver coins of the United States of the denomination of ten, twenty, twenty-five, and fifty cents, of standard value, in redemption of an equal amount of fractional currency, whether the same be now in the Treasury awaiting redemption, or wherever it may be presented for redemption; and the Secretary of the Treasury may, under regulations of the Treasury Department, provide for such redemption and issue by substitution at the regular Subtreasuries and public depositories of the United States, until the whole amount of fractional currency outstanding shall be redeemed."

The appropriation was made, and the above section, with a single verbal change, passed both houses and became law. Mr. Garfield made the following remarks:—

**M**R. CHAIRMAN,—I desire to say at the outset that there are but two points for this House to determine in order to decide whether they will pass or reject this bill. The first is its relation to economy in expenditure. We are confronted by the fact that the appropriation for printing the fractional currency has run out, and we are now called upon to appropriate \$418,000 to keep up the work for the remainder of the fiscal year. The Committee on Appropriations find, if we issue the silver that we have on hand, and proceed to substitute silver for paper fractional currency as far and as fast as we can, that we shall need but \$163,000 to eke out the supply of the paper fractional currency while the substitution is taking place. If we do not, if

the silver portion of this bill is rejected, we must appropriate just \$255,000 more than that amount. We must take it in hand at once, and determine whether we will turn back from the silver policy of the government and at once appropriate a quarter of a million more to print paper scrip, or go on with silver resumption and save immediately by this bill that sum of money. The other point is the relation of this bill to the general question of the resumption of specie payments. These are the two principles involved. But before I come directly to the merits of the two points, I wish to call attention for a few moments to some of the criticisms that have been made.

First, to my great amazement, is the charge made by the gentleman from Pennsylvania,<sup>1</sup> that the Director of the Mint had done a disgraceful thing, which ought to make the cheek of any man redden with shame, because he had put into his annual report a statement of the condition of the great silver mine of this country. I will quote the language of the gentleman, so that I may do him no injustice:—

“The report of the Director of the Mint is little more than an advertisement of old Townsend’s genuine sarsaparilla. It is a pamphlet moulded upon the advertising pamphlets of that physician whose sands of life are nearly run. Pages of it are covered with evidence of the increasing value of the stock of the mines on the Comstock lode, and its bulk is swollen so that it is inconvenient for carriage by the insertion of maps of mines and their machinery, intended to demonstrate the truth of his advice to the people that if they want to buy stock in the Comstock mines, they had better do it at once.”<sup>2</sup>

I will say in response to that, what my friend from Pennsylvania ought to have known, that we have for years annually appropriated \$10,000 to \$15,000 to secure statistics of the precious metals, and nearly two years ago that particular work was placed under the control of the Director of the Mint by the Secretary of the Treasury. He was but obeying the laws of the United States and the order of his superiors when he made the report of which the gentleman complains. But, sir, who ever before heard a statesman finding fault because his government, or the officers of it, were doing what they could to ascertain the facts concerning the greatest silver mine this world has ever known? Who else but a man that had a scheme to further, or a special policy to carry out, which policy came into collision

<sup>1</sup> Mr. Kelley.

<sup>2</sup> Congressional Record, March 16, 1876, p. 1769.



with so great a fact as this great silver mine, would have found fault because the government was ascertaining its character. Why, sir, I hold in my hand copies of official letters from the French government in which the great finance minister, Léon Say, details an officer to be sent over to the United States with instructions to go in person and examine these silver mines and make a report that will show what this great American silver product is, and what its effect is likely to be upon the money of the world. Shall we, then, in the American Congress, attack our own government for taking such means at a less expense to ascertain our own silver product? I will print these papers as a part of my remarks.<sup>1</sup>

“PARIS, February 1, 1876.

“SIR, — In conformity with instructions that have been transmitted to me by the Minister of Finance, and of which you are cognizant, I beg to request you to transmit to me reports upon everything appertaining to the monetary questions and circulations in the United States, and more particularly upon the production of mines. The following are the principal points to which for the present I call your attention: —

“First. Monetary question in the United States. Ways and means proposed to prepare the resumption of specie payments within the fixed period of three years. Statistics of the national banks and other financial establishments. Amount of the issue of greenbacks and other paper moneys.

“Second. Organization and administration of the United States Mint. Statistics of the coinage. Circulation of gold and silver coin, and what is the special importance of the coinage of the trade dollar, and its use.

“Third. Production of gold, silver, and quicksilver in the Pacific States, and more particularly in California and Nevada.

“Fourth. To point out the leading silver mines now being worked on the great Comstock lode in Nevada, and the importance of the auriferous lands and grants of California.

“Fifth. Valuation of the production, domestic consumption, and exportation of precious metals.

“I shall avail myself of the opportunity of asking you for such other information as will complete the points above indicated.

“Accept, sir, the assurance of my sentiments of high consideration.

“L. RUAN, *Director of the Mint.*

“COLONEL JULES BERTON.”

I come now, Mr. Chairman, to notice some criticisms on this bill by the gentleman from New York.<sup>2</sup> When he first

<sup>1</sup> Only the principal letter is here given; the other two are merely formal.

<sup>2</sup> Mr. Hewitt.

started out in his speech he said: "For one, I here declare my readiness and my intention not to permit any party trammels, or any fear of the political consequences, to interfere with my duty in this respect, and I here state that I am quite ready to advocate any policy, wherever it may originate, which will bring us back to the only sure ground of a specie basis."

I thoroughly agreed with him, and expected to hear a good business speech from a business standpoint. But before he had gone a bowshot from his introduction he began to say this is a Republican, not a Democratic measure, and appealed to his Democratic associates not to bolster up by their indorsement a Republican measure, which, if unaided, may fail and disgrace the party that originated it. And all through the speech I was impressed with this thought: that, rather than have a Republican measure prove successful, he would see it fail in order that the Republican party might not get any credit for it. For example, he said: —

"But the existing laws regulating the finances of the country are essentially in execution of the policy of the Republicans, and will be discussed as such. The act of January 14, 1875, 'To provide for the Resumption of Specie Payments' on the 1st of January, 1879, was agreed upon by a caucus of Republican Senators, and made a party measure both in the Senate and the House of Representatives, the Democrats generally voting, and many of the leaders of the Democratic party speaking against it. It was, therefore, a Republican, and not a Democratic measure; and, unless the majority in this House sees fit to assume the responsibility by indorsing it in whole or in part, the failure of this act to produce any beneficial results to the suffering business of the country, its tendency to aggravate the evils under which the people are groaning, and the want of statesmanship apparent in the framing of legislation confessedly powerless for good unless supplemented by further legislation, are chargeable to the Republican party, and the Republican party alone."<sup>1</sup>

This is not my ideal of patriotic statesmanship. I do not hesitate to say that, if the majority of this House propose a measure which will bring prosperity to this country and restore the ancient standard of values, I will go with them heart and soul, if the measure would give you a quarter of a million of votes. I am amazed that men should stand up here on great questions of this sort, and make it a matter of first inquiry which party may be helped or hurt by it.

<sup>1</sup> Congressional Record, March 16, 1876, p. 1764.

I pass from that consideration to another criticism. My friend from New York says that the only reason why there is any possibility of issuing this silver successfully is not because of the wisdom of the Republican party, but because of a streak of good luck they have had. He says that they have stumbled upon two items of good luck, — the discovery of the great Bonanza mines, and the demonetization of silver in Germany. Let me ask my friend if he has carefully read the history of this matter? I turn to the Congressional Record, and read a paragraph from the speech of my friend Senator Sherman, on the 22d of December, 1874, when the resumption bill was reported.

“The first section of the bill provides for the resumption of specie payments on the fractional currency. It is confined to that subject alone. It so happens that at this particular period of time the state of the money market, the state of the demand for silver bullion, and more especially the recent action of the German Empire, which has demonetized silver and thus cheapened that product, enables us now, without any loss of revenue, without any sacrifice, to enter the market for the purchase of bullion, and resume specie payments on our fractional currency.”<sup>1</sup>

He then went on to say that our fractional currency and subsidiary silver were almost on a level of value. There was no luck about that. The demonetization of silver in Germany had taken place two years before that time. The Bonanza mines had been discovered long before. It was a plain matter of fact, well known at the time and announced by the author of the bill. Where is the luck?

MR. HEWITT. How was it six weeks afterward?

As a matter of course fluctuations followed, which it was easily foreseen might follow. But I have quoted these remarks by Senator Sherman to show my friend from New York that it was not a matter of mere blind luck, as he stated.

Now I call attention, in the next place, to what seems to be the Malakoff of my friends on the other side, especially the gentleman from New York, namely, the question of economy; and in this I observe that there is another Bonanza besides silver. The gentleman from New York called for bids from two corporations to see whether we cannot get the work done cheaper than it is being done in the Treasury, and these two bids are printed in his speech; one bank-note company saying

<sup>1</sup> Congressional Record, Dec. 22, 1874, p. 194.

they can do the work for a round million of dollars; the other saying they can do it for perhaps \$950,000; and then he attempts to show we are paying \$1,410,000 for the same work. For what work? The work of the gentleman's two bank-note companies? By no means. Did the gentleman suppose that the printing and engraving of these notes was the whole cost of the fractional currency? By no means. What more? We have a great bureau in the Treasury where these notes have to be counted, recounted, and counted again. We have a bureau in New York to gather up these very fractional notes, and twelve men are in the employ of the United States for the sole purpose of sorting, counting, and returning to the Treasury the filthy, worn-out fractional currency. We have eight more men in Boston for that purpose; five or six more in Cincinnati; and in all the Subtreasuries of the United States we keep a force of men employed on this very business. But what is the \$1,410,000 of which the gentleman from New York speaks? I have here an official paper from the Treasury Department which gives \$1,082,521 as the expense incurred last year by the bureau to do the engraving and printing, we furnishing the paper; not the paper of commerce on which the bank-note companies would print, but our distinctive paper, which is a safeguard against counterfeiting, and more expensive than that of those bank-note companies. The gentleman will find, on a full examination of the facts, that the work is done cheaper in the Treasury than his bank-note companies do it. Then there is the expense incurred for counters in the currency division, \$60,000; \$65,000 for the same purpose in the Register's office; \$181,000 in the Treasurer's office; and the expense of express charges on fractional currency to and from the Treasurer's office, \$20,000 more.

[Here Mr. Garfield submitted a statement of the expense of preparing, issuing, and redeeming the fractional currency of the United States for the fiscal year 1875. The total is \$1,410,746.95. He continued:—]

Nearly half a million of the charge that this paper money costs us is not for printing and engraving, but for handling, which would necessarily be done if the bank-note companies had the work. Therefore, on the score of economy, the gentleman has mistaken wholly and totally the elements of the problem. If the gentleman wants to give this work to the company that

manufactured notes for the Southern Confederacy, he cannot sustain his position on the score of economy.

Now, Mr. Chairman, take another view of this question. Do gentlemen of the House know what we have paid out for the printing of fractional currency? Do they know how much has been issued? I will tell them. The whole amount issued up to the 30th of June, 1875, reaches the enormous aggregate of \$340,348,179.40.

The public debt statement shows the amount of fractional currency outstanding at the end of June in each year since 1864. The average outstanding amount during the last twelve years has been about thirty-five millions, and the amount outstanding on the first day of the present month was \$45,124,134.47.

I have also a table, compiled from the official records, showing the face value of the fractional currency issued each year since 1869, and the cost of printing and engraving it. This table shows that during the last six years the average amount issued has been over thirty-four millions a year of face value, and the average cost has been \$955,024.90. This of course does not include the cost of assorting, counting, and redeeming. Could we estimate the expense of assorting and counting at the various Subtreasuries, it would swell the cost to considerably more than a million and a half per year.

It costs us very nearly \$2,000,000 a year to keep up our fractional currency. Now, if we issue silver in place of this fractional currency, it will stay out forty or fifty years without renewal, and after one issue it will be half a century before we shall be called upon to replace it at all except in cases of actual loss. The gentleman refuses to give up a currency which must be renewed every ten months; we propose a currency that need not be renewed for half a century. He refuses to abandon a currency that costs nearly \$2,000,000 a year; we propose a currency which costs but one fiftieth of that after the expense of the first issue is borne. Therefore, for the purpose of economy, we should pass the bill as reported by the committee.

But in the second place the gentleman says that this bill will rob the poor man. I will quote a paragraph from his speech:—

“And who, Mr. Chairman, will be robbed, and who will get the benefit of the fraud? The fractional currency is essentially the poor man's

money. The bulk of it at any one time is in the actual possession of the laboring classes of this country. If you take away from them what is worth eighty-seven and one half cents in gold and replace it with what is worth only eighty-two and five eighths cents, you rob the working classes of nearly five per cent, — five cents out of every dollar of their scanty possessions. No human device can ever prevent debased money, when redundant, from falling to its true value as compared with other commodities. The dollar may be still called a dollar, but the adulteration not apparent on its face will betray itself in the increased price of every commodity which the poor man's family consumes." <sup>1</sup>

Mr. Chairman, did anybody ever before hear that a piece of silver, stamped with the government stamp "half a dollar," is not better than a piece of paper with "fifty cents" printed on it? By what logic, by what possible feat of intellect, can a man confront a proposition of that sort, and not absolutely burst forth in laughter at the absurdity of his own conception? Cheat the laboring man! Does not my friend know that this question of the relation of silver coin to gold coin is two hundred years old? Two hundred years ago all the intelligence that Newton and Locke could bring to bear upon this subject resulted in proving the impossibility of sustaining in equipoise two standards of value, the one silver and the other gold. The attempt was made to keep up two standards of value, one of gold, one of silver, and it was found utterly impossible, because the value of the two metals fluctuated in the market; and finally, after a thorough discussion of the whole subject, the attempt was abandoned. Some nations took silver as their standard of value, and some took gold; but almost all nations have adopted one metal for their standard coin, and another metal for a subsidiary coinage for the sake of change. Most nations have adopted gold as the standard of value, and silver as a subsidiary currency. Why? They cannot so well divide gold as silver for small coin. The case is well stated by a recent author: —

"There is no law, statute or common, which gives any private person, company, or institution the right to take silver to the mint and demand coin in exchange. Thus it is left in the hands of the treasury and the mint to issue so much and such denominations of silver coins as they may think needful for the public service. This state of the law is perfectly right, because, as the silver coins are tokens, they cannot be got rid of by melting or exportation at their nominal values. If individuals

<sup>1</sup> Congressional Record, March 16, 1876, p. 1766.

were free to demand as much silver coin as they liked, a surplus might be thrown into circulation in years of brisk trade which in a subsequent year of depressed trade would lie upon people's hands."

The United States has also adopted this wise policy, and our silver coin is to-day under our laws more valuable than that of any other nation. Here is a table showing the relative valuation of the subsidiary silver coinage of different nations: —

*Legal Ratios of Value of Gold and Silver.*

United States . . . . .	14.95 to 1
Great Britain . . . . .	14.2 to 1
France . . . . .	13.2 to 1
Germany . . . . .	13.9 to 1
Latin States Coinage Union . . . . .	13.2 to 1
Scandinavian States Coinage Union . . . . .	14.8 to 1

France, Belgium, Italy, and Switzerland, making the Latin Union, coin a silver five-franc piece on the basis or ratio of 15½ to 1, which is an unlimited tender in payment; all denominations below it are subsidiary and limited.

The United States silver coinage is a little more valuable than the silver coinage of the other countries named.

Now, the gentleman from New York must make his attack against England and against all the countries of the world which follow the wise practice of the last two hundred years, if he raises the question of injury to the poor man.

MR. HEWITT. Will it always retain that relative value?

We can always keep our silver coin in proper relation to gold.

MR. HEWITT. Will you redeem it in gold?

It is a legal tender for the payment of debts up to five dollars. For all ordinary purposes of change, it does exactly what a gold dollar would do.

The wisdom of the last two hundred years has taught the nations that this is the wisest thing to do.

The only possible danger I can see in this measure is, that, should Congress so behave as to depreciate the value of greenbacks until gold should reach a premium of 120, the silver might become more valuable than the greenbacks and be driven out of circulation. But I remind gentlemen of the fact, that,

notwithstanding all this fluctuation, the premium on gold has not been so high as 120 since 1871, and we ought to have enough faith in ourselves, and enough determination not to permit such unwise legislation as shall make this bill dangerous in that respect.

Our friend from New York says that this will be no step toward specie payments. He seems to prefer paper for our fractional currency. I do not know that my friend means to stand by that; but his language seems to imply that he wants us to resume in gold, and have a paper fractional currency.

MR. HEWITT. I mean just the opposite.

I hope he did mean the opposite, but he did not say it.

MR. HEWITT. I certainly did say it.

In order to do the gentleman no injustice, I quote in full what he did say, and it is as follows: "But I deny that the substitution of subsidiary silver coin for the fractional currency has anything to do with the resumption of specie payments. It is the substitution of metallic tokens for paper ones. The only specie resumption known to the law or to the great commercial nations is resumption in gold. For minor coins, copper, nickel, silver, or paper may be used; and their purchasing power, *whenever they may be in excess of the demand*, will be measured by what they will produce in gold."

The remainder of what I desire to say is to this point: Will this measure be a step towards the resumption of specie payments? If not, then I am opposed to it, however economical it might be. If it is a fair step towards specie payments, then I am in favor of it, however costly it may be. Now, what is the fact? Does any gentleman believe that we shall ever have resumption of specie payments until we get back to our old standard of gold, with a subsidiary coinage of silver? Are we not bound to do that? And if we cannot do both at once, shall we show our unwillingness to do the one thing that it is possible for us to do? That is the whole question. We have now coined, in pursuance of law, \$14,000,000 of subsidiary silver coin, upon which we have lost nothing. The gentleman from New York says we have lost \$1,000,000. Even counted in gold, the difference is only \$222,000, as will be seen by the following statement from the Director of the Mint.



“The amount of silver bullion purchased under the act of January 14, 1875, has been 11,130,072 standard ounces, at an average rate or price of 109 cents per ounce standard in gold coin, the cost of which bullion was \$12,239,643. The present rate in London is 54½ pence, which corresponds with 107 cents per ounce United States standard, and makes the depreciation of the stock in the hands of the government about \$222,000, and not \$1,000,000, as stated by Mr. Hewitt. With silver at 107 cents per ounce United States standard, a dollar in subsidiary silver coins is of the gold value of eighty-six cents. Gold was 114½ yesterday, which makes the greenback dollar eighty-seven cents and three mills.”

What shall we do with that amount of silver coin? Shall we turn back on our tracks and refuse to issue it, or shall we issue it in place of the perishable, wasting, uncertain paper currency that now circulates for change? The gentleman from Missouri<sup>1</sup> has shown that there has been lost by wastage in the hands of the people about \$15,000,000 of this paper fractional currency. And these very poor laboring people, for whom the gentleman from New York has so much sympathy, have suffered all, or nearly all, that loss.

Now shall we put into their hands a currency less perishable? Shall we familiarize the American people with the use of coin, — of the coin recognized under our old laws, our laws before the war? Or shall we put off this opportunity which is now open to us to educate the people by putting in their hands \$25,000,000 of coined money, of lawful coin, although it is subsidiary coin, and not up to the full value of gold? It is a legal tender, and is lawful coin of the country. Shall we do that much toward resumption of specie payments?

MR. KELLEY. Legal tenders to what amount?

To the amount of five dollars. Shall we do that much now, when we can, when we have already half done it? We have half enough silver coin ready to be issued for the purpose of supplying what everybody knows will be a sufficient amount of change for the business of the country. And if we do just as much more as we have already done, we shall have made the substitution complete. We can then dismiss an army of clerks, and counters, and workmen, who are now making our paper fractional currency, and in the common school of the silver currency we can begin the work of educating our people up to the gold standard when that comes.

<sup>1</sup> Mr. Wells.

I hope we shall not change our policy, — that we shall not here show our unwillingness to resume specie payments, when we can hurt nobody, when we shall be wronging nobody, when we shall not be affecting injuriously any great interest of the country. No one pretends that this will produce any shock to business. The stock argument used against our resuming payments in gold does not apply to this. It is safe, easy, and economical; it is honest; it is keeping good faith for us so to do. I dare not vote against it, for in so doing I should take a step toward repudiation; I should aid in breaking the public faith. I shall vote for this measure, whatever its origin, Democratic or Republican.

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JUNE 28, 1876, pending a bill authorizing the minting of an additional amount of subsidiary silver coin, the House adopted this amendment, proposed by Mr. Landers: "*And be it further provided*, That the Secretary of the Treasury is directed to authorize the coinage of the standard silver dollar of the same weight and fineness in use January 1, 1861; and said dollar shall be a legal tender in payment of all debts, public and private." The Senate disagreed, and the bill went to a conference committee. On the 13th of July, upon the question of adopting the conference report (which did not contain the "Landers amendment"), Mr. Garfield spoke as follows: —

I CAN hardly conceive a situation in which the House could be brought more directly face to face with what seems to present on the one hand public honor, and on the other the deepest public disgrace, than in the alternative propositions now presented to the House in this report. Everything in the way of controversy hinges upon the proposed amendment of the gentleman from Indiana.<sup>1</sup> It is claimed that, by the terms of the act of 1869, it would be lawful for us to pay the public debt in silver dollars such as might have been coined under the law as it stood in 1861.

Now I desire to recall to the mind of the House the letter and the spirit of that law. After all the doubt and the turbulent excitement about what the actual obligation of the nation was in regard to the public debt, the first act of Congress approved by President Grant made a solemn declaration designed to put all those doubts to rest. It was declared by Congress that "the

<sup>1</sup> Mr. Landers.

faith of the United States is solemnly pledged to the payment —" In what? Not in silver, not in gold, not in coin, but "in coin or its equivalent of all the obligations of the United States not bearing interest, known as United States notes, and of all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money, or other currency than gold and silver."

The declaration there was that the payment of all these national obligations not specifically currency obligations was to be in "coin or its equivalent." Now, what did Congress mean? What were our laws before 1861? Why, Mr. Speaker, since 1834 we have had one standard, a dollar, and we have by law embodied it in two metals, gold and silver. But all the time, in order to have one standard, not two, we have sought to make the coins of the two metals conform to the one standard; keeping the amount of metal in one so adjusted to the amount of metal in the other that a dollar of gold should be equivalent to a dollar of silver. Every hour that we had a double standard it was double only on the ground of equivalency; and when, by reason of the shifting value of the two metals in reference to each other, the silver dollar and the gold dollar have varied from each other in value, Congress has undertaken to equalize them by increasing the amount of metal in one, or decreasing the amount of metal in the other. We always sought to avoid the evil of having two kinds of dollar, one worth more than the other. And when Congress promised to pay *in coin* it was a promise to pay gold coin or silver coin of equal value with the same nominal sum in gold. I cannot believe that this statement will be denied.

Congress saw, a few years ago, that it was going to be difficult to keep up the equality or equivalency of the dollar in the two metals; so it dropped one of the metals, except as a subsidiary coin, and left the national standard of value embodied in the other, namely, in gold. Now, the fact that in 1873 we adopted a device to preserve the constancy of the value of the dollar does not by any means signify that we meant to change the old obligation so that men to whom the government owes money can lawfully be paid in money of different value.

By monetary changes abroad, and by mining developments at home, causing fluctuations in the relative values of the two

metals, it happens that to-day silver is so depreciated that, if it were now a legal standard of payment of all amounts, the employees and other creditors of the government could be compelled to accept seventy-nine cents as full payment for every dollar due them, and thus they would be swindled to the extent of twenty-one cents on the dollar by being compelled to receive silver rather than gold, or to the extent of ten cents on the dollar by paying them silver rather than Treasury notes. And the most amazing feature of the case is that some good men, holding these places of high responsibility, do not see that this would be as dishonest as it would be ruinous in its results to the credit of the nation.

Let it be remembered that we are solemnly bound by the act of 1869 to pay in coin or its equivalent. Dare any man say that we can pay in this so greatly depreciated silver, and really obey the law of equivalency which was the basis and spirit of the statute of 1869? He denies the principle of equivalency who proposes to pay in this silver coin. He violates the law who violates the essential object of it, — equivalency.

If you insist on paying in silver, then I insist that your silver dollar must be equivalent to your gold dollar. Do gentlemen consent to maintain equivalency in the two standards, and then pay in silver? Manifestly not. Their incentive is gone the moment they are asked to pay one hundred cents on a dollar. Some one has said that there is an innate desire in the human mind to cheat somebody. A great minister said that there were two things in human nature which, when united, made iniquity complete, — one was the desire to do a dishonorable thing, and the other was the opportunity to do it. It has happened in the fluctuations of these metals that there is now a notable opportunity to cheat several millions of men by adopting the baser metal as the standard of payment, and thus accomplishing a swindle on so grand a scale as to make the achievement illustrious. By the proposed measure one fifth of the enormous aggregate of public and private debts can be wiped out as with a sponge. This nation owes \$2,100,000,000, and private citizens of the United States probably owe \$2,500,000,000, possibly more. At the present moment the relation of debtor and creditor in the United States involves nearly \$5,000,000,000. It is proposed by the amendment of the gentleman from Indiana that, at one fell stroke, one fifth of all this enormous sum shall

be wiped off, repudiated, and that this process shall be called honest legislation! Since I have been in public life I have never known any proposition that contained so many of the essential elements of vast rascality, of colossal swindling, as this. I do not charge that such is the purpose of the gentleman; yet such, in my judgment, is the effect of the amendment proposed. But, aside from the political ethics involved in this scheme, we should consider its effects upon the business of the country.

Gentlemen may remember the financial shock of 1837, the later shock of 1857, and that still later in 1873. Conceive them all united in one vast crash, and the financial ruin, the overthrow of business, would be light in comparison with the shock which would follow if the provision here proposed were adopted. By a principle improperly called Gresham's Law, for it was known as far back as the days of Aristophanes,<sup>1</sup> where two legal standards of value are put in circulation in the same country, the less valuable always drives out the more valuable. Put in operation the provision now suggested, and all our gold coin will leave the country as fast as it can be carried abroad. Do this, and a revolution in our monetary affairs, utterly unparalleled in the history of our nation, will follow. The gentleman from Pennsylvania,<sup>2</sup> in his remarks, gave the key to the philosophy of this proposed legislation. "Why," said he, "what does a man want to do with silver when he can have something made of white metal that the thief will not care to steal?" What is the meaning of that? It is that he wants money so cheap and so valueless that nobody will care to steal it.

MR. KELLEY. I was speaking, not of money, but of household utensils.

It amounts simply to the grim summary of Thomas Carlyle, the theory of "cheap and nasty," — quantity at the expense of quality, glittering sham at the expense of reality.

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ON the 13th of December, 1876, "A Bill to utilize the Product of Gold and Silver Mines, and for other Purposes," introduced by Mr. Bland of Missouri at the previous session of the Forty-fourth Congress, was pending. The House adopted the following substitute, and then passed the bill: —

"That there shall be, from time to time, coined at the mints of the

<sup>1</sup> See Macaulay, *History of England*, Vol. IV. p. 495 (Harper's edition).

<sup>2</sup> Mr. Kelley.

United States, silver dollars of the weight of  $412\frac{1}{2}$  grains standard silver to the dollar, as provided for in the act of January 18, 1837; and that said dollar shall be a legal tender for all debts, public and private, except where payment of gold coin is required by law."

This bill was never acted on by the Senate. The following are Mr. Garfield's remarks: —

MR. SPEAKER, — I do not think I shall use the whole of the ten minutes granted me, but only enough to state the reasons which will guide my vote on this bill.

I suppose that the officer of the United States army who had charge of the excavations at Hell Gate, an hour before the explosion, could have given you the lay of the ground on every square foot of Hell Gate ledge, and the depth of the water at all stages of the tide, because, by years of patient study, he had learned all about it; but if he had pretended to tell any one, just after the explosion occurred, how the ledge lay, how deep the water was, and what the situation of the channel was in regard to navigation, he would have proved himself a charlatan and a cheat. After those tons of dynamite had exploded under the ledge, there was a new set of conditions; and like a sensible officer he would have said to all comers, "I must put down my sounding apparatus; I must make a careful exploration of this ledge before I can tell you anything accurately or definitely of the situation." In the course of a few weeks he was able to do that, and do it intelligently and thoroughly.

I have stated this as an illustration of my view of the present state of the silver question. For a long time the relation between silver and gold had been very accurately understood, and had continued without great and violent fluctuations. These two metals had been used by the governments of the world, in some definitely ascertained proportions, as the basis for standard coin; and men knew with tolerable accuracy their relative values. But within the last few years, and notably within the last few months, there has been an explosion under silver as it stands related to gold, — an explosion as much greater than the one under Hell Gate ledge as the continents of Europe, Asia, and America are greater than Hell Gate itself. Now, while the fragments of this mighty explosion are falling in confusion all over the world, while the upheaval is still going on, and while we are still involved in the uncertainty which it has caused everywhere, — when we have sent out our

explorers<sup>1</sup> by the wise order of both houses of Congress to make soundings and report what they find, — even while we are waiting for their coming (and they tell us we may expect them soon), — it is proposed in the hot haste of a two hours' debate, under the tyranny of the previous question, the two hours being parcelled out into fragments of five or ten minutes apiece, — it is proposed in this chamber that we settle this world-wide question and determine it to-day.

If I had no other reason to urge against this bill, this to my mind would be overwhelming and unanswerable. Who, in this brief space of two hours, can go into the philosophy of the great revolution that has occurred? Who can state its causes calmly and dispassionately? Who can point out the probable future course of silver in the markets of the world? We know that a year or two ago it was bought and sold at 60½ pence per ounce; that on the 13th of July last it had, by extraordinary fluctuations, tumbled down almost to 46 pence per ounce; and now again, faster than the thermometer indicates the changes of temperature, it is up again to 57. Yet on this rising and falling tide, in the midst of fluctuations almost equal to the political passions of a Presidential campaign, we are asked to settle for years this question, when the intelligence that we require is near at hand, but not yet received; we must settle it before we hear. It is said that Rhadamanthus and his brother judges in the lower world, when the accused was brought before them, first castigated him, then made him confess that he was properly punished, and then heard his case. Now perhaps that is a mode of procedure fit for the court below, but it is not a method fit for the House of Representatives.

What I ask for, Mr. Speaker, is information and time for deliberation before we proceed to settle this great question. There is no emergency pressing us to a decision to-day. I am free to say, if I am forced to a choice of evils, that I like the substitute better than the original bill. I have no objection to voting for the substitute, but I shall vote against the bill, whether the substitute be adopted or not, as the case now stands.

Let me call the attention of gentlemen to another fact. Can they say this country is going to get any good out of this bill?

<sup>1</sup> The Silver Commission, created by joint resolution of August 15, 1876; reported, March 2, 1877.

Pass it, and what can be done? Every man who owns silver bullion in America, or who can buy it from abroad, can take it by the car-load to the Mint of the United States, and have it coined under our laws without cost to himself, and can take away in silver coin all the difference between the value of his bullion and the nominal value of his coin. The owner of the bullion will make the difference, and the government make nothing. Why should we give away all the difference, which in July last would have been thirty per cent, to the accidental owner of bullion, or the one who chooses to speculate in it? Why should we offer so great a premium to domestic and foreign speculators in metals, and forbid our national treasury to have any share in it? And where will gentlemen find any good coming to the people by this policy?

There is no time in this brief debate to discuss the philosophy of a single or double standard. I am willing that in some way, properly restricted, we shall enlarge the scope of our silver coinage. I hope the Silver Commission may show us how this can safely be done. But I am unwilling to undertake so grave a work without full information and deliberation.

I wish to say, in the remaining moments left to me, that it is impossible, within the brief space we have, even to go carefully through the history of the legislation which has brought us where we are. That legislation has been denounced as a "legislative trick," as a delusion, as something intended to cheat the American people. I will not even on this occasion go so far as the gentleman who advocated, if he did not introduce, the original bill; but let me read from the Congressional Globe of April 9, 1872, the reason given by him for its passage. I read the language of my friend from Pennsylvania,<sup>1</sup> who now sits near me: —

"I wish to ask the gentleman who has just spoken<sup>2</sup> if he knows of any government in the world which makes its subsidiary coinage of full value? The silver coin of England is ten per cent below the value of gold coin. And acting under the advice of the experts of this country, and of England and France, Japan has made her silver coinage within the last year twelve per cent below the value of gold coin, and for this reason: *It is impossible to retain the double standard. The values of gold and silver continually fluctuate.* You cannot determine this year what will be the relative values of gold and silver next year. They were 15 to 1 a short time ago; they are 16 to 1 now.

<sup>1</sup> Mr. Kelley.

<sup>2</sup> Mr. Potter.



“Hence all experience has shown that you must have *one standard coin*, which shall be a legal tender for all others, and then you may promote your domestic convenience by having a subsidiary coinage of silver, which shall circulate in all parts of your country as legal tender for a limited amount, and be redeemable at its face value by your government.

“But, sir, I again call the attention of the House to the fact that the gentlemen who oppose this bill insist upon maintaining a silver dollar worth three and a half cents more than the gold dollar, and worth seven cents more than two half-dollars, and that so long as those provisions remain you cannot keep silver coin in the country.”<sup>1</sup>

I have read the whole of that extract, Mr. Speaker, in order to do full justice to the gentleman from Pennsylvania who reported the bill. Now, I am sure he was not guilty of a legislative trick. I am sure he gave the House full notice of what they were doing, and the reason why he asked them to do it. And he gave as a reason, that at that moment silver was worth more than gold, and you could not keep two standards from fluctuating in reference to each other. Just now it happens that silver is a little below the value of gold, and gentlemen will see, and the House will see, that we must have a basis for our judgment broader than the uncertain chances of an uncertain market. I have not quoted the passage to affirm that I wholly disbelieve in the double standard, but to show the great difficulty of realizing it.

I wish to make another remark. When the report of that Commission is made, I hope it will instruct us as to the international relations of this question. One nation alone cannot put silver up, or put it down, and control all the markets of the world. If seven or eight of the leading nations of the world should form a monetary treaty on the subject, and should agree that silver be adopted, to be issued within certain limits in each, I have no doubt that silver coin could be kept in equipoise with gold. But let one half of the leading nations of the globe drop the silver coinage, and let only one like our own insist upon it, and then we shall see a flood of silver coin pouring into the hands of our brokers, who would bring it to the Mint, and fill their own pockets with the difference between silver bullion and silver coin.

<sup>1</sup> Congressional Globe, April 9, 1872, p. 2316.

ON the 21st of February, 1878, the bill authorizing the recoinage of silver dollars was carried through the House under the previous question without serious debate. In the three minutes allotted him Mr. Garfield made these remarks : —

MR. SPEAKER, — Every man who is opposed to the use of silver coin as a part of the lawful currency of the country, I disagree with. Every man who is opposed to the actual legal use of both metals, I disagree with. Every man who is in favor of any bill that will drive one of these metals out of circulation and give us only the other as money, with him I disagree. It is a matter of deep regret to me that on this greatest financial measure which has come before Congress for many years we have come down at last to the turbulent scene of this single hour, not of deliberation, but of experimenting, without debate or opportunity for amendment.

The amendments which have come from the Senate are wise, so far as they go, and I shall vote for them all. If any man could convince me that the bill as it now stands would bring the silver and gold dollars to a substantial equality, I would not only vote for it with all my heart, but I would vote against the Senate amendment which forbids free coinage. I would endow the two dollars with equality, and make the coinage free. But no adequate discussion is allowed; and we are permitted no opportunity so to amend the bill as to secure that equality.

Believing, as I do, — and I shall rejoice if the future proves me mistaken, — believing, as I do, that this bill will not bring the two metals to equality, nor keep them there, that it will bring no relief to the suffering and distress which now afflict the country, that it will seriously injure the public credit, and thereby injure every citizen, I shall vote to lay the bill upon the table.

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ON the 17th of May, 1879, the House of Representatives having under consideration " A Bill to amend certain Sections of the Revised Statutes of the United States, relating to Coinage and Coin and Bullion Certificates, and for other Purposes," Mr. Garfield made the following remarks. The bill passed the House, but no action was had in the Senate.

MR. SPEAKER, — We have probably never legislated on any question the influence of which reaches farther, both in terri-

tory and in time, and which touches more interests, — more vital interests, — than this and similar bills. No man can doubt that within recent years, and notably within recent months, the leading thinkers of the civilized world have become alarmed at the attitude of the two precious metals in relation to each other; and many leading thinkers are becoming clearly of the opinion that, by some wise, judicious arrangement, both the precious metals must be kept in service for the currency of the world. And this opinion has been gaining ground within the last six months to such an extent that England, which for more than half a century has stoutly adhered to the single gold standard, is now seriously meditating how she may harness both these metals to the monetary car of the world. And yet, outside of this Capitol, I do not this day know of a single great and recognized advocate of bi-metallic money who regards it prudent or safe for any nation to increase the coinage of silver at the present time largely beyond the limits fixed by existing laws. France and the other states of the Latin Union, who have long believed in bi-metallism, maintained it against all comers, and have done all in their power to advocate it throughout the world, dare not coin a single silver coin, and have not done so since 1874. The most strenuous advocates of bi-metallism in those countries say it would be ruinous to bi-metallism for France or the Latin Union to coin any more silver at present. The remaining stock of German silver now for sale, amounting to from forty to seventy-five millions of dollars, is a standing menace to the exchanges and silver coinage of Europe. One month ago the leading financial journal of London proposed that the Bank of England buy one half of the German surplus and hold it five years, on condition that the German government shall hold the other half off the market. The time is ripe for some wise and prudent arrangement among the nations to save silver from a disastrous break-down.

Yet we, who, during the past two years, have coined far more silver dollars than we ever before coined since the foundation of the government, — ten times as many as we coined during half a century of our national life, — are to-day ignoring and defying the enlightened, universal opinion of bi-metallists, and saying that the United States, single-handed and alone, can enter the field and settle the mighty issue. We are justifying the old proverb, that "Fools rush in where angels fear to tread."

It is sheer madness, Mr. Speaker. I once saw a dog on a great stack of hay which had been floated out into the wild, overflowing stream of a river, with its stack-pen and foundation still holding together, but ready to be wrecked. For a little while the dog appeared to be perfectly happy. His hay-stack was there and the pen around it, and he seemed to think the world bright, and his happiness secure, while the sunshine fell softly on his head and his hay. But by and by he began to discover that the house and the barn, and their surroundings, were not all there as they were when he went to sleep the night before; and he began to see that he could no longer command all the prospect and peacefully dominate the scene as he had done. So with this House. We assume to manage this mighty question which has been launched on the wild current that sweeps over the whole world, and we bark from our legislative hay-stacks as though we commanded the whole world. In the name of common sense and sanity, let us take some account of the flood; let us understand that a deluge means something, and try, if we can, to get our bearings before we undertake to settle the affairs of all mankind by a vote of this House.

To-day we are coining one third of all the silver that is being coined in the round world; China is coining another third; and all other nations are using the remaining one third for subsidiary coin. And if we want to take rank with China, and part company with all the civilized nations of the Western world, let us pass this bill, and then "bay the moon," as we float down the whirling channel to take our place among the silver monometalists of Asia.

What this country needs, above all other things, is that this Congress shall pass the appropriation bills, adjourn, and go home, and let the forces of business and good order and brotherhood, working in their natural and orderly way, bring us into light and stability and peace. We want time to adjust this great international question. Now, while I am speaking, the Executive is opening negotiations with all the Western nations, to see if there cannot be some international arrangement whereby this question of bi-metallism may be wisely settled; and we should await the result.

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ON the 25th of May, 1880, this paragraph in the Sundry Civil Appropriation Bill was considered in the House of Representatives: "To enable the Secretary of the Treasury to provide suitable accommodation for the storage of coin, \$100,000." The point of order was raised that there was no existing law under which this appropriation could be made. Mr. Garfield made the following remarks, the last that he ever made in the House of Representatives.

MR. CHAIRMAN, — If, by a provision in the Legislative, Executive, and Judicial Appropriation Bill, the number of clerks in any department or bureau is increased, I take it that no one would doubt that that provision would be a sufficient law to authorize the purchase of a sufficient number of desks for the office in which these clerks were to do their work. It would not be necessary to get a special statute passed for the purchase of an additional amount of paper, ink, and stationery to be used in the particular bureau in which the additional clerks had been appointed by authority of law.

We have a law compelling the Director of the Mint to coin at least two million silver dollars a month. We have another law which allows the purchase of silver bullion and the issue of certificates therefor. Under those laws, the United States this day owns \$64,000,000 in silver coin, dollars and fractional coin, and \$4,000,000 of silver bullion besides, making \$68,000,000 of silver coin and bullion, in addition to the gold coin.

Now, an ordinary car-load of concentrated silver is eight tons. We own to-day, and are holding in our Subtreasury buildings, two hundred and fifty car-loads of silver coin and silver bullion. The coinage for the next three, four, or five months, if additional accommodations are not provided, will necessarily have to be stacked up without protection, without a vault to put it in, without a place even in which to lock it up, if the law continues as it now is. The necessity for this appropriation is just as manifest as the necessity for an appropriation for a desk, for a lock and key, or for pens, ink, and paper for additional clerks authorized by law.

I do not believe in the policy of continuing the coinage of silver; but that is not the question now. The question is upon the point of order; and I say that, if you will buy horses, you must have stables for them.

I do not desire to prolong this debate. We are likely to be misled on this point by the language of the clause which relates

to the storage of coin. The wording of this section is, "to enable the Secretary of the Treasury to provide suitable accommodation for the storage of coin, — \$100,000." Now, of course, "storage" means building room, and storage of coin means vaults. It would have been better, therefore, and less liable to ambiguity, if the language had been simply "to build a vault." That is all it means. By no stretch of construction can this be considered as authorizing the erection of a new building, because, if a new building is to be put up, it requires the selection of a site, the acquirement of a title to the lands, and all that; but this simply provides an accommodation suitable for the storage of coin. It is all in connection with the Treasury buildings here. It is simply to provide accommodation. The recommendation of the Secretary of the Treasury, upon which this provision was inserted in the appropriation bill, was simply to provide more vault room; and I call attention to the fact that, under the decision of the chairman of the committee on a point of order raised yesterday, it is an appropriation for continuing work already in progress and authorized by law. All these buildings, and all ordinary repairs made upon them, are works of progress, and the Secretary is simply authorized to put up fixtures in a building already authorized by law; and under the same decision of the chairman held yesterday this is manifestly in order.

## THE DEMOCRATIC PARTY AND THE GOVERNMENT.

SPEECH DELIVERED IN THE HOUSE OF REPRESENTATIVES,

AUGUST 4, 1876.

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ON the 2d of August, 1876, Mr. L. Q. C. Lamar made a speech in the House of Representatives on general politics, his evident purpose being to influence public opinion, especially at the North, in the Presidential election that would ensue in the following November. On the 4th, the House being in Committee of the Whole on the bill to transfer the conduct of Indian Affairs from the Interior Department to the War Department, Mr. Garfield replied in the following speech.

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**M**R. CHAIRMAN, — I regret that the speech of the gentleman from Mississippi has not yet appeared in the Record, so that I might have had its full and authentic text before offering my own remarks in reply. But his propositions were so clearly and so very ably stated, the doctrines that run through it were so logically connected, that it will be my own fault if I fail to understand and appreciate the general scope and purpose of his speech.

In the outset, I desire for myself, and for a majority at least of those for whom I speak, to express my gratitude to the gentleman for all that portion of his speech which had for its object the removal of the prejudices and unkindly feelings that have arisen among citizens of the republic in consequence of the late war. Whatever faults the speech may have, its author expresses an earnest desire to make progress in the direction of a better understanding between the North and the South; and in that it meets my most hearty concurrence and approval.

I will attempt to state briefly what I understand to be the logic of the gentleman's speech. He sets out with deploring the evils of party, and expressing the belief that the great mass of the American people are tired of much that belongs to party, and that, looking beyond and above mere party prejudices and passions, they greatly desire to remove public corruptions, and reform the manifold errors and evils of administration and legislation. He holds that those errors and evils consist mainly of two things: first, of a generally corrupt state of public administration; and, secondly, of a deplorable state of the civil service; that this state of affairs is buttressed and maintained by an enormous army of a hundred thousand civil office-holders and a hundred thousand more expectants of office; and that because of this vast force the people have hitherto been unable to make the reforms they desire. This is his major premise. The next point, his minor premise, is that the Republican party is incapable of effecting the great reforms which the people desire. And hence his conclusion from these premises is that the Democratic party ought to be brought into power in the coming election. This is the summary, and, I may say, abrupt conclusion of his reasoning.

The gentleman seemed to be aware that there might be some apprehensions in the minds of the people that it would not quite yet be safe to recall the Democratic party to power; and he endeavored to quiet those apprehensions by stating, in the first place, that there need be no fear that the South lately in rebellion would again control the government; that they were prostrated; that their institutions had been overthrown; that their industries had been broken up; that in their weak and broken condition there need be no fear that they would again be placed at the head of public affairs; and, finally, that the South has united with the Democratic party, not from choice, but because forced to do so by inexorable necessity as their only means of protection.

In the second place, there is apprehension, he said, that the Democracy, if they came into power, would not preserve the beneficent results of the war. But he assures us that this fear is groundless; that the people of the South have no aspirations which are not bounded by the horizon of the Union; that they as well as the Democracy of the North accept, honestly and sincerely, the great results of the war; and that they can be trusted to preserve all the good that has been gained.



Again, he says it is feared, on the part of many, that the colored race, lately enslaved, will not be safe in the full enjoyment of all the rights resulting from the war and guaranteed by the amendments to the Constitution. This he also assures us is a groundless fear, because the people of the South understand the colored race, appreciate their qualities, and are on such a footing of friendship and regard that they are in fact better fitted to meet the wants of that people, and help them along in the way of civilization, enlightenment, and peace, than those who are further removed from such knowledge.

He emphasizes the statement that the South cheerfully accepts the results of the war; and admits that much good has been achieved by the Republican party which ought to be preserved. I was gratified to hear the gentleman speak of Lincoln as "the illustrious author of the great act of emancipation." That admission will be welcomed everywhere by those who believe in the justice and wisdom of that great act. While speaking of the condition of the South and its wants, he deplored two evils which afflict that portion of our country: first, Federal supervision; and, secondly, negro ascendancy in its political affairs. In that connection, it will be remembered, he quoted from John Stuart Mill and from Gibbon; from the one to show that the most deplorable form of government is where the slave governs, and from the other to show the evils of a government which is in alien hands. The gentleman represented the South as suffering the composite evils depicted by both these great writers. That I may be sure to do him justice, I quote a paragraph from the Associated Press report of his speech.

"The inevitable effect of that reconstruction policy had been to draw one race to its support, and drive the other race to its opposition. He quoted Gibbon, the historian, as saying that the most absurd and oppressive system of government which could be conceived of is that which subjects the natives of a country to the domination of its slaves. He also quoted from John Stuart Mill, to the effect that, when a government is administered by rulers, not responsible to the people governed, but to some other community or power, it is one of the worst of conceivable governments, and he said that the hideous system established in the South is a composite of those two vicious systems. The people are subjected to the domination of their former slaves, and are ruled over by people whose constituents were not the people for whom they should act, but the Federal government."<sup>1</sup>

<sup>1</sup> See Congressional Globe, August 2, 1876, p. 5091.

Now, I have stated — of course very briefly, but I hope with entire fairness — the scope of the very able speech to which we listened. In a word it is this: the Republican party is oppressing the South; negro suffrage is a grievous evil; there are serious corruptions in public affairs in the national legislation and administration; the civil service of the country especially needs great and radical reform; and therefore the Democratic party ought to be placed in control of the government at this time, by the election of Tilden and Hendricks.

It has not been my habit, and it is not my desire, to discuss mere party politics in this great legislative forum. And I shall do so now only in so far as a fair review of the gentleman's speech requires. My remarks shall be responsive to his; and I shall discuss party history and party policy only as the logic of his speech leads into that domain.

From most of the premises of the gentleman, as matters of fact and history, I dissent; some of them are undoubtedly correct; but, for the sake of argument only, admitting that all his premises are correct, I deny that his conclusion is warranted by his premises; and before I close I shall attempt to show that the good he seeks cannot at this time be secured by the ascendancy of the Democratic party.

Before entering upon that field, however, I must notice this remarkable omission in the logic of his speech. Although he did state that the country might consider itself free from some of the dangers which are apprehended as the result of Democratic ascendancy, he did not, as I remember, by any word attempt to prove the fitness of the Democracy as a political organization to accomplish the reforms which he so much desires; and without that affirmative proof of fitness his argument is necessarily an absolute failure. It is precisely that fear which has not only made the ascendancy of the Democratic party so long impossible, but has made it incompetent to render that service so necessary to good government, — the service of maintaining the position of a wise and honorable opposition to the dominant party. Often the blunders and faults of the Republican party have been condoned by the people because of the violent, reactionary, and disloyal spirit of the Democracy.

He tells us that it is one of the well-known lessons of political history and philosophy, that the opposition party often comes in to crystallize and preserve the measures which their antago-

nists inaugurated; and that a conservative opposition party is better fitted to accomplish such a work than an aggressive radical party, who roughly pioneered the way and brought in the changes. And to apply this maxim to our own situation, he tells us that the differences between the Republican and the Democratic parties, upon the issues which led to the war and those which grew out of it, were rather differences of time than of substance; that the Democracy followed more slowly in the Republican path, but have at last arrived, by prudent and constitutional methods, at the same results; and hence they will be sure to guard securely and cherish faithfully what the Republicans gained by reckless and turbulent methods. There is some truth in these "glittering generalities," but, as applied to our present situation, they are entitled only to the consideration which we give to the bright but fantastic pictures of a Utopian dream.

I share all the gentleman's aspirations for peace, for good government at the South; and I believe I can safely assure him that the great majority of the nation share the same aspirations. But he will allow me to say that he has not fully stated the elements of the great problem to be solved by the statesmanship of to-day. The actual field is much broader than the view he has taken. And before we can agree that the remedy he proposes is an adequate one, we must take in the whole field, comprehend all the conditions of the problem, and then see if his remedy is sufficient. The change he proposes is not like the ordinary change of a ministry in England, when the government is defeated on a tax bill, or some routine measure of legislation. He proposes to turn over the custody and management of the government to a party which has persistently and with the greatest bitterness resisted all the great changes of the last fifteen years,—changes which were the necessary results of a vast revolution,—a revolution in national policy, in social and political ideas,—a revolution whose causes were not the work of a day nor a year, but of generations and centuries. The scope and character of that mighty revolution must form the basis of our judgment when we inquire whether such a change as he proposes is safe and wise.

In discussing his proposition we must not forget that, as the result of this revolution, the South, after the great devastations of war, the great loss of life and treasure, the overthrow of its social and industrial system, was called upon to confront the

new and difficult problem of two races, one just relieved from centuries of slavery, and the other a cultivated, brave, proud, imperious race, — the two now to be brought together on terms of equality before the law. Every point of that problem bristles with new, difficult, delicate, and dangerous questions. But that is not all of the situation. On the other hand, we see the North — after leaving its three hundred and fifty thousand dead upon the field of battle, and bringing home its five hundred thousand maimed and wounded to be cared for — crippled in its industries and staggering under the tremendous burden of public and private debt. Both North and South are weighted with unparalleled burdens and losses, — the whole nation suffering from that loosening of the bonds of social order which always follows a great war, and from the resulting corruption both in the public and the private life of the people. These, Mr. Chairman, constitute the vast field which we must survey in order to find the path which will soonest lead our beloved country to the highway of peace, of liberty, and of prosperity. Peace from the shock of battle; the higher peace of our streets, of our homes, of our equal rights, we must make secure by making the conquering ideas of the war everywhere dominant and permanent.

With all my heart I join with the gentleman in rejoicing that

“The war-drum throbs no longer, and the battle-flags are furled,”

and I look forward with joy and hope to the day when our brave people, one in heart, one in their aspirations for freedom and peace, shall see that the darkness through which we have travelled was a part of that stern but beneficent discipline by which the Great Disposer of events has been leading us on to a higher and nobler national life. But such a result can be reached only by comprehending the whole meaning of the revolution through which we have passed and are still passing. I say still passing; for I remember that after the battle of arms comes the battle of history. The cause that triumphs in the field does not always triumph in history. And those who carried the war for union and equal and universal freedom to a victorious issue can never safely relax their vigilance until the ideas for which they fought have become embodied in the enduring forms of individual and national life. Has this been done? Not yet.

I ask the gentleman in all plainness of speech, and yet in all kindness, Is he correct in his statement that the conquered party accept the results of the war? Even if they do, I remind the gentleman that *accept* is not a very strong word. I go further. I ask him if the Democratic party have *adopted* the results of the war? Is it not asking too much of human nature to expect such unparalleled changes to be not only accepted, but, in so short a time, adopted by men of strong and independent opinions?

The antagonisms which gave rise to the war and grew out of it were not born in a day, nor can they vanish in a night. Mr. Chairman, great ideas travel slowly, and for a time noiselessly as the gods, whose feet were shod with wool. Our war of independence was a war of ideas, of ideas evolved out of two hundred years of slow and silent growth. When, one hundred years ago, our fathers announced as self-evident truths, that all men are created equal, and that the only just powers of governments are derived from the consent of the governed, they uttered a doctrine that no nation had ever adopted, that not one kingdom on the earth then believed. Yet to our fathers it was so plain, that they would not debate it. They announced it as a truth "self-evident."

Whence came the immortal truths of the Declaration? To me this was for years the riddle of our history. I had searched long and patiently through the books of the *doctrinaires* to find the germs from which the Declaration of Independence sprang. I found hints in Locke, in Hobbes, in Rousseau, and in Fénelon; but they were only the hints of dreamers and philosophers. The great doctrines of the Declaration germinated in the hearts of our fathers, and were developed under the new influences of this wilderness world, by the same subtle mystery which brings forth the rose from the germ of the rose-tree. Unconsciously to themselves, the great truths were growing under the new conditions until, like the century-plant, they blossomed into the matchless beauty of the Declaration of Independence, whose fruitage, increased and increasing, we enjoy to-day.

It will not do, Mr. Chairman, to speak of the gigantic revolution through which we have lately passed as a thing to be adjusted and settled by a change of administration. It was cyclical, epochal, century-wide, and to be studied in its broad and grand perspective, — a revolution of even wider scope, so far as time is concerned, than the Revolution of 1776. We

have been dealing with elements and forces which have been at work on this continent more than two hundred and fifty years. I trust I shall be excused if I take a few moments to trace some of the leading phases of the great struggle. And in doing so, I beg gentlemen to see that the subject itself lifts us into a region where the individual sinks out of sight and is absorbed in the mighty current of great events. It is not the occasion to award praise or pronounce condemnation. In such a revolution men are like insects, that fret and toss in the storm, but are swept onward by the resistless movements of elements beyond their control. I speak of this revolution not to praise the men who aided it, or to censure the men who resisted it, but as a force to be studied, as a mandate to be obeyed.

In the year 1620 there were planted upon this continent two ideas irreconcilably hostile to each other. Ideas are the great warriors of the world; and a war that has no ideas behind it is simply brutality. The two ideas were landed, one at Plymouth Rock from the *Mayflower*, and the other from a Dutch brig at Jamestown. One was the old doctrine of Luther, that private judgment, in politics as well as religion, is the right and duty of every man; and the other, that capital should own labor, that the negro has no rights of manhood, and the white man may justly buy, own, and sell him and his offspring forever. Thus freedom and equality on the one hand, and on the other the slavery of one race and the domination of another, were planted on this continent. In our vast expanse of wilderness, for a long time, there was room for both; and their advocates began the race across the continent, each developing the social and political institutions of their choice. Both had vast interests in common; and for a long time neither was conscious of the fatal antagonisms that were developing.

For nearly two centuries there was no serious collision; but when the continent began to fill up, and the people began to jostle against each other, when the Roundhead and the Cavalier came near enough to measure opinions, the irreconcilable character of the two doctrines began to appear. Many conscientious men studied the subject, and came to the belief that slavery was a crime, a sin, or, as Wesley said, "the sum of all villainies." This belief dwelt in small minorities for a long time. It lived in churches and vestries, but later found its way

into the civil and political organizations of the country, and finally found its way into this chamber. A few brave, clear-sighted, far-seeing men announced it here, a little more than a generation ago. A predecessor of mine, Joshua R. Giddings, following the lead of John Quincy Adams, almost alone, held up the banner on this floor, and from year to year comrades came to his side. Through evil and through good report he pressed the question upon the conscience of the nation, and bravely stood in his place in this House in the thick of the fight.

And so the contest continued; the supporters of slavery believing honestly and sincerely that slavery was a divine institution, that it found its high sanctions in the living oracles of God and in a wise political philosophy, that it was justified by the necessities of their situation, and that slaveholders were missionaries to the dark sons of Africa, to elevate and bless them. We are so far past the passions of that early time that, without sharing in the crimination and recrimination that attended it, we can now study the progress of the struggle as a great and inevitable development. If both sides could have seen that it was a contest beyond their control, — if both parties could have realized the truth, that “unsettled questions have no pity for the repose of nations,” much less for the fate of political parties, — the bitterness, the sorrow, the tears, and the blood might have been avoided. But we walked in the darkness, our paths obscured by the smoke of the conflict, each following his own convictions through ever-increasing fierceness, until the debate culminated in “the last argument to which kings resort.”

This conflict was not one of sentimental feeling merely; it involved our whole political system; it gave rise to two radically different theories of the nature of our government, the North believing and holding that we were a nation, the South insisting that we were only a confederation of sovereign States, and insisting that each State had the right, at its own discretion, to break the Union, and constantly threatening secession when the full rights of slavery were not acknowledged.

Thus the defence and aggrandizement of slavery and the hatred of abolitionism became, not only the central idea of the Democratic party, but its master passion, — a passion intensified and inflamed by twenty-five years of fierce political contest, which had not only driven from its ranks all those who

preferred freedom to slavery, but had absorbed all the extreme proslavery elements of the fallen Whig party. Against this party was arrayed the Republican party, asserting the broad doctrines of nationality and loyalty, insisting that no State had a right to secede, that secession was treason, and demanding that the institution of slavery should be restricted to the limits of the States where it already existed. But here and there, many bolder and more radical thinkers declared, with Wendell Phillips, that there never could be union and peace, freedom and prosperity, until we were willing to see John Hancock under a black skin.

That we may see more clearly the opinions which were to be settled by war, I will read two passages from the Congressional Globe, not for the purpose of making a personal point against any man, but simply to show where honest men stood when that contest was approaching its crisis. I read from a speech made on the 19th of December, 1859, by a distinguished gentleman from Mississippi,<sup>1</sup> then and now a member of this House.

“The South will never submit to that state of things. It matters not what evils come upon us ; it matters not how deep we may have to wade through blood ; we are bound to keep our slaves in their present position. And let me ask you, What good would you bring to the slaves by this process of abolition? You may possibly have the object in view of benefiting the slaves, or benefiting the white race, or both ; but suppose you could carry out your plans, and confine us to our present area, and suppose that the institution of slavery should abolish itself, what would you have done? You know it is impossible for us to live on terms of equality with them. It is not to be supposed for a moment that we can do so. The result would be a war between the races, which would perhaps involve the utter annihilation of one or the other ; and thus you see that, instead of benefiting either, you would have brought disaster upon both.

“But I tell you here, to-day, that the institution of slavery must be sustained. The South has made up its mind to keep the black race in bondage. If we are not permitted to do this inside of the Union, I tell you that it will be done outside of it. Yes, sir ; and we will expand this institution ; we do not intend to be confined within our present limits ; and there are not men enough in all your borders to coerce three million armed men in the South, and prevent their going into the surrounding territories.”<sup>2</sup>

In the course of that debate, the same gentleman said: “I am one of those who have said, and here repeat it, if the Black

<sup>1</sup> Mr. Singleton.

<sup>2</sup> Congressional Globe, 1st Sess. 36th Cong., App., p. 51.



Republican party elect a President, I am for dissolving the Union."

I have no doubt the gentleman fairly and faithfully represented the opinions of his State. Not long before the date of this speech, it will be remembered that two distinguished members of the Republican party had uttered their opinions on this question. Mr. Lincoln had said that it was impossible for a country to remain partly slave and partly free; and Mr. Seward had declared that there was an irrepressible conflict between the systems of free and slave labor, which could never cease until one or the other was wholly overthrown. The Republican party, however, disclaimed all right or purpose to interfere with slavery in the States; yet they expressed the hope that the time would come when there should be no slave under our flag. In response to that particular opinion, the distinguished gentleman from Mississippi,<sup>1</sup> then a member of this House, on the 23d of December, 1859, said this:—

"I was upon the floor of the Senate when your great leader, William H. Seward, announced that startling programme of antislavery sentiment and action. . . . And, sir, in his exultation, he exclaimed—for I heard him myself—that he hoped to see the day when there would not be the footprint of a single slave upon this continent. And when he uttered this atrocious sentiment, his form seemed to dilate, his pale, thin face, furrowed by the lines of thought and evil passions, kindled with malignant triumph, and his eye glowed and glared upon Southern Senators as though the fires of hell were burning in his heart."<sup>2</sup>

I have read this passage to mark the height to which the antagonism had risen in 1859. And this passage enables us to measure the progress which the gentleman has since made. I mark it here, as one of the notable signs of the time, that the gulf between the position then occupied by the gentleman from Mississippi and the position he occupies to-day is so deep, so vast, that it indicates a progress worthy of all praise. I congratulate him and the country that, in so short a time, so great a change has been possible.

Now, I ask the gentleman if he is quite sure, as a matter of fact, that the Democratic party, its Southern as well as its Northern wing, have followed his own illustrious and worthy example in the vast progress that he has made since 1859? He assures us that the transformation has been so complete, that

<sup>1</sup> Mr. Lamar.

<sup>2</sup> Congressional Globe, Dec. 23, 1859, pp. 228, 229.

the nation can safely trust all the most precious fruits of the war in the hands of that party who stood with him in 1859? If that be true, I rejoice at it with all my heart; but the gentleman must pardon me if I ask him to brace my wavering faith by some evidence, some consoling proofs. When did the great transformation take place? Certainly not within two years after the delivery of the speech I have quoted; for two years from that time the contest had risen much higher,—it had risen to the point of open, terrible, and determined war. Did the change come during the war? O, no; for in the four terrible years ending in 1865, every resource of courage and power that the Southern States could muster was employed, not only to save slavery, but to destroy the Union. So the transformation had not occurred in 1865. When did it occur? Aid our anxious inquiry, for the nation ought to be sure that the great change has occurred before it can safely trust its destinies to the Democratic party. Did it occur in the first epoch of reconstruction, — the two years immediately following the war. During that period the attempt was made to restore the State governments in the South on the basis of the white vote. Military control was held generally; but the white population of the Southern States were invited to elect their own legislatures, and establish provisional governments. In the laws, covering a period of two and a half years,—1865, 1866, and a portion of 1867,—enacted by those legislatures, we ought to find proof of the transformation if it had then occurred. What do we find? What we should naturally expect,—that a people, accustomed to the domination of slavery, re-enacted in almost all of the Southern States, and notably in the States of Mississippi and Louisiana, laws limiting and restricting the liberty of the colored man,—vagrant laws and peonage laws, whereby negroes were sold at auction for the payment of a paltry tax or fine, and held in a slavery as real as the slavery of other days. I believe that this is true of nearly all the Southern States; so that the experiment of allowing the white population of the South to adjust that very question proved a frightful failure. Then it was that the national Congress intervened; they proposed an act of reconstruction, an act which became a law on the 2d of March, 1867.

And what was that act? Gentlemen of the South, you are too deeply schooled in philosophy to take umbrage at what I shall now say, for I am dealing only with history. You must

know, and certainly do know, that the great body of the nation, which had carried the war to success and triumph, knew that the eleven States which had opposed the Union had plunged their people into crime; — a crime set down in the law — a law signed by President Washington — at the very top of the catalogue of crimes, — the crime of treason, and all that follows it. You certainly know that, under that law, every man who voluntarily took up arms against the Union could have been tried, convicted, and hanged as a traitor to his country. But I call your attention to the fact that the conquering nation said, in this great work of reconstruction, “We will do nothing for revenge, everything for permanent peace”; and you know there never was a trial for treason in this country during the whole of the struggle, nor after it. No man was executed for treason; no man was tried. There was no expatriation, no exile, no confiscation after the war. The only revenge which the conquering nation gratified was in saying to the South, “You may come back to your full place in the Union when you do these things: join with the other States in putting into the Constitution a provision that the national debt shall never be repudiated; that your Rebel war debt shall never be paid; and that all men, without regard to race or color, shall stand equal before the law, not in suffrage, but in civil rights; that these great guaranties of liberty and public faith shall be lifted above the reach of political parties, above the legislation of States, above the legislation of Congress, and shall be set in the serene firmament of the Constitution, to shine as lights forever and forever. And under that equal sky, under the light of that equal sun, all men, of whatever race or color, shall stand equal before the law.”

That was the plan of reconstruction offered to those who had been in rebellion, — offered by a generous and brave nation; and I challenge the world to show an act of equal generosity to a conquered people. What answer did it meet? By the advice of Andrew Johnson, a bad adviser, backed by the advice of the Northern Democracy, a still worse adviser, ten of the eleven States lately in rebellion contemptuously rejected the plan of reconstruction embraced in the Fourteenth Amendment of the Constitution. They would have none of it; they had been invited by their Northern allies to stand out, and were told that, when the Democracy came into power, they should be permitted to come back to their places without guaranties or conditions.

This brings us to 1868. Had the transformation occurred then? For remember, gentlemen, I am searching for the date of the great Democratic transformation, similar to that which has taken place in the gentleman from Mississippi. We do not find it in 1868. On the contrary, in that year we find Frank P. Blair, of Missouri, writing these words, which, a few days after they were written, gave him the nomination for the Vice-Presidency on the Democratic ticket: "There is but one way to restore the government and the Constitution; and that is for the President elect to declare all these acts"—the Reconstruction Acts and the Constitutional Amendments with them—to declare all these acts "null and void, compel the army to undo its usurpations at the South, disperse the carpet-bag State governments, allow the white people to reorganize their own governments, and elect Senators and Representatives."<sup>1</sup>

Because he wrote that letter he was nominated for Vice-President by the Democratic party. Therefore, as late as July, 1868, the transformation had not occurred.

Had it occurred in 1872? In 1871 and 1872 the three amendments of the Constitution had been adopted, against the stubborn resistance of the Northern and Southern Democracy. I call you to witness that, with the exception of three or four Democratic Representatives who voted for the abolition of slavery, the three great Amendments, the Thirteenth, the Fourteenth, and the Fifteenth, met the determined and united opposition of the Democracy of this country. Each of the amendments now so praised by the gentleman was adopted against the whole weight of your resistance. And two years after the adoption of the last amendment, in many of your State platforms they were declared to be null and void.

In 1871 and 1872 occurred those dreadful scenes enacted by the Ku-Klux organization throughout the South, of which I will say only this, that a man *facile princeps* among the Democrats of the old slaveholding States, Reverdy Johnson, who was sent down to defend those who were indicted for their crimes, held up his hands in horror at the shocking barbarities that had been perpetrated by his clients upon negro citizens. I refer to the evidence of that eminent man as a sufficient proof of the character of that great conspiracy against the freedom of the colored race. So the transformation had not come in the Ku-Klux days of 1871 and 1872.

<sup>1</sup>Letter to J. O. Brodhead, dated Washington, D. C., June 30, 1868.

Had it come in 1873 and the beginning of 1874? Had it come in the State of Mississippi? Had it come in one quarter of the States lately in rebellion? Here is a report from an honorable committee of this House, signed by two gentlemen who are still members, Mr. Conger and Mr. Hurlbut,—a report made as late as December, 1874, in which there is disclosed, by innumerable witnesses, the proof that the White Line organization, an armed military organization formed within the Democratic party, had leagued themselves together to prevent the enjoyment of suffrage and equal rights by the colored men of the South. I will quote two or three paragraphs from that report, dated December 14, 1874.

“The ‘White Line.’—This interior organization has not yet assumed definitely, in the State of Mississippi, such precise form and so distinct an existence as in the State of Louisiana, but is, unquestionably, an extension into Mississippi of the ‘White League’ organization, whose headquarters are in New Orleans. In Warren County it is sometimes called the ‘White Line,’ and by that name is familiarly spoken of by the leading papers of Vicksburg, as well as by some of the prominent witnesses before this committee. It is also known as ‘People’s Clubs’; but in all instances the formation of the clubs, or civil organization, is accompanied by establishing within the clubs themselves a military organization, officered, equipped, and armed.

“Thus the clubs and the Taxpayers’ League are open associations apparently directed toward objects in which all citizens might lawfully unite, but controlled from within by the military and partisan organizations whose purposes are special and unlawful.

“The purposes of these clubs or White Line companies are these, as they are openly avowed or secretly cherished:—

“1. They are *first* to make a census and enrolment of all the white men in the State.

“2. To incorporate into the interior military organizations all the whites who will join with them.

“3. To set aside by whatever means may be necessary the election of colored men to office, and to nullify in practice the enabling and enforcement acts of Congress, granting and enforcing the right of all citizens, without distinction of color, to hold offices, if properly elected to them.

“4. To allow none but white men to be elected to office or to hold office.”<sup>1</sup>

And how was it about the same time, and even later, in other States? Here is a report upon Louisiana, the report from

<sup>1</sup> House Report No. 265, 2d Sess. 43d Cong., p. 2.

which the gentleman quoted, — a report that exhibits the same condition of affairs, signed by the gentleman who sits in front of me.<sup>1</sup> Although made by a minority of the committee, it is a report of great power and of indubitable truth. I quote: —

“The White League is an organization which exists in New Orleans, and contains at least from twenty-five hundred to three thousand members, armed, drilled, and officered as a military organization. Organizations bearing the same name extend throughout many parts of the State. . . . On the 14th of September, 1874, it rose upon and attacked the police of the city, the pretext of the attack being the seizure of arms which it had imported from the North, and having defeated them with considerable slaughter, it took possession of the State-house, overthrew the State government, and installed a new Governor in office, and kept him in power until the United States interfered. This rising was planned beforehand. . . . The White League of New Orleans itself was and is a constant menace to the Republicans of the whole State. . . . We cannot doubt that the effect of all these things was to prevent a full, free, and fair election, and to intimidate the colored voters and the white Republicans.”<sup>2</sup>

So the transformation had not occurred in August, 1874. I come down now to 1875, to the late autumn of that year, and ask if the transformation had then occurred. I will not detain the House by reading the testimony of the cloud of witnesses which gathers around me, but will print a few specimens of the proof, most of them relating to the recent State election in Mississippi. While I say, to the honor of the gentleman from Mississippi, that in his own State he spoke against the White Line, it is unquestionably true that he was not supported by like action on the part of the great mass of his political associates. With the permission of the House I will quote from a number of papers in his State, which say with the utmost boldness that though Colonel Lamar spoke against the White Line, and though the State Convention ignored it, yet back of the Convention, and back of the gentleman himself, the White Line was formed and carried the election, and intends in the same way to carry the next. The quotations need no comment. First I quote the Columbus Index of August, 1875.

“Already do we see signs in our State of the good effects of the color line. Prior to its organization there was no harmony or unity of action among the whites. The negroes had perfected their race in organiza-

<sup>1</sup> Mr. Hoar.

<sup>2</sup> House Report No. 261, 2d Sess. 43d Cong., p. 18.

tions, and were able to control the politics of the State. The whites, after having attempted every scheme to secure an intelligent government and a co-operation of the negroes in this behalf, wisely gave it up, and determined to organize themselves as a race, and meet the issue that had presented itself for ten years.

“Now we recognize the fact that the State is most thoroughly aroused, more harmonious in its actions, and more determined to succeed in the coming election than it has been since the days of secession. . . . So the grand result of the color line has been accomplished in organizing the white people of the State, and placing them in a position to control the coming election. No other policy could have effected the result. . . . We stand on the color line, because it is tacitly indorsed by the platform, and because we believe it to be the only means of redeeming this and other countries from negro rule. . . . The necessities of the State of Mississippi recall this injunction, and give emphasis to the parallel,—Put none but Democrats in office. We have gained a great victory,—Bull Run or Chickamauga. Let us follow it up to the securing of results. The white people must be welded into one compact organization. All differences of opinion, all personal aspirations, must be settled within our own organization, and from its decision there must be no appeal. Otherwise each recurring election produces its disorders.”

In July, 1875, the *Raymond Gazette*, whose editor is now a member of the Legislature, and which is published only eight miles from Clinton, where the bloody riot of last September occurred, made this startling demand:—

“There are those who think that the leaders of the radical party have carried this system of fraud and falsehood just far enough in Hinds County, and that the time has come when it should be stopped,—peaceably if possible, forcibly if necessary. And to this end it is proposed that, whenever a radical powwow is to be held, the nearest anti-radical club appoint a committee of ten discreet, intelligent, and reputable citizens, fully identified with the interests of the neighborhood and well known as men of veracity, to attend as representatives of the tax-payers of the neighborhood and the county and true friends of the negroes assembled, and that whenever the radical speakers proceed to mislead the negroes, and open with falsehoods and deceptions and misrepresentations, the committee stop them right then and there, and compel them to tell truth or quit the stand.”

The Clinton riot was the direct outgrowth of this demand. What followed? The same paper, of July 26, 1876, shows that this vicious policy has been renewed in Hinds County, as follows:—

“The county executive committee of the Democrats and Conservatives of Hinds County held a meeting at Raymond the other day, at which, on motion, it was ordered that each club in the county appoint a special committee, whose business it shall be to attend any and every radical meeting held in its vicinity, and that each of said committees shall report to its own club and to this executive committee the action, attendance, and general tone and temper of said meeting.

“A very general system of coercion was adopted throughout the South by Democratic clubs and associations, agreeing not to employ negroes who voted the Republican ticket, not to lease them lands, nor to furnish them with or allow them to obtain for themselves any means of subsistence.”

Ex-Governor Benjamin G. Humphreys, of Mississippi, made a speech at a reunion of the Thirteenth Mississippi Confederate Infantry, at Meridian, on the 22d of November, 1875, in which he said: —

*“We have surrendered none of our convictions and still claim the right of vindication. In looking back at our past actions and motives, and the wrongs we have suffered and are still suffering, we confess that we have no regrets for the choice we made between the ‘higher-law’ license of majorities in the Union and the sacred security of self-government in the States, between the Federal and Confederate governments. We are not conscious of a solitary dereliction of duty, either as citizens or soldiers, and feel that truth, reason, and religion exculpate us from wrong-doing. We know we were right, and though crushed to earth we shall ever remember, and teach our children to remember, our cause was just. We are still proud of the cause and glory in the fight we made.”*

After the election, the Meridian Mercury of November 20, 1875, said: —

“We have to contend with the blunder of the Fifteenth Amendment while it stands as best we can. Ridiculous appeals to the reason and judgment of the negro have been the cause of incalculable injury in the inflation of his vanity and making him believe he was of real consequence as a governing element in the body politic. Now that the negro in this State is down, and his personal self-conceit well knocked out of him, it is probably a fit time for the white people to impress upon him that the white people will in future control the politics of this State, and that he should keep himself in his proper sphere and leave to the intelligent white man the exclusive use of state-craft for the best interest of both races. Impress him continually with the idea of his unfitness for the ballot, and his proper place on election day away from the polls.”



I could fill many columns of the Congressional Record with evidences like those above quoted from the gentleman's own State.<sup>1</sup> In the light of this testimony, is it possible for us to believe that the transformation had occurred in the gentleman's own State where the election of the Legislature that made him a Senator took place? If the testimony of the Democratic press of Mississippi is to be credited, the late election in that State was tainted with fraud and managed by intimidation unparalleled by anything in our recent political history. Let the gentleman explain this striking fact. There are many thousand more colored than white voters in Mississippi. In the election of 1873 the Republican party had 22,976 majority; in the election last autumn the Democratic party had 30,922. How came about this change of more than 53,000 in the short space of two years, if there was a free and uncoerced vote of the electors of that State?

The President of the United States has sent to the Senate a letter addressed by him to Governor Chamberlain, of South Carolina, under date of July 26, 1876, from which I read a few words bearing upon the point I am now discussing: —

“The scene at Hamburg, as cruel, bloodthirsty, wanton, unprovoked, and as uncalled for as it was, is only a repetition of the course that has been pursued in other Southern States within the last few years, notably in Mississippi and Louisiana. Mississippi is governed to-day by officials chosen through fraud and violence, such as would scarcely be accredited to savages, much less to a civilized and Christian people. How long these things are to continue, or what is to be the final remedy, the Great Ruler of the universe only knows. But I have an abiding faith that the remedy will come, and come speedily, and I earnestly hope that it will come peacefully. There has never been a desire on the part of the North to humiliate the South; nothing is claimed for one State that is not freely accorded to all others, unless it may be the right to kill negroes and Republicans without fear of punishment and without loss of caste or reputation. This has seemed to be a privilege claimed by a few States.”<sup>2</sup>

But it is aside from my purpose to go into the question of the validity of the late election in Mississippi. That subject is being investigated by a committee of the Senate, and I shall

<sup>1</sup> Much of the evidence actually presented by Mr. Garfield is here omitted. He made quotations similar to the above from a large number of Southern, and especially Mississippi, newspapers.

<sup>2</sup> See McPherson's Handbook of Politics, 1876, p. 207.

be surprised if, from the evidence they have taken, they do not concur in the opinion I have expressed. I desire gentlemen to remember that the great question I am discussing is, Had the great transformation taken place among the gentlemen's constituents in the late autumn of 1875? The answer of his own people is overwhelmingly in the negative. I now ask, Had the transformation occurred in the winter and spring of the present year? I hold in my hand the report of an address of Rev. Taylor Martin, of Charlotte, North Carolina, the town to which Congress lately gave a mint building to be used for school purposes. The address was made on Decoration Day, May 5, 1876. I quote:—

“The South is to-day ruled over by the miserable thrall of Yankee-dom; but they cannot muzzle our chivalry and patriotic devotion to the ‘lost cause.’ We have fought for our rights, but in God’s dispensation we are vanquished, but not cowed. Slavery was a divine institution, and we must have that institution, or the South will ever be bankrupt. They speak of our cause as the ‘lost cause.’ If so, shall it be lost forever? No! a new generation has sprung up, and at a not far distant day there will be ‘stars and bars’ floating proudly *over our sunny South*. In the next political campaign we must, even if in the minority, support a Southern man who will build up our interests and hurl the Yankee pickpockets from our midst. We are to-day united to the Puritanical host by an artificial tie; but we are a distinct people, and God and the right will enable us to show to the world the truth and the equity of our claims. Our statesmen now in Congress are the cream of that body, and are the only element that reflects credit on the United States. Is it not better to hang on to the ‘lost cause’ than to stay in a government of corruption?”

MR. YEATES. With the consent of the gentleman from Ohio, I want to state that I have seen under the signature of the gentleman from whom he has just quoted a statement denying *in toto* every word of what has just been read; and a number of gentlemen who heard the speech certify that the quotation is false in every particular.

If that be the fact I will cheerfully strike the extract from my speech. I never before heard its authenticity denied.

MR. YEATES. There is no doubt of the correctness of my statement.

Let the extract and the denial stand together. But, sir, I will quote a recent utterance of public opinion, the authenticity of which I am quite sure gentlemen will not deny. They will nei-

ther deny the ability nor the prominence of Robert Toombs of Georgia, formerly a Senator of the United States, and afterwards the Confederate Secretary of State. On the 25th of January, 1876, he addressed the Legislature of Georgia by invitation; and the following extract from his speech will show how far the transformation has taken place in him and his followers:—

“We got a good many honest fellows into the first legislature, but I will tell you how we got them there. I will tell you the truth. The newspapers won't tell it to you. We got them there by carrying the black vote, *by intimidation and bribery*, and I helped to do it! I would have scorned the people if they had not done it! And I will buy them as long as they put beasts to go to the ballot-box! No man should be given the elective franchise who has not the intelligence to use it properly. The rogue should not have it, for government is made to punish him; the fool should not have it, for government is made to take care of him. Now these miserable wretches—the Yankees—have injected five millions of savages into the stomach of our body politic, and the man who says he accepts negro suffrage, I say, accursed be he! I will accept everything; I will accept Grant and empire before I will accept such a Democrat! The poor ignorant negro,—talk of him governing you and me! It takes the highest order of intellect to govern the people, and these poor wretches talk of governing us! Why, they can't perpetuate their own negro power. In the counties where they were in the majority they did not preserve their power and perpetuate their rule. My remedy helped us to break that up. We carried them with us *by bribery and intimidation*. I advised it and paid my money for it! You all know it, but won't say it. But I will say it, for I fear no man, and I am prepared to render an account to none but the Great Judge, before whom I must appear in a few years; for my enemies have thought my services to my country so great, that they have done me the honor to exclude me from again serving my people. I contest that honor with our chief, Mr. Davis. I am just as good as he is, and he is no better than I am. I demand that they shall place me beside him. I thank them for it! It is very few things that I have to thank them for, but I do thank them for that.”

In view of the testimony I have offered, we must wait for an answer to the question, When and where did the transformation occur? It occurred long ago in the philosophical and patriotic mind and heart of the gentleman from Mississippi; but has it occurred in the majority of the eleven millions who joined with him to destroy the Union, to perpetuate slavery, to defend the cause that is now “lost”? Had it occurred last week in

the town of Meridian, in the gentleman's own State. I quote from the Meridian Mercury of July 29th, 1876.

"We heard Lamar's Scooba speech, and while his truth to his beloved South, perhaps, flamed out a little more than common, we remarked nothing inconsistent with his other speeches we had heard or read of. The morning of his arrival here the Mercury contained a sharp fling at him about the Sumner oration, and that night at the court-house he ventured to chastise us sharply for it, in the house of our friends, and was boisterously applauded. We consoled ourself that the applause might have been more in compliment to the excellence of the oratory than in satisfaction at our castigation. We had our revenge, though, in taking which we inaugurated the policy of the canvass in spite of him which carried the State like a prairie on fire. He, and others who wanted to dress up in a nice starched and ironed white shirt that would shame the bloody shirt, established a laundry at Jackson, on the 4th of August, and a great many patronized it and came out in snowy white fronts to present themselves creditably before the Northern public sentiment. In their party powwow of that day, disregarding the deep under-current of public opinion, they declared by formal resolution against the White Line policy.

"The Mercury had sounded the depths of that under-current, and we knew it would not do. In heart we felt with the platform, but our judgment assured us that the canvass must be lost on it, and that to practise it were a fatal error. We denounced the platform upon the instant, and took what care we could that Lamar's speeches upon his national reputation should not ruin our canvass. We called upon the people to 'step across the platform' . . . and form the White Line beyond it. The summons was music to their ears, and the unconquered and unconquerable Saxon race of Mississippi rallied to the slogan. . . . We have got the State; we know how we got it; we know how to keep it; and we are going to keep it without regard to race or numerical majority."

Mr. Chairman, after the facts I have cited, am I not warranted in raising a grave doubt whether the transformation has occurred at all except in a few patriotic and philosophic minds? The light gleams first on the mountain peaks; but shadows and darkness linger in the valley. It is the valley masses of those lately in rebellion that the light of this beautiful philosophy, which I honor, has not penetrated. Is it not safer to withhold from them the custody and supreme control of the precious treasures of the republic until the midday sun of liberty, justice, and equal laws shall shine upon them with unclouded ray?

In view of all the facts, considering the centuries of influences that brought on the great struggle, is it not reasonable to suppose that it will require yet more time to effect the great transformation. Did not the distinguished gentleman from Massachusetts<sup>1</sup> sum up the case fairly and truthfully when he said of the South, in his Louisiana report of 1874: "They submitted to the national authority, not because they would, but because they must. They abandoned the doctrine of State sovereignty, which they had claimed made their duty to the States paramount to that due to the nation in case of conflict, not because they would, but because they must. They submitted to the Constitutional Amendments, which rendered their former slaves their equals in all political rights, not because they would, but because they must. The passions which led to the war, the passions which the war excited, were left untamed and unchecked, except so far as their exhibition was restrained by the arm of power."

The gentleman from Mississippi says there is no possibility that the South will again control national affairs, if the Democracy be placed again in power. How is this? We are told that the South will vote as a unit for Tilden and Hendricks. Suppose those gentlemen also carry New York and Indiana. Does the gentleman believe that a Northern minority of the Democracy will control the administration? Impossible! But if they did, would it better the case?

Let me put the question in another form. Suppose, gentlemen of the South, you had won the victory in the war; that you had captured Washington and Gettysburg, Philadelphia and New York; and we of the North, defeated and conquered, had lain prostrate at your feet. Do you believe that by this time you would be ready and willing to intrust to us — our Garri-sons, our Phillipses, our Wades, and the great array of those who were the leaders of our thought — to intrust to us the fruits of your victory, the enforcement of your doctrines of State sovereignty and the work of extending the domain of slavery? Do you think so? And if not, will you not pardon us when we tell you that we are not quite ready to trust the precious results of the nation's victory in your hands? Let it be constantly borne in mind that I am not debating a question of equal rights and privileges within the Union, but whether

<sup>1</sup> Mr. Hoar.

those who so lately sought to destroy it ought to be chosen to control its destiny for the next four years.

I hope my public life has given proof that I do not cherish a spirit of malice or bitterness toward the South. Perhaps they will say I have no right to advise them; but at the risk of being considered impertinent I will express my conviction that the bane of the Southern people, for the last twenty-five years, has been that they have trusted the advice of the Democratic party. The very remedy which the gentleman from Mississippi offers for the ills of his people has been and still is their bane. The Democratic party has been the evil genius of the South in all these years. They yielded their own consciences to you on the slavery question, and led you to believe that the North would always yield. They made you believe that we would not fight to save the Union. They made you believe that, if we ever dared to cross the Potomac or Ohio to put down your rebellion, we could only do so across the dead bodies of many hundred thousands of Northern Democrats. They made you believe that the war would begin in the streets of our Northern cities; that we were a community of shopkeepers, of sordid money-getters, and would not stand against your fiery chivalry. You thought us cold, slow, lethargic; and in some respects we are. There are some differences between us that spring from origin and influences of climate, — differences not unlike the description of the poet, —

“Bright and fierce and fickle is the South,  
And dark and true and tender is the North,”—

differences that kept us from a good understanding.

You thought that our coldness, our slowness, indicated a lack of spirit and of patriotism, and you were encouraged in that belief by most of the Northern Democracy; but not by all. They warned you at Charleston in 1860. And when the great hour struck, there were many noble Democrats in the North who lifted the flag of the Union far above the flag of party: but there was a residuum of Democracy, called in the slang of the time “Copperheads,” who were your evil genius from the beginning of the war till its close, and ever since. Some of them sat in these seats, and never rejoiced when we won a battle, and never grieved when we lost one. They were the men who sent their Vallandighams to give counsel and encouragement to your rebellion, and to buoy you up with the false hope that at last

you would conquer by the aid of their treachery. I honor you, gentlemen of the South, ten thousand times more than I honor such Northern Democrats.

I said they were your evil genius. Why, in 1864, when we were almost at the culminating point of the war, their Vallandighams and Tildens (and both of these men were on the committee of resolutions) uttered the declaration, as the voice of the Democracy, that the war to preserve the Union was a failure, and that hostilities should cease. They asked us to sound the recall on our bugles, to call our conquering armies back from the contest, and trust to their machinations to save their party at the expense of a broken and ruined country. Brave soldiers of the lost cause, did you not, even in that hour of peril, in your hearts loathe them with supremest scorn? But for their treachery at Chicago in 1864 the war might have ended, and a hundred thousand precious lives been saved. But your evil genius pursued you, and the war went on. And later, when you would have accepted the Fourteenth Amendment and restoration without universal suffrage, the same evil genius held you back. In 1868 it still deceived you. In 1872 it led you into

“A gulf profound as that Serbonian bog  
Betwixt Damietta and Mount Casius old,  
Where armies whole have sunk.”

Let not the eloquence of the gentleman from Mississippi lure you again to its brink.

Mr. Chairman, it is now time to inquire as to the fitness of this Democratic party to take control of our great nation and its vast and important interests for the next four years. I put the question to the gentleman from Mississippi, What has the Democratic party done to merit that great trust? He tried to show in what respects it would not be dangerous: I ask him to show in what it would be safe. I affirm, and I believe I do not misrepresent the great Democratic party, that in the last sixteen years they have not advanced one great national idea that is not to-day as dead as Julius Cæsar. And if any Democrat here will rise and name a great national doctrine his party has advanced, within that time, that is now alive and believed in, I will yield to hear him. [A pause.] In default of an answer, I will attempt to prove my negative.

What were the great central doctrines of the Democratic party in the Presidential struggle of 1860? The followers of

Breckinridge said slavery had a right to go wherever the Constitution goes. Do you believe that to-day? Is there a man on this continent who holds that doctrine to-day? Not one. That doctrine is dead and buried. The other wing of the Democracy held that slavery might be established in the Territories if the people wanted it. Does anybody hold that doctrine to-day? Dead, absolutely dead!

Come down to 1864. Your party, under the lead of Tilden and Vallandigham, declared the war to save the Union a failure. Do you believe that doctrine to-day? That doctrine was shot to death by the guns of Farragut at Mobile, and driven by Sheridan, in a tempest of fire, from the valley of the Shenandoah, less than a month after its birth at Chicago.

Come down to 1868. You declared the Constitutional Amendments revolutionary and void. Does any man on this floor say so to-day? If so, let him rise and declare it. Do you believe in the doctrine of the Brodhead letter of 1868, that the so-called Constitutional Amendments should be disregarded? No; the gentleman from Mississippi accepts the results of the war! The Democratic doctrine of 1868 is dead!

I walk across that Democratic camping-ground as in a graveyard. Under my feet resound the hollow echoes of the dead. There lies slavery, a black marble column at the head of its grave, on which I read: "Died in the flames of the civil war; loved in its life; lamented in its death; followed to its bier by its only mourner, the Democratic party." But dead! And here is a double grave: "Sacred to the memory of Squatter Sovereignty. Died in the campaign of 1860." On the reverse side: "Sacred to the memory of Dred Scott and the Breckinridge doctrine." Both dead at the hands of Abraham Lincoln! And here is a monument of brimstone: "Sacred to the memory of the doctrine that the war against the Rebellion is a failure; *Tilden et Vallandigham fecerunt*, A. D. 1864." Dead on the field of battle; shot to death by the million guns of the republic. The doctrines of Secession and of State Sovereignty. Dead. Expired in the flames of civil war, amid the blazing rafters of the Confederacy, except that the modern Æneas, in the person of the honorable gentleman from the Appomattox district of Virginia,<sup>1</sup> fleeing out of the flames of that ruin, bears on his back the Anchises of State sovereignty, and brings it here. All else is dead.

<sup>1</sup> Mr. Tucker.



Now, gentlemen, are you sad, are you sorry for these deaths? Are you not glad that Secession is dead? that Slavery is dead? that Squatter Sovereignty is dead? that the doctrine of the failure of the war is dead? Then you are glad that you were outvoted in 1860, in 1864, in 1868, and in 1872. If you have tears to shed over these losses, shed them in the graveyard, but not in this House of living men. I know that many a Southern man rejoices that these issues are dead. The gentleman from Mississippi has clothed with eloquence his joy.

Now, gentlemen, if you yourselves are glad that you have suffered defeat during the last sixteen years, will you not be equally glad when you suffer defeat next November? But pardon that remark; I regret it; I would use no bravado.

Now, gentlemen, come with me for a moment into the camp of the Republican party and review its career. Our central doctrine in 1860 was that slavery should never extend itself over another foot of American soil. Is that doctrine dead? It is folded away like a victorious banner; its truth is alive forevermore on this continent. In 1864 we declared that we would put down the Rebellion and Secession. And that doctrine lives and will live when the second centennial has arrived! Freedom, national, universal, and perpetual, — our great Constitutional Amendments, — are they alive or dead? Alive, thank the God that shields both Liberty and Union. And our national credit, saved from the assaults of Pendleton, saved from the assaults of those who struck it later, rising higher and higher at home and abroad, and now in doubt only lest its chief, its only enemy, the Democracy, should triumph in November.

Mr. Chairman, ought the Republican party to surrender its truncheon of command to the Democracy? The gentleman from Mississippi says, if this were England, the ministry, with such a state of things as we have here, would go out in twenty-four hours. Ah, yes! that is an ordinary case of change of administration. But if this were England, what would she have done at the end of the war? England made one such mistake as the gentleman asks this country to make, when she threw away the achievements of the grandest man that ever trod her highways of power. Oliver Cromwell had overturned the throne of despotic power, and had lifted his country to a place of masterful greatness among the nations of the earth; and when, after his death, his great sceptre was transferred to a

weak though not unlineal hand, his country, in a moment of reactionary blindness, brought back the Stuarts. England did not recover from that folly until, in 1688, the Prince of Orange drove from her island the last of that weak and wicked line. Did she afterward repeat the blunder? For more than fifty years, Pretenders were seeking the throne; and the wars on her coast, in Scotland, and in Ireland, threatened the overthrow of the new dynasty and the disruption of the empire. But the solid phlegm, the magnificent pluck, the roundabout commonsense of Englishmen, steadied the throne till the cause of the Stuarts was dead. They did not change as soon as the battle was over, and let the Stuarts come back to power.

And how was it in our own country, when our fathers had triumphed in the war of the Revolution? When the victory was won, did they open their arms to the Loyalists, as they called themselves, or Tories, as our fathers called them? Did they invite them back? Not one. They confiscated their lands. The States passed decrees that no Tory should live on our soil. And when they were too poor to take themselves away, our fathers, burdened as the young nation was with debt, raised the money to transport the Tories beyond seas or across the Canada border. They went to England, to France, to Nova Scotia, to New Brunswick, and especially to Halifax; and that town was such a resort for them, that it became the swear-word of our boyhood. "Go to Halifax" was a substitute for a more impious, but not more opprobrious expression. The presence of Tories made it opprobrious.

Now I do not refer to this as an example which we ought to follow. O, no. We live in a milder era, in an age softened by the more genial influence of Christian civilization. Witness the sixty-one men who fought against us in the late war, and who are now sitting in this and the other chamber of Congress. Every one of them is here because a magnanimous nation freely voted that they might come, and they are welcome. Only please do not say that you are just now especially fitted to rule the republic, and to be the apostles of liberty and of blessing to the colored race.

Gentlemen, the North has been asked these many years to regard the sensibilities of the South. We have been told that you were brave and sensitive men, and that we ought not to throw firebrands among you. Most of our people have treated

you with justice and magnanimity. In some things we have given you just cause for complaint; but I want to remind you that the North also has sensibilities to be regarded. The ideas which they cherished and for which they fought triumphed in the highest court, the court of last resort, the field of battle. Our people intend to abide by that verdict and to enforce the mandate. They rejoice at every evidence of acquiescence. They look forward to the day when the distinctions of North and South shall have melted away in the grander sentiment of nationality. But they do not think it is yet safe to place the control of this great work in your hands. In the hands of some of you they would be safe, perfectly safe; but into the hands of the united South, joined with the most reactionary elements of the Northern Democracy, our people will not yet surrender the government.

I am aware that there is a general disposition "to let bygones be bygones," and to judge of parties and of men, not by what they have been, but by what they are and what they propose. That view is partly just and partly erroneous. It is just and wise to bury resentments and animosities; it is erroneous in this, that parties have an organic life and spirit of their own,—an individuality and character which outlive the men who compose them; and the spirit and traditions of a party should be considered in determining their fitness for managing the affairs of a nation. For this purpose I have reviewed the history of the Democratic party.

I have no disposition, nor would it be just, to shield the Republican party from fair and searching criticism. It has been called to meet questions novel and most difficult. It has made many mistakes. It has stumbled and blundered; has had some bad men in it; has suffered from the corruptions incident to the period following a great war; and it has suffered rebuke and partial defeat in consequence. But has it been singular and alone in these respects? With all its faults, I fearlessly challenge gentlemen to compare it with any party known to our politics. Has the gentleman shown that the Democratic party is its superior either in virtue or intelligence? Gentlemen, the country has been testing your qualities during the last eight months. The people gave you a probationary trial by putting you in control of this House. When you came here, in December last, the same distinguished gentleman to whom I am reply-

ing addressed you, on the evening of your first caucus, in these words: "There has been for some time in the public mind a conviction, profound and all-pervading, that the civil service of the country has not been directed from considerations of public good, but from those of party profit, and for corrupt, selfish, and unpatriotic designs. The people demand at our hands a sweeping and thorough reform, which shall be conducted in a spirit that will secure the appointment to places of trust and responsibility of the honest, the experienced, and the capable."

That is sound doctrine; and I have advocated it here and elsewhere during the last eight years. I remind him that the pernicious doctrine that "to the victors belong the spoils" is of Democratic origin; that nearly half a century of Democratic tradition and practice has fastened it upon the country. We found it, and have been cursed by it ever since; and though some efforts have been made to reform the service, the good work is hardly begun. When, therefore, the gentleman from Mississippi, as chairman of the Democratic caucus, at the opening of the session, announced the doctrine I have quoted, we had reason to hope that a new era of civil service had dawned upon the Capitol. But what performance has followed his high-sounding proclamation? No sooner did this reforming party take possession of this House, than it began the most wholesale, sweeping changes of officials, from the highest to the humblest employees of the House, that has been known in our history. Many of these officers had come to us from our Democratic predecessors; but they were almost all dismissed to give place to hungry partisans. Sixty-seven Union soldiers, who were faithfully doing their duties here, were turned out, and among those who filled their places were forty-seven Rebel soldiers.

MR. HOLMAN. As a matter of justice and fair play, the gentleman from Ohio certainly knows and should admit that a large number of disabled soldiers who are Republicans are still holding offices in this House.

In answer to the gentleman from Indiana, I understand that a considerable number of Democratic Union soldiers were appointed; but I was discussing civil service reform, and the declaration of the gentleman from Mississippi that appointments to office should not be used as party rewards.

I desire to glance for a moment now at the career of this House, and at what the Democratic majority have done and

omitted to do. Passing by their treatment of contested election cases, their appointment of officers, employees, committee clerks, who have reflected no credit upon the body, I desire to ask, What valuable work of general legislation has this House accomplished?

We had hardly been here a month, when, in disregard of the deep feelings of the Northern people, it was proposed, among the first things demanded, to crown Jefferson Davis with full and free amnesty, notwithstanding he had contemptuously declared he never would ask for it; and this must be done, or no amnesty would be granted to any one. And when we objected because he was the author of the unutterable atrocities of Libby and Andersonville prisons, the debate which followed disclosed the spirit and temper of the dominant party.

We were hardly in our seats when the gentleman from Virginia<sup>1</sup> brought in a bill to repeal a statute of 1866, which no Democrat had before that proposed to disturb, so far as I know, — a statute which provided that no man who voluntarily went into the rebellion against the Union should ever hold a commission in our army or navy. And a Democrat from my own State,<sup>2</sup> the chairman of the Committee on Military Affairs, became the champion of that bill, and this House passed it.

Again, we had passed a law to protect the sanctity and safety of the ballot in national elections, so that the horrors of the Ku-Klux and the White Line should not run riot at the polls, and among the earliest acts of this House was a clause added to one of the appropriation bills to repeal the election law; and to effect that repeal they kept up the struggle lately under the fierce rays of the dog-star. They have been compelled by a Republican Senate to abandon the attempt.

But what have they neglected? Early in the session, indeed in the first days of it, a proposition was made, introduced by the gentleman from Maine,<sup>3</sup> so to amend the Constitution as to remove forever from the party politics of the country the vexed and dangerous question of church and state by preventing the use of the school funds for sectarian purposes. That amendment was sent to the Committee on the Judiciary to sleep, perhaps to die; for it is said to have been three times voted down in that committee.

Again, the Secretary of the Treasury officially informed us

<sup>1</sup> Mr. Tucker.

<sup>2</sup> Mr. Banning.

<sup>3</sup> Mr. Blaine.

that his power further to refund the public debt was exhausted ; and that if we would give him the requisite authority he could refund four or five hundred millions more at so favorable a rate as to save the treasury in interest at least one per cent per annum. The Senate passed the bill more than six months ago, but this House has taken no action upon it.

Our revenues have been threatened with a deficit, and our industries have been shaken with alarm, by bills reported to the House, but never brought to a vote ; for example, the tariff bill, floating lazily upon the stagnant waters of the House, —

“As idle as a painted ship  
Upon a painted ocean,”—

a promise to free-traders, a threat to manufacturers, — but with no prospect or purpose of our acting upon it.

And the government has been crippled by the withholding of necessary appropriations ; withheld, as I do not hesitate to say, for the purpose of making political capital at the coming election, in which the gentleman from Mississippi desires his party to succeed in the name of honesty and reform. His colleague was frank enough to declare that he wanted to reduce the general appropriations, so as to have money enough to devote to schemes for his section, such as the cotton claims and the Southern Pacific Railroad.

But party necessity has prevented the launching of many waiting schemes and claims. They are anchored in the lobbies and committee-rooms of this House till the election is over. There is the bill to refund the cotton tax to the amount of sixty million dollars, waiting to be launched when the election is over. A subsidy of a hundred million dollars is waiting up stairs in the Pacific Railroad committee-room, ready to come down upon us when the election is over. There are thirty-eight million dollars of private claims, Southern claims, war claims, waiting to burst up from the committee-rooms below stairs when the election is over.

While these things surround us, — while the very earth shakes with the tramp of the advancing army of schemers, who are coming “with the Constitution and an appropriation,” — the gentleman from Mississippi thinks that as a measure of reform the Democratic party ought at once to be brought back into power !

Meanwhile, what has been the chief employment of this

House? It has divided itself into a score of police courts, in the hope of finding corruption. Like those insects that feed upon sores, it has hoped to live and thrive upon the corruption of others. Like that scavenger of the air, the carrion bird that buries its beak in the rotten carcass, the Democratic party seeks to fatten on the refuse which is here and there thrown out of the public service. This House has adopted eighty-three resolutions ordering investigations of the Departments, besides a legion of resolutions of inquiry. Twenty-five standing committees and eight select committees, up to the 20th of June, — in all thirty-three committees, — have been raking all the slums of the nation, to find, if possible, some foulness with which to impregnate the air during the coming election. And what have they found? Has any one of these committees found that a single dollar has been stolen from the treasury of the United States? If so, let them declare it. Why, sir, the Republican party for the last three years has been investigating its own administration far more effectually than you have investigated it. It has had not only the courage of its opinions, but the courage to punish its own rascals.

But, gentlemen, after all that may be said of corruption and wrong-doing, do you show, on that ground, any good reason why the Republican party should surrender the government to the Democracy? Would it be better? It is a matter of official record that the treasury suffered a far greater percentage of loss by mismanagement and defalcation under your administration than it has suffered under ours. In an official letter to the Senate, under date of June 19, 1876, the Secretary of the Treasury copies from his records the aggregate losses by defalcations and the loss per thousand dollars, in each period of four years since 1834, in all the departments and bureaus of the government. Without quoting the table at length, the grand aggregate stands thus.

From January 1, 1834, to July 1, 1861, the total disbursements of the government were \$1,369,977,502.52; the total defalcations were \$12,361,722.91; or a loss of \$9.02 to \$1,000. From July 1, 1861, to July 1, 1875, the total disbursements were \$12,566,892,569.53; the total defalcations were \$9,905,205.37; or a loss of twenty-six cents to the \$1,000. In the latter period the disbursements were nearly ten times as great as in the former, and the defalcations one third less.

Is this country so given over to corruption as the gentleman from Mississippi suggests? I will answer by quoting two distinguished witnesses. In his able speech on the Belknap impeachment trial, one of the Democratic managers, the gentleman from New York,<sup>1</sup> said: —

“Senators, I am one of those who believe in progress. I believe that this age is the best age which the sun has ever shone upon; I believe there is more of religion, more of humanity, more of love, more of charity, in this age, than in any age that has preceded it. . . . There is now a higher and healthier sentiment than in any former age. Men are held to official responsibilities now, thank God, that they never were before. The time has been, in the recollection of many of you, when a person thought he had the right to use his official position for his own advantage; but that time has gone by, and a good deal of what we see and hear, which leads a great many so mournfully to say that the age is going backward and we are receding to barbarism, very much which occasions the apparent increase of wrong, arises from the higher demands of a greater civilization, from the higher plane of an enlightened people.”<sup>2</sup>

Now I quote a paragraph from the Centennial Oration of Rev. Dr. Storrs, a man fit to be the teacher of his race: —

“I scout the thought that we as a people are worse than our fathers! John Adams, at the head of the war department in 1776, wrote bitter laments of the corruption which existed in even that infant age of the republic, and of the spirit of venality, rapacious and insatiable, which was then the most alarming enemy of America. He declared himself ashamed of the age which he lived in. In Jefferson’s day all Federalists expected the universal dominion of French infidelity. In Jackson’s day all Whigs thought the country gone to ruin already, as if Mr. Biddle had had the entire public hope locked up in the vaults of his terminated bank. In Polk’s day the excitements of the Mexican war gave life and germination to many seeds of rascality. There has never been a time — not here alone, in any country — when the fierce light of incessant inquiry blazing on men in public life would not have revealed forces of evil like those we have seen, or when the condemnation which followed the discovery would have been sharper. And it is among my deepest convictions that, with all which has happened to debase and debauch it, the nation at large was never before more mentally vigorous or morally sound.”<sup>3</sup>

Now, Mr. Chairman, notwithstanding all the fearful corruption of his time described by John Adams, our fathers never

<sup>1</sup> Mr. Lord.

<sup>2</sup> Trial of W. W. Belknap, pp. 340, 341.

<sup>3</sup> New York Centennial Celebration, (New York, A. D. F. Randolph,) p. 61.



thought it necessary to call the Tories back to take charge of their newly gained liberties.

I will close by calling your attention again to the great problem before us. Over this vast horizon of interests, North and South, above all party prejudices and personal wrong-doing, above our battle hosts and our victorious cause, above all that we hoped for and won, or you hoped for and lost, is the grand, onward movement of the republic, to perpetuate its glory, to save liberty alive, to preserve exact and equal justice to all, to protect and foster all these priceless principles, until they shall have crystallized into the form of enduring law, and become inwrought into the life and the habits of our people. And until these great results are accomplished, it is not safe to take one step backward. It is still more unsafe to trust interests of such measureless value in the hands of an organization whose members have never comprehended their epoch, have never been in sympathy with its great movements, who have resisted every step of its progress, and whose principal function has been "to lie in cold obstruction" across the pathway of the nation. It is most unsafe of all to trust that organization, when, for the first time since the war, it puts forward for the first and second place of honor and command men who, in our days of greatest danger, esteemed party above country, and felt not one throb of patriotic ardor for the triumph of the imperilled Union, but from the beginning to the end hated the war, and hated those who carried our eagles to victory. No, no, gentlemen; our enlightened and patriotic people will not follow such leaders in their rearward march. Their myriad faces are turned the other way; and along their serried lines still rings the cheering cry, "Forward, till our great work is fully and worthily done!"

## JOHN WINTHROP AND SAMUEL ADAMS.

REMARKS MADE IN THE HOUSE OF REPRESENTATIVES,

DECEMBER 19, 1876.

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MR. GARFIELD made these remarks, the House having under consideration the following resolution :—

“IN THE SENATE OF THE UNITED STATES,  
December 19, 1876.

“*Resolved by the Senate, (the House of Representatives concurring,)*

1. That the statues of John Winthrop and Samuel Adams are accepted in the name of the United States, and that the thanks of Congress are given to the State of Massachusetts for these memorials of two of her eminent citizens whose names are indissolubly associated with the foundation of the Republic.

“2. That a copy of these resolutions, engrossed upon parchment and duly authenticated, be transmitted to the Governor of the State of Massachusetts.”

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MR. SPEAKER,—I regret that illness has made it impossible for me to keep the promise which I made a few days since to offer some reflections appropriate to this very interesting occasion. But I cannot let the moment pass without expressing my great satisfaction with the fitting and instructive choice which the State of Massachusetts has made, and the manner in which her Representatives have discharged their duty in presenting these beautiful works of art to the Congress of the nation.

As from time to time our venerable and beautiful hall has been peopled with statues of the elect of the States, it has seemed to me that a third house was being organized within the walls of the Capitol,—a house whose members have received their high credentials at the hands of history, and whose term of office will

outlast the ages. Year by year we see the circle of its immortal membership enlarging; year by year we see the elect of their country, in eloquent silence, taking their places in this American Pantheon, bringing within its sacred circle the wealth of those immortal memories which made their lives illustrious; and, year by year, that august assembly is teaching a deeper and grander lesson to all who serve their brief hour in these more ephemeral houses of Congress. And now, two places of great honor have just been most nobly filled.

I can well understand that the State of Massachusetts, embarrassed by her wealth of historic glory, found it difficult to make the selection. And while the distinguished gentleman from Massachusetts<sup>1</sup> was so fittingly honoring his State by portraying that happy embarrassment, I was reflecting that the sister State of Virginia will encounter, if possible, a still greater difficulty when she comes to make the selection of her immortals. One name I venture to hope she will not select; a name too great for the glory of any one State. I trust she will allow us to claim Washington as belonging to all the States, for all time. If she shall pass over the great distance that separates Washington from all others, I can hardly imagine how she will make the choice from her crowded roll. But I have no doubt that she will be able to select two who will represent the great phases of her history as happily and worthily as Massachusetts is represented in the choice she has to-day announced. It is difficult to imagine a happier combination of great and beneficent forces than will be presented by the representative heroes of these two great States.

Virginia and Massachusetts were the two focal centres from which sprang the life-forces of this republic. They were in many ways complements of each other, each supplying what the other lacked, and both uniting to endow the republic with its noblest and most enduring qualities.

To-day, the House has listened with the deepest interest to the statement of those elements of priceless value contributed by the State of Massachusetts. We have been instructed by the clear and masterly analysis of the spirit and character of that Puritan civilization, so fully embodied in the lives of Winthrop and Adams. I will venture to add, that, notwithstanding all the neglect and contempt with which England regarded her

<sup>1</sup> Mr. Hoar.

Puritans two hundred years ago, the tendency of thought in modern England is to do justice to that great force which created the Commonwealth, and finally made the British Islands a land of liberty and law. Even the great historian Hume was compelled reluctantly to declare that "the precious spark of liberty had been kindled, and was preserved, by the Puritans alone; and it was to this sect, whose principles appear so frivolous, and habits so ridiculous, that the English owe the whole freedom of their constitution."<sup>1</sup>

What higher praise can posterity bestow upon any people than to make such a confession? Having done so much to save liberty alive in the mother-country, the Puritans planted upon the shores of this new world that remarkable civilization whose growth is the greatness and glory of our republic. Indeed, before Winthrop and his company landed at Salem, the Pilgrims were laying the foundations of civil liberty. While the *Mayflower* was passing Cape Cod and seeking an anchorage, in the midst of the storm, her brave passengers sat down in the little cabin and drafted and signed a covenant which contains the germ of American liberty. How familiar to the American habit of mind are these affirmations of the Plymouth Declaration of Rights of 1636, "that no act, imposition, law, or ordinance be made or imposed upon us at present or to come but such as shall be enacted by the consent of the body of freemen or associates, or their representatives legally assembled."

The New England town was the model, the primary cell, from which our republic was evolved. The town meeting was the germ of all the parliamentary life and habits of Americans. John Winthrop brought with him the more formal organization of New England society; and, in his long and useful life, did more than perhaps any other to direct and strengthen its growth.

Nothing, therefore, could be more fitting, than for Massachusetts to place in our memorial hall the statue of the first of the Puritans, representing him at the moment when he was stepping on shore from the ship that brought him from England, and bearing with him the charter of that first political society which laid the foundations of our country; and that near him should stand that Puritan embodiment of the logic of the Revolution, Samuel Adams. I am glad to see this decisive, though tardy,

<sup>1</sup> History of England, (Boston, 1854.) Vol. IV. p. 141.

acknowledgment of his great and signal services to America. I doubt if any man equalled Samuel Adams in formulating and uttering the fierce, clear, and inexorable logic of the Revolution. With our present habits of thought, we can hardly realize how great were the obstacles to overcome. Not the least was the religious belief of the fathers,—that allegiance to rulers was obedience to God. The thirteenth chapter of Romans was to many minds a barrier against revolution stronger than the battalions of George III.: “Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God. Whosoever therefore resisteth the power, resisteth the ordinance of God.”<sup>1</sup>

And it was not until the people of that religious age were led to see that they might obey God and still establish liberty, in spite of kingly despotism, that they were willing to engage in war against one who called himself “king by the grace of God.” The men who pointed out the pathway to freedom by the light of religion as well as of law, were the foremost promoters of American independence. And of these, Adams was unquestionably chief.

It must not be forgotten that, almost at the same time while Samuel Adams was writing the great argument of liberty in Boston, Patrick Henry was formulating the same doctrines in Virginia. It is one of the grandest facts of that grand time that the Colonies were thus brought, by an almost universal consent, to tread the same pathway, and reach the same great conclusions.

But most remarkable of all is the fact, that, throughout all that period, filled as it was with the revolutionary spirit, the great men who guided the storm exhibited the most wonderful power of self-restraint. If I were to-day to state the single quality that appears to me most admirable among the fathers of the Revolution, I should say it was this: that amidst all the passions of war, waged against a perfidious enemy from beyond the sea, aided by a savage enemy on our own shores, our fathers exhibited so wonderful a restraint, so great a care to observe the forms of law, to protect the rights of the minority, to preserve all those great rights that had come down to them from the common law, so that when they had achieved their independence they were still a law-abiding people.

<sup>1</sup> Romans xiii. 1, 2.

In that fiery meeting in the Old South Church, after the Boston Massacre, when, as the gentleman from Massachusetts has said, three thousand voices almost lifted the roof from the church in demanding the removal of the regiments, it is noted by the historian that there was one solitary, sturdy "Nay" in the vast assemblage; and Samuel Adams scrupulously recorded the fact that there was one dissentient. It would have been a mortal offence against his notions of justice and good order, if that one dissentient had not had his place in the record. And after the regiments had been removed, and after the demand had been acceded to that the soldiers who had fired upon citizens should be delivered over to the civil authorities to be dealt with according to law, Adams was the first to insist and demand that the best legal talent in the Colony should be put forward to defend those murderers; and John Adams and Josiah Quincy were detailed for the purpose of defending them. Men were detailed whose hearts and souls were on fire with the love of the popular cause; but the men of Massachusetts would have despised the two advocates, if they had not given their whole strength to the defence of the soldiers.

Mr. Speaker, this great lesson of self-restraint is taught in the whole history of the Revolution; and it is this lesson that today, more perhaps than any other that we have seen, we ought to take most to heart. Let us seek liberty and peace, under the law; and, following the pathway of our fathers, preserve the great legacy they have committed to our keeping.

# CONGRESS AND PRESIDENTIAL ELECTIONS.

SPEECH DELIVERED IN THE HOUSE OF REPRESENTATIVES,

JANUARY 16, 1877.

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THE appointment of Presidential Electors in the State of Louisiana, in 1876, and the action of the Electors appointed, became the subject of investigation by the House of Representatives. The general facts out of which the investigation grew are stated in the introductions to the speech on "Counting the Electoral Vote," and to the arguments made in the Electoral Commission on the Florida and Louisiana cases, and in the speech and arguments themselves. The House sent to Louisiana a committee to investigate the public charges of fraud, perjury, and violations of law, in the appointment of the Electors; and also the charge that the Electors had not proceeded in the manner directed by the laws of the State. Four of the Electors upon whom subpoenas had been served by the committee refused to obey them. On the 16th of January, 1877, the conduct of these Electors was brought before the House in a report from the Committee on the Judiciary, of which this is the conclusion:—

"This House having appointed a committee to investigate these charges, your committee are of opinion that J. Madison Wells, Thomas C. Anderson, G. Casanave, and Lewis M. Kenner, in refusing to obey the writ of *subpœna duces tecum* to appear and bring with them certain papers named in the writ, have violated the privilege of this House. They therefore recommend the adoption of the following resolution:—

"*Resolved*, That the Speaker of this House issue a warrant under his hand and the seal of the House of Representatives, directing the Sergeant-at-Arms of this House, either by himself or his special deputy, to arrest and bring to the bar of the House without delay J. Madison Wells, Thomas C. Anderson, G. Casanave, and Lewis M. Kenner, to answer for a contempt of the authority of this House, and a breach of privilege in refusing to produce to the special committee of which Hon. William R. Morrison is chairman, now sitting in New Orleans, certain papers, in obedience to a *subpœna duces tecum* which was duly served

upon them, and to be dealt with as the law under the facts may require."

Pending this report Mr. Garfield addressed the House. Some of the points here made are more fully elaborated in his speech of January 25, on "Counting the Electoral Vote."

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**M**R. SPEAKER, — The strength of the case presented by the committee is found in the words of the report which I am about to read. After quoting the article of the Constitution in relation to the power of the States to appoint Electors of President and Vice-President, the committee say: "This clause secures to the United States the right to require that the persons claiming to act as Electors for any State shall have been appointed in such manner as the legislature of the State shall have directed. The power to ascertain that fact is, and must be, in Congress, and if legislation is necessary to carry out this provision of the Constitution, Congress alone has the power to legislate upon the subject." Therefore, it is claimed, Congress has the power to make the inquiries necessary as the basis of legislation. I take it that there can be no stronger argument made in favor of the power of the House to pass the proposed resolution than the one I have just read. I acknowledge its strength in so far as it is sustained by the Constitution. I will read the only two clauses from which it is claimed that Congress derives any power whatever to inquire into the action of the States in appointing Electors of the President and Vice-President. The second clause of the first section of Article II. provides as follows: —

"Each State shall appoint, in such manner as the legislature thereof may direct, a number of Electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an Elector."

And the fourth clause of the same section provides: —

"The Congress may determine the time of choosing the Electors, and the day on which they shall give their votes; which day shall be the same throughout the United States."

These two clauses contain all the powers conferred upon the States in appointing Electors, and contain also all the limitations upon these powers. There are five expressed or implied limita-



tions upon the power of the States, and only five. The limitations are either absolute in the Constitution itself, or they are such as authorize Congress to fix limitations; and if Congress has any authority whatever to interfere with the action of the States in the appointing of Electors, that authority must be found in some one or more of the five limitations. Now, what are these five limitations?

First. It must be a State that appoints the Elector; and as Congress alone has authority to admit new States into the Union, if there should be any political organization not a State that cast a vote for Electors, and if such pretended Electors send a certificate of their vote for President and Vice-President to the President of the Senate, the Congress would undoubtedly have power to inquire into the right of such political organization to participate in the election. That is the first limitation.

Second. No State can have more Electors than the number of Senators and Representatives to which that State is entitled in Congress at the time of the election. If any State presumes to appoint more, no doubt that can be inquired into. The surplus cannot be counted. That is the second limitation.

Third. No person shall be appointed an Elector for President and Vice-President who is either a Senator or Representative in Congress, or who holds any office of trust or profit under the United States. Without doubt a violation of this provision may be inquired into, for it is a distinct limitation of the authority of the State. That is the third limitation.

Fourth. Congress is empowered by the Constitution to fix the day when the States shall choose Electors; and as Congress has fixed a day, the Tuesday after the first Monday in November, the State has no right to choose Electors on any other day, except that when a State, having held an election on that day, has failed to make a choice, its legislature may provide for holding an election on a subsequent day, in accordance with the act of Congress approved January 23, 1845. Doubtless the inquiry may be made whether the election was held on the day fixed by law. That is the fourth limitation.

Fifth. The Constitution provides that Congress may determine the day on which the Electors in all the States shall give their votes for President and Vice-President. By the act of March 1, 1792, that fixed day is the first Wednesday of December, within thirty-four days of the date of the general election.

From this it follows that all the steps which are necessary to complete the appointment of the Electors must have been taken by the first Wednesday in December, when the Electors are to vote for President and Vice-President. That is the fifth limitation. For the purposes of this debate I do not follow the process of electing a President beyond the appointment of the Electors.

To sum up these limitations in brief. Congress, in obedience to the Constitution, fixes the day for choosing the Electors and the day when they must vote. The Constitution prescribes that *States* only shall choose Electors. It prescribes the number of Electors for each State, and their qualifications. These are the limitations upon the authority of the States in the appointment of Electors of the President, and I defy any man to find any other limitation whatever upon their power. Every other act and fact relating to the appointment of Electors is as absolutely and exclusively in the power of the States as is their power to elect their Governors or their justices of the peace. Across the line of these limitations Congress has no more right to interfere with the States than it has to interfere with the election of officers in England. To speak more accurately, I should say that the power is placed in the legislature of the States; for if the Constitution of any State were silent upon the subject, its legislature is none the less armed with plenary authority conferred upon it directly by the national Constitution. Now apply these considerations to the recent appointment of Electors by Louisiana.

It is not denied that Louisiana is recognized by every department of the national government as one of the States within the Union. It is not denied that, on the day fixed by law, an election for Electors of President and Vice-President was held in that State. It is not denied that, within the time prescribed by the national statute, the officers empowered by the legislature of Louisiana to canvass, compile, and make return of the votes cast in that State, did declare that six persons, the number required by the Constitution, had received a majority of the votes for Electors at said election, and were duly elected. And it is not alleged that any of the persons so chosen were ineligible to such appointment under the Constitution. It is not denied that the Electors so appointed met on the day fixed by law, and cast their votes for President and Vice-President.

If any of these facts is denied, I have not heard of it. But the validity of the appointment of these Electors is vehemently

and passionately assailed. It is not a little remarkable that, though their appointment was proclaimed on the 6th of December last, no statement has yet been made, so far as I am aware, of the authority on which Congress, or either house of Congress, claims the right to challenge the validity of the appointment. The intimation that somebody may forbid the counting of the votes which these Electors cast for President and Vice-President is a topic quite apart from the validity of their appointment. It is incumbent upon those who question its validity to show their authority for so doing. They cannot find it in the Constitution or laws of the United States, unless their objection be based upon one or more of the five grounds I have mentioned. If this House bases its right to inquire into the election in Louisiana upon any of these limitations, their inquiry might have some ground of authority; but if we presume to inquire as to any other point, we are absolutely violating the Constitution of the United States. The manner of appointment within these five limitations is absolutely and exclusively in the control of the State legislature. The words of the Constitution declare it. The laws of Congress acknowledge it, and the ablest and earliest expounders of the Constitution confirm it. Listen to the words of Charles C. Pinckney, one of the foremost members of the Convention that framed the Constitution, and long a conspicuous member of the Senate. Seventy-seven years ago, while discussing the very clause of the Constitution we are now considering, he said: —

“Knowing that it was the intention of the Constitution to make the President completely independent of the Federal legislature, I well remember it was the object, as it is at present not only the spirit, but the letter, of that instrument to give to Congress no interference in or control over the election of a President. . . . This right of determining on the manner in which the Electors shall vote, the inquiry into the qualifications, and the guards necessary to prevent disqualified or improper men voting, and to insure the votes being legally given, vests, and is exclusively vested, in the State legislatures. If it is necessary to have guards against improper elections of Electors, and to institute tribunals to inquire into their qualifications, with the State legislatures, and with them alone, rests the power to institute them, and they must exercise it.”<sup>1</sup>

Here is a plain and authoritative declaration that Congress has no authority whatever to inquire into the vote of a State for

<sup>1</sup> Annals of Congress, March 28, 1800, p. 130.

Electors of the President, — not even to provide against fraudulent and improper elections. This speech of Pinckney was made upon a bill then pending in Congress, to prescribe a mode of deciding disputed elections of President and Vice-President. The bill, which in different forms passed both houses, but unfortunately failed to become a law, contained, in all the various forms it assumed, one proviso which is most significant. I will read it, as found in the eighth section. "*Provided always*, That no petition or exception shall be granted, allowed, or considered by the sitting committee which has for its object to dispute or draw into question the number of votes given for an Elector in any of the States, or the fact whether an Elector was chosen by a majority of votes in his State or district." From this it appears that the great statesmen who lived in the early days of the republic, and acted under the fresh and immediate inspirations of the Constitution, disclaimed any authority on the part of Congress even to listen to a petition which had for its object to dispute or draw into question the votes of a State for Electors. What more weighty or conclusive authority against the position assumed by our Judiciary Committee to-day can be conceived?

Now let us follow this line of thought a little further. It is none of our business how a State exercises this power to appoint Electors, so long as it keeps within the five limitations I have named. The legislature of a State may itself choose the Electors, as was frequently done in the early days of the republic. A State may authorize its Governor or its courts to appoint the Electors; it may allow a sheriff to appoint them. In 1796, the State of Vermont had no word in her Constitution or her laws to regulate the appointment of Electors, and no election of Electors was held by the people. But when the day for appointing Electors came, the legislature of Vermont, without any State law, without any constitutional provision on the subject, elected the Electors, whose election was valid, and whose votes were counted without question. Why? Because that legislature drew its authority directly from the Constitution of the United States, and its action was final and conclusive.

Mr. Speaker, I have never believed in the Democratic theory of State sovereignty; I do not believe in it to-day; but if there be one power more sovereign than another, if there be differ-

ences between supreme acts, then I would say that the supremest act that a State can perform is the act of casting its vote for the President of the United States; and if that be done within the five limitations, there is not a prince, a potentate, a power, a legislature, a Congress, much less a committee of Congress, that can forbid or question such act. The pending resolution is based upon an assumption of power to break over the limitations, to penetrate the very heart of State independence, by arresting its officers, seizing its archives, and inquiring what votes were cast, and whether they were honestly cast.

Now I admit that an impure ballot-box is a fearful evil; a fraudulent election and a false count are sins that cry to Heaven; but anarchy is a greater evil, for it includes all others. A violation of the fundamental law is the open door by which anarchy enters; and I warn this House that, if they pass this resolution, they are about to open a new and wide door, and beckon the fiend to enter. I wish to remind the House that never yet since we have had a government has any Congress passed a law, or even proposed a law, going behind the declared majority of the votes of a State for Electors, and inquiring how that majority was obtained. Such an inquiry as that never has been attempted; but not because there were no frauds. What careful student of American history does not know that, in the year 1844, Henry Clay was robbed of the electoral vote of this same State of Louisiana, and that, by the most shameless and outrageous fraud and violence, it was delivered over to James K. Polk? I refer, of course, to the Plaquemines frauds. To show that I do not speak at random, I refer gentlemen to Senate Document No. 173 of the Twenty-eighth Congress, when the Senate Committee on the Judiciary embodied in their report — made, however, upon another subject — a long and exhaustive report of the legislature of Louisiana, with all the testimony, in which it appeared that, under the leadership of John Slidell, a steamboat load of men, who had voted in New Orleans on the 4th of November, went to Plaquemines, by violence and intimidation drove Whig voters from the polls, and in shameless violation of the law, and in collusion with the election officers of that place, voted by hundreds, many of them voting many times. They put into that ballot-box more votes than there were white male inhabitants within the precinct; they put into it three times as many votes as were put into it at the Presiden-

tial election four years before, and twice as many as were put into it four years afterward, when General Taylor, the pride of Louisiana, was the Whig candidate for President. The judges of the election "counted all the ballots actually cast," as some gentlemen desire the Louisiana Returning Board to do now. And the contents of that box alone changed the result in Louisiana, and gave its electoral vote to Mr. Polk. But there was not a statesman in the House or in the Senate of that day who claimed any right on the part of Congress to go behind the declared majority of that State, and to unearth and rectify even that outrageous and open fraud. Sad and disgraceful as that proceeding was, the vote of Louisiana was counted in this Capitol for James K. Polk, because there was no authority here to question it.

Even on the five grounds I have mentioned, Congress has always been reluctant to question the action of a State. In a few instances the question has been raised whether a political organization which has thrown an electoral vote was really a State within the Union; but generally the benefit of the doubt has been given in favor of counting the votes. In many cases Electors have been appointed who were disqualified by the Constitution; but no vote of an Elector has ever been rejected on that ground. In one instance, the Electors of a State did not cast their votes on the day fixed by law; but their votes were nevertheless counted. In no instance has a Congress even proposed to inquire into the election by which the Electors were appointed. It seems to be reserved for this House, with its large majority of professed believers in State sovereignty, to go a thousand bowshots beyond any of its predecessors, and assume the power to revise the elections in any State it pleases.

Now I will go a step further, and affirm, although I regret the fact, that under the national Constitution and laws Congress has no authority to contest an election of Electors for President, except upon the five grounds I have named; and if it had the authority, the Constitution and laws have made it physically impossible to inaugurate and adjudicate such a contest. Follow me for a moment, and I believe members of the House will agree with me. Our fathers intended that the election of a President should be a certain and summary proceeding. They required the vote to be taken everywhere on the same day. Then they required that within thirty-four days after the vote was

cast the Electors themselves should meet and vote for President and Vice-President. Why did they limit it to thirty-four days? If you will read the proceedings of the convention that framed the Constitution of the United States, and of the early Congresses, you will find that our fathers determined to make the time just as short as would suffice to receive the returns in the different States. And the fact is, that in many of the large States, even with our increased facilities for communication, the time is so short that the official returns are not complete until the very night before the Presidential Electors must meet. Therefore there is no time, it is physically impossible, to institute and conclude a contest after the appointment of Electors and before the day when they must meet and cast their votes. I do not know of a single State in the Union that has provided for such a contest. The action of their returning boards in announcing the majority of votes has always been final.

Nor is a contest possible after the electoral college has voted. The Electors meet on the first Wednesday of December, vote by ballot for President and Vice-President, and at once sign and seal up the certificate of their votes, and send the packages to the President of the Senate. For two months and a half no human being has any right to break the seals. During that time no contest can be instituted upon their vote, because the only official evidence of their action is locked under the silence of their seals by the authority of the Constitution itself. If a contest in regard to the appointment of Electors cannot be made between the day of the election and the meeting of the electoral college, nor between the day of the meeting of the college and the opening of the certificates, can it be done after the seals are broken? Manifestly not, for two unanswerable reasons. Here also the language of the Constitution and laws of the United States is peremptory. The law requires that on one day of all the days of the year both houses of Congress shall be in session. That day is the second Wednesday of February. One day they are to be in session to witness the opening of the certificates. Then comes the imperial command of the Constitution: "The President of the Senate shall . . . open all the certificates, and the votes shall then be counted." "*Then*"! "**THEN**"! Here is no time for a contest in regard to the appointment of Electors! If the certificates disclose the fact that there has been no choice, the House shall *immedi-*

*ately* choose the President. In less than three weeks from the day the seals are broken the Congress ceases to exist. The whole proceeding was intended to be brief, summary, decisive. Read the record from beginning to end, and there will be found no time for a contest, and no authority for one if there were time.

Review the long line of illustrious statesmen, and find, if you can, even one who before the present year ever claimed that Congress had the power to go beyond these five limitations and question the Presidential vote of a State. If we may question the vote in one State, we may question it in all. If we may examine one returning board, we may examine all the officers of elections in all the States. We may open every ballot-box and revise and count the votes of seven million voters. Such a view of the Constitution defeats its own provisions, and renders the election of a President by the States absolutely impossible; because it would always lie in the power of one house or the other, by the brute force of numbers or the power of party spirit, to object, and examine, and inquire, until the arrival of the day when Congress would expire by limitation.

Mr. Speaker, we are dealing with mighty issues. Gentlemen are proposing to have the House seize, and bring to its bar as prisoners, four officers of a State, who are not charged with having violated any clause of our Constitution; who are not charged with having violated any law of the United States; who are not charged with having failed in any point of their duty as defined in our Constitution or laws. The House proposes to go beyond all this, — to invade the clear, unquestioned right of a State, — to drag its officers fourteen hundred miles away from their capital, and bring with them a portion of the public archives of their State, and surrender them to us. These officers have tendered to our committee the free use of their records to be copied; but they stand on their rights as the lawful custodians of the records of their State, — and for that you propose to punish them. If the House can make this demand, we can bring to our bar every officer of every State of the Union; and can make them bring all the archives of all the States. We can thus cause a State to die by inanition, by holding all its officers prisoners at our bar, and turning over all its archives to our committees.

Now, Mr. Speaker, if the defence I am making be the defence



of State rights, then I am for State rights within those limits; I believe I have always been to that extent at least a champion of the rights of the States. How we swing like a pendulum! Sixteen years ago, in the name of State sovereignty, it was proposed by a great party, in this hall, to break the Union in pieces; sixteen years ago, in the name of State sovereignty, it was declared that a certain portion of our people would never submit to an election that declared Abraham Lincoln President; and now, in defiance of all State rights, it is proposed that these great communities — these thirty-eight sisters that you call sovereign, though I do not — shall be chained to the wheels of this Congressional chariot, and dragged in fetters to the national Capitol as vassals of the imperial will of — what? — a party in the House of Representatives; not the nation, not the Congress, not the House, but a partisan majority of the House, bent upon the accomplishment of a party purpose. Now, gentlemen, in the name of our country, as you revere the glories of its great past, and would preserve all that is worthiest in the possibilities of its great future, I beg you to pause before you commit this fatal assault upon whatever there may be of sovereignty in the thirty-eight States of the Union.

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THE proceedings of the House Committee of Investigation in Louisiana brought into prominence the power of the House over private telegraphic despatches, copies of which were in the custody of the telegraph companies. On the 20th of December, 1876, Mr. Garfield expressed these views touching the general question.

MR. SPEAKER, — If we take the position suggested by the gentleman from Kentucky,<sup>1</sup> that there is no difference between telegraphic communications and oral communications so far as this privilege is concerned, we need take only one other step to destroy the last possible protection that the American people enjoy against the invasion of their privacy by their servants, the House of Representatives. If we now declare that the telegraph is to be put down on the level of mere oral communication, — that one of the greatest corporations of the country is to turn common informer against all private citizens, — the next

<sup>1</sup> Mr. Knott.

and last step will be to declare that the post-office is to be put on the plane of the telegraph. Here is a great institution, unknown to the old law-writers, which has grown up within the last thirty-five years, and which is probably to-day, next to the post-office, the custodian of more secrets in relation to public and private affairs than any other institution on earth. Every day hundreds of thousands of our fellow-citizens intrust their most sacredly private affairs to the telegraph companies, under the seal of their confidence. It is now proposed that all the transactions conducted through this great instrumentality shall be put down to the level of open oral communications. All that public or private malice needs is, by the process of the House, to seize the telegraph operator at any office, require him to bring in his bundle of despatches, and this inquisitorial body can fish out from among them whatever evidence may happen to suit its passion or its caprice. There never was an Anglo-Saxon law, in any country of the Anglo-Saxon world, that would permit so great an invasion of private rights.

Besides destroying the telegraph as a great instrument of commerce and business intercourse, you break down, in the minds of our people, that security under the law which they have enjoyed for so many generations. I say to gentlemen frankly that you and I have never yet seen a Congressional investigation the objects of which were sufficiently important to warrant so great a change in the laws of the country. It were better that every thief should go unwhipped of justice, than that the old guaranties of the law should be destroyed in order to secure his punishment.

In 1870 this question came up in the committee of which I was chairman, the Committee on Banking and Currency, before which a very important investigation was going forward, and there are some gentlemen here who sat with me upon that committee. We were called to investigate the causes which led to the gold panic on what was known as Black Friday. After a large amount of testimony had been taken, it was found that at a given moment the Secretary of the Treasury, under direction of the President, wrote a despatch ordering the sale of gold in New York City; and within a few minutes thereafter the gold market had broken twenty or thirty per cent. But the break came about ten minutes before the official despatch reached New York City; and it was strongly probable that some

trusted officer of the government had been faithless, and had privately informed parties in New York that the order was coming. It was vitally important to the honor and good faith of the nation, that it should be known whether that supposition was true or not. We called the telegraph managers before us to inquire how far they felt at liberty to disclose to us what had passed over their wires, between Washington and New York, within the brief period of half an hour; and by the unanimous agreement of the committee, Democrats and Republicans alike, we narrowed the question down in this way. First, that within a period of twenty minutes of time we would make our inquiry; second, that it should relate only to telegrams bearing upon the government order to sell gold; and, third, that if the telegrams disclosed under these conditions were any of them clearly private, they should be returned to the telegraph company, and not one of them published. That was as far as I thought we could go, and I think it was a wise precedent.

We shall make a most serious mistake if we break over the well-settled rules established for the protection of the business correspondence of citizens. I do not know that the question now proposed will harm any man of either party; but we ought to remember that the safeguards of liberty are only in danger in times of public passion, and in such times it becomes all thoughtful men to take special heed to their steps, and make no precedents which may come back in calmer times to plague the inventors.

# COUNTING THE ELECTORAL VOTE.

SPEECH DELIVERED IN THE HOUSE OF REPRESENTATIVES,

JANUARY 25, 1877.

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THE Presidential election of 1876 was strenuously contested by the two great political parties at every point. There were 369 Electors to be chosen. When November 7, the day for appointing Electors in the States, had passed, this was the situation that was presented to the country. Concerning the election of 184 Democratic and 163 Republican Electors there was no question. But the remaining 22 were disputed. The Democrats claimed them, and the Republicans claimed them. If these votes were counted for Mr. Tilden, the Democratic candidate, he would have a majority of 21; if for Mr. Hayes, he would have a majority of one. The Electors whose elections were in doubt were those of Florida, Louisiana, South Carolina, and Oregon. The questions of fact and of law involved in the controversy need not be here stated further than to say that there were charges of intimidation of voters at the polls, of corruption and fraud on the part of State canvassing and returning officers, and of disability, in two or three cases, to exercise the duties of the office on the part of the Electors alleged to be appointed. There were double electoral colleges in the four States, and plural sets of votes for President and Vice-President were transmitted to the seat of government, directed to the President of the Senate. Hence arose the question, Who shall canvass the returns sent to Washington, and decide what votes shall be counted? This question involved this further one, Who shall decide, in the case of the disputed States, which were the legal electoral colleges and the legal electoral votes? Some said the power to decide these questions was lodged in the President of the Senate; others, that it was lodged in the two houses of Congress. The interpretation of the Constitution, and the practice under the Constitution, were thus both involved in heated and passionate contention. In view of this state of affairs, a joint committee of the two houses of Congress was raised "to prepare and report without delay such a measure, either legislative or constitutional, as may,

in their judgment, be best calculated to accomplish the desired end." January 18, 1877, this committee, consisting of six Senators and seven Representatives, submitted a report, joint and several, accompanied by a bill, which passed both houses, and became a law, January 29. This is the title finally agreed upon: "An Act to provide for and regulate the Counting of Votes for President and Vice-President, and the Decision of Questions arising thereon, for the Term commencing March 4, A. D. 1877."

The bill provided that, when there was only one return from a State, the votes therein contained should be counted, unless rejected by an affirmative vote of the two houses (voting separately). It provided, also, "That if more than one return or paper purporting to be a return from a State shall have been received by the President of the Senate, purporting to be the certificates of electoral votes given at the last preceding election for President and Vice-President in such State, (unless they shall be duplicates of the same return,) all such returns and papers shall be opened by him in the presence of the two houses when met as aforesaid, and read by the tellers, and all such returns and papers shall thereupon be submitted to the judgment and decision, as to which is the true and lawful electoral vote of such State, of a commission," consisting of five justices of the Supreme Court, four of whom were designated in the act itself, and the fifth of whom was to be chosen by the four; of five Senators, who were to be chosen by the Senate by a *viva voce* vote; and five members of the House of Representatives, chosen in the same manner. The duties of this Commission were thus defined in Section 2:—

"All the certificates and papers purporting to be certificates of the electoral votes of each State shall be opened [that is, by the President of the Senate, in presence of the Senate and House of Representatives] in the alphabetical order of the States, as provided in Section 1 of this act; and when there shall be more than one such certificate or paper, as the certificates and papers from such State shall so be opened, (excepting duplicates of the same return,) they shall be read by the tellers, and thereupon the President of the Senate shall call for objections, if any. Every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one member of the House of Representatives before the same shall be received. When all such objections so made to any certificate, vote, or paper from a State shall have been received and read, all such certificates, votes, and papers so objected to, and all papers accompanying the same, together with such objections, shall be forthwith submitted to said Commission, which shall proceed to consider the same, with the same powers, if any, now possessed for that purpose by the two houses, acting separately or together, and, by a ma-

majority of votes, decide whether any and what votes from such State are the votes provided for by the Constitution of the United States, and how many and what persons were duly appointed Electors in such State, and may therein take into view such petitions, depositions, and other papers, if any, as shall, by the Constitution and now existing law, be competent and pertinent in such consideration; which decision shall be made in writing, stating briefly the ground thereof, and signed by the members of said Commission agreeing therein; whereupon the two houses shall again meet, and such decision shall be read and entered in the journal of each house, and the counting of the votes shall proceed in conformity therewith, unless, upon objection made thereto in writing by at least five Senators and five members of the House of Representatives, the two houses shall separately concur in ordering otherwise; in which case such concurrent order shall govern. No votes or papers from any other State shall be acted upon until the objections previously made to the votes or papers from any State shall have been finally disposed of."

Section 6 provided, "That nothing in this act shall be held to impair or affect any right now existing under the Constitution and laws to question, by proceeding in the judicial courts of the United States, the right or title of the person who shall be declared elected, or who shall claim to be President or Vice-President of the United States, if any such right exists."

While this bill was pending in the House, it having already passed the Senate, Mr. Garfield delivered the following speech.

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"A people who can understand and act upon the counsels which God has given it in the past events of its history, is safe in the most dangerous crisis of its fate." — *Guizot*.

**M**R. SPEAKER, — Nothing but the gravity of this subject would induce me to make a speech in my present condition of voice. But I must attempt it, and trust that the kindness of the House will enable me to be heard.

I desire in the outset to recognize whatever of good there is in this bill. It has some great merits, which I cheerfully recognize. It is intended to avoid strife in a great and trying crisis of the nation. It is intended to aid in tiding over a great present difficulty, possibly a great public danger. It will doubtless bring a result. And when it has brought a result, it will leave the person who is declared to be the elect of the nation with a clearer title, or rather with a more nearly undisputed title, than any other new method that has yet been suggested.

These are certainly great results. At a time like this, no man

should treat lightly a bill which may, and probably will, produce them all. Furthermore, I feel bound to say, if I were to speak of this bill only as a partisan, — a word much abused just now, — I should say that I am not afraid of its operation. The eminent gentlemen who are to compose the Commission, eminent for their character and abilities, will, I have no doubt, seek to do, and will do, justice under its provisions. And therefore, believing as I do that Rutherford B. Hayes has been honestly and legally elected President of the United States, I confidently expect that this Commission will find that to be the fact, and will declare it. Should they find otherwise, all good men everywhere will submit to their decision. But neither the wishes nor the fate of Mr. Hayes or Mr. Tilden should be consulted in considering this bill. I presume no one here is authorized to speak for either of these gentlemen on the question. I certainly am not. It is our business to speak for ourselves and for the people whom we represent.

Before considering the bill itself, I pause to notice one of the reasons that have been urged in its favor.

We have been told to-day, in this chamber, that there is danger of civil war if the bill does not pass. I am amazed at the folly which could use such a suggestion as an argument in favor of this or any measure. The Senate at Rome never deliberated a moment after the flag which floated on the Janiculum was hauled down. That flag was the sign that no enemy of Rome, breathing hot threats of war, had entered the sacred precincts of the city; and when it was struck, the Senate sat no longer. The reply to war is not words, but swords. When you tell me that civil war is threatened by any party or State in this republic, you have given me a supreme reason why an American Congress should refuse, with unutterable scorn, to listen to those who threaten, or to do any act whatever under the coercion of threats by any power on the earth. With all my soul I despise your threat of civil war, come it from what quarter or what party it may. Brave men, certainly a brave nation, will do nothing under such compulsion. We are intrusted with the work of obeying and defending the Constitution. I will not be deterred from obeying it, because somebody threatens to destroy it. I dismiss all that class of motives as unworthy of Americans. On this occasion, as on all others, let us seek only that which is worthy of ourselves and of our great country.

“Self-reverence, self-knowledge, self-control, —  
 These three alone lead life to sovereign power.  
 Yet not for power (power of herself  
 Would come uncalled for), but to live by law,  
 Acting the law we live by without fear ;  
 And, because right is right, to follow right,  
 Were wisdom in the scorn of consequence.”

Let such wisdom and such scorn inspire the House in its consideration of the pending measure.

What, then, are the grounds on which we should consider a bill like this? It would be unbecoming in me, or in any member of this Congress, to oppose this bill on mere technical or trifling grounds. It should be opposed, if at all, for reasons so broad, so weighty, as to overcome all that has been said in its favor, and all the advantages which I have here admitted may follow from its passage. I do not wish to diminish the stature of my antagonist; I do not wish to undervalue the points of strength in a measure before I question its propriety. It is not enough that this bill will tide us over a present danger, however great. Let us for a moment forget Hayes and Tilden, Republicans and Democrats; let us forget our own epoch and our own generation; and, entering a broader field, inquire how this thing which we are about to do will affect the great future of our republic; and in what condition, if we pass this bill, we shall transmit our institutions to those who shall come after us. The present good which we shall achieve by it may be very great; yet if the evils that will flow from it in the future must be greater, it would be base in us to flinch from trouble by entailing remediless evils upon our children.

In my view, then, the foremost question is this: What will be the effect of this measure upon our institutions? I cannot make that inquiry intelligibly, without a brief reference to the history of the Constitution, and to some of the formidable questions which presented themselves to our fathers, nearly a hundred years ago, when they set up this goodly frame of government.

Among the foremost difficulties that they encountered, both in point of time and magnitude, was how to create an executive head of the nation. Our fathers encountered that difficulty the first morning after they organized, and elected the officers of the constitutional convention. One of the resolutions, introduced by Mr. Randolph of Virginia on the 29th of May, 1787, recognized that great question, and invited the convention to its examina-



tion. The men who made the Constitution were deeply read in the profoundest political philosophy of their day. They had learned from Montesquieu, from Locke, from Fénelon, and other great teachers of the human race, that liberty is impossible without a clear and distinct separation of the three great powers of government. A generation before their epoch, Montesquieu had said:—

“When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise lest the same monarch or senate should enact tyrannical laws to execute them in a tyrannical manner. . . . There would be an end of everything were the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and that of judging the crimes or differences of individuals.”<sup>1</sup>

This was a fundamental truth in the American mind, as it had long been cherished and practised in the British empire. There, as in all monarchies, the creation of a chief executive was easily regulated by adopting a dynasty, and following the law of primogeniture. But our fathers had drawn the deeper lesson of liberty from the inspirations of this free new world, that their chief executive should be born, not of a dynasty, but of the will of a free people regulated by law. In the course of their deliberations upon the subject, there were suggested seven different plans, which may be grouped under two principal heads or classes.

One group comprised all the plans for creating the chief executive by means of some one of the pre-existing political organizations of the country. First and foremost was the proposition to authorize one or both houses of the national legislature to elect the chief executive. Another was to confer that power upon the Governors of the States, or upon the Legislatures of the States. Another, that he should be chosen directly by the people themselves, under the laws of the States. The second group comprised all the various plans for creating a new and separate instrumentality for making the choice.

At first, the proposition that the executive should be elected by the national legislature was received by the convention with almost unanimous approval; and for the reason that, up to that time, Congress had done all that was done in the way of

<sup>1</sup> The Spirit of Laws, Book XI. Chap. 6.

national government. It had created the nation, had led its fortunes through a thousand perils, had declared and achieved independence, and had preserved the liberty of the people in the midst of a great war. Though Congress had failed to secure a firm and stable government after the war, yet its glory was not forgotten. As Congress had created the Union, it was most natural that our fathers should say Congress should also create the chief executive of the nation. And within two weeks after the convention assembled, they voted for that plan with absolute unanimity. But with equal unanimity they agreed that this plan would be fatal to the stability of the government they were about to establish, if they did not couple with it some provision that should make the Presidential office independent of the power that created it. To effect this, they provided that the President should be ineligible for re-election. They said it would never do to create a chief executive by the voice of the national legislature, and then allow him to be re-elected by that same voice; for he would thus become their creature.

And so, from the first day of their session in May to within five days of their adjournment in September, they grappled with the mighty question. I have many times, and recently very carefully, gone through all the records that are left to us of that great transaction. I find that more than one seventh of all the pages of the Madison Papers are devoted to this Samson of questions,—how the executive should be chosen and made independent of the organization that made the choice. This topic alone occupied more than one seventh of all the time of the convention.

After a long and earnest debate, after numerous votes and reconsiderations, they were obliged utterly to abandon the plan of creating the chief executive by means of the national legislature. I will not stop now to prove the statement by a dozen or more pungent quotations from the masters of political science in that great assembly, in which they declared that it would be ruinous to the liberty of the people and to the permanence of the republic if they did not absolutely exclude the national legislature from any share in the election of the President. They pointed with glowing eloquence to the sad but instructive fate of those brilliant Italian republics that were destroyed because there was no adequate separation of powers, and because their senates overwhelmed and swallowed up the

executive power, and, as secret and despotic conclaves, became the destroyers of Italian liberty.

At the close of the great discussion, when the last vote on this subject was taken by our fathers, they were almost unanimous in excluding the national legislature from any share whatever in the choice of the chief executive of the nation. They rejected all the plans of the first group, and created a new instrumentality. They adopted the system of Electors. When that plan was under discussion, they used the utmost precaution to hedge it about by every conceivable protection against the interference or control of Congress. In the first place, they said the States should create the electoral colleges. They allowed Congress to have nothing whatever to do with the creation of the colleges, except merely to fix the time when the States should appoint them. And in order to exclude Congress by positive prohibition, in the last days of the convention, they provided that no member of either House of Congress should be appointed an Elector; so that not even by the personal influence of any one of its members could the Congress interfere with the election of a President.

The creation of a President under our Constitution consists of three distinct steps: first, the creation of the electoral colleges; second, the vote of the colleges; and third, the opening and counting of their votes. This is the simple plan of the Constitution.

The creation of the colleges is left absolutely to the States, within the five limitations that I had the honor to mention to the House a few days ago: first, it must be a *State* that appoints Electors; second, the State is limited as to the number of Electors that it may appoint; third, Electors shall not be members of Congress, nor officers of the United States; fourth, the time for appointing Electors may be fixed by Congress; and fifth, the time when their appointment is announced, which must be before the date for giving their votes, may also be fixed by Congress.

These five simple limitations, and these alone, were laid upon the States. Every other act, fact, and thing possible to be done in creating the electoral colleges was put absolutely and uncontrollably in the power of the States themselves. Within these limitations, Congress has no more power to touch them in this work than England or France. That is the first step.

The second is still plainer and simpler, namely, the work of the colleges. They are created as an independent and separate power, or set of powers, for the sole purpose of electing a President. They are created by the States. Congress has just one thing to do with them, and only one; it may fix the day when they shall meet. By the act of 1792 Congress fixed the day as it still stands in the law; and there its authority over the colleges ended. There was a later act, of 1845, which gave to the States authority to provide by law for filling vacancies of Electors in these colleges; and Congress has passed no other law on the subject.

The States having created them, the time of their assemblage having been fixed by Congress, and their power to fill vacancies having been regulated by State laws, the colleges are as independent in the exercise of their functions as is any department of the government within its sphere. Being thus equipped, their powers are restrained by a few simple limitations laid upon them by the Constitution itself: first, they must vote for a native-born citizen; second, for a man who has been fourteen years a resident of the United States; third, at least one of the persons for whom they vote must not be a citizen of their own State; fourth, the mode of voting and certifying their returns is prescribed by the Constitution itself. Within these simple and plain limitations the electoral colleges are absolutely independent of the States and of Congress.

One fact in the history of the constitutional convention, which I have not seen noticed in any of the recent debates, illustrates very clearly how careful our fathers were to preserve these colleges from the interference of Congress, and to protect their independence by the bulwarks of the Constitution itself. In the draught of the electoral system reported on September 4, 1787, it was provided that "the Legislature may determine the time of choosing and assembling the Electors, *and the manner of certifying and transmitting the votes.*"<sup>1</sup> That was the language of the original draught; but our fathers had determined that the national legislature should have nothing to do with the action of the colleges; and the words that gave Congress the power to prescribe the manner of certifying and transmitting their votes were stricken out. The instrument itself prescribed the mode. Thus Congress was wholly excluded from the colleges. The

<sup>1</sup> Elliot's Debates, Vol. I. p. 283.

Constitution swept the ground clear of all intruders; and placed its own imperial guardianship around the independence of the electoral colleges, by forbidding even Congress to enter the sacred circle. No Congressman could enter; and, except to fix the day of their meeting, Congress could not speak to the Electors.

These colleges are none the less sovereign and independent because they exist only for a day. They meet on the same day in all the States; they do their work summarily, in one day, and dissolve forever. There is no power to interfere, no power to recall them, no power to revise their action. Their work is done; the record is made up, signed, sealed, and transmitted; and thus the second great act in the Presidential election is completed. I ought to correct myself: the second act is the Presidential election. The election is finished the hour when the electoral colleges have cast their votes and sealed up the record.

Still, there is a third step in the process; and it is shorter, plainer, simpler, than the other two. These sealed certificates of the electoral colleges are forwarded to the President of the Senate, where they rest under the silence of the seals for more than two months. The Constitution assumes that the result of the election is still unknown. But on a day fixed by law, and the only day, of all the days of February, on which the law commands Congress to be in session, the last act in the plan of electing a President is to be performed. How plain and simple are the words that describe this third and last step! Here they are: "The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted."<sup>1</sup> Here is no ambiguity. Two words dominate and inspire the clause: they are the words *open* and *count*. These words are not shrouded in the black-letter mysteries of the law. They are plain words, understood by every man who speaks our mother tongue, and need no lexicon or commentary.

Consider the grand and simple ceremonial by which the third act is to be completed. On the day fixed by law, the two houses of Congress are assembled. The President of the Senate, who, by the Constitution, has been made the custodian of the sealed certificates from all the electoral colleges, takes his

<sup>1</sup> Amendment XII.

place. The Constitution requires a "person" and a "presence." That "person" is the President of the Senate; and that "presence" is the presence of the two houses. Then two things are to be *done*. The certificates are to be opened, and the votes are to be counted. These are not legislative acts, but clearly and plainly executive acts. I challenge any man to find anywhere an accepted definition of an executive act that does not include both these. They cannot be tortured into a meaning that will carry them beyond the boundaries of executive action. And one of these acts the President of the Senate is peremptorily ordered to perform. The Constitution commands him to "open all the certificates." Certificates of what? Certificates of the votes of the electoral colleges. Not any certificates that anybody may choose to send, but certificates of Electors appointed by the States. The President of the Senate is presumed to know what are the States in the Union; who are their officers; and when he opens the certificates, he learns from the official record who have been appointed Electors, and he finds their votes.

The Constitution contemplated the President of the Senate as the Vice-President of the United States, the elect of all the people. And to him is confided the great trust, the custodianship of the only official record of the election of President. What is it to "open the certificates"? It would be a narrow and inadequate view of that phrase to say that it means only the breaking of the seals. To open an envelope is not to "open the certificates." The certificate is not the paper on which the record is made; it is the record itself. To open the certificate is not a physical, but an intellectual act. It is to make patent the record,—to publish it. When that is done, the election of President and Vice-President is published. But one thing remains to be done; and here the language of the Constitution changes from the active to the passive voice, from the personal to the impersonal. To the trusted custodian of the votes succeeds the impersonality of arithmetic; the votes have been made known; there remains only the command of the Constitution: "The votes shall then be counted," that is, the numbers shall be added up.

No further act is required. The Constitution itself declares the result. "The person having the greatest number of votes for President shall be the President, if such number be a majority

of the whole number of Electors appointed." <sup>1</sup> If no person has such majority, the House of Representatives shall *immediately* choose a President; not the House as organized for legislation, but a new electoral college is created out of the members of the House, by means of which each State has one vote for President, and only one.

To review the ground over which I have travelled. The several acts that constitute the election of a President may be symbolized by a pyramid consisting of three massive, separate blocks. The first, the creation of the electoral colleges by the States, is the broad base. It embraces the legislative, the judicial, and the executive powers of the States. All the departments of the State government and all the voters of the State co-operate in shaping and perfecting it. The action of the electoral colleges forms the second block, perfect in itself, and independent of the others, superimposed with exactness upon the first. The opening and counting of the votes of the colleges is the block that crowns and completes the pyramid.

Such, Mr. Speaker, is the grand and simple plan by which the framers of the Constitution empowered all the people, acting under the laws of the several States, to create special and select colleges of independent electors to choose a President, who should be, not the creature of Congress nor of the States, but the chief magistrate of the whole nation, the elect of all the people.

When the Constitution was completed and sent to the people of the States for ratification, it was subjected to the severest criticism of the ablest men of that generation. Those sections which related to the election of President not only escaped censure, but received the highest commendation. The sixty-eighth number of the *Federalist*, written by Alexander Hamilton, was devoted to this feature of the instrument. That great writer congratulated the country that the convention had devised a method that made the President free from all pre-existing bodies, that protected the process of election from all interference by Congress, and from the cabals and intrigues so likely to arise in legislative bodies.

"The mode of appointment of the chief magistrate of the United States is almost the only part of the system, of any consequence, which has escaped without severe censure or which has received the slightest

<sup>1</sup> Amendment XII.

mark of approbation from its opponents. The most plausible of these who has appeared in print has even deigned to admit that the election of the President is pretty well guarded. I venture somewhat further, and hesitate not to affirm, that, if the manner of it be not perfect, it is at least excellent. It unites in an eminent degree all the advantages, the union of which was to be wished for. It was desirable that the sense of the people should operate in the choice of the person to whom so important a trust was to be confided. This end will be answered by committing the right of making it, not to any pre-established body, but to men chosen by the people for the special purpose and at the particular juncture. . . . They have not made the appointment of the President to depend on pre-existing bodies of men, who might be tampered with beforehand to prostitute their votes; but they have referred it in the first instance to an immediate act of the people of America, to be exerted in the choice of persons for the temporary and sole purpose of making the appointment. And they have excluded from eligibility to this trust all those who from situation might be suspected of too great devotion to the President in office. . . . Another and no less important desideratum was that the Executive should be independent, for his continuance in office, on all but the people themselves. He might otherwise be tempted to sacrifice his duty to his complaisance for those whose favor was necessary to duration of his official consequence. This advantage will also be secured by making his re-election to depend on a special body of representatives, deputed by the society for the single purpose of making the important choice."

The earliest commentator upon the Constitution, St. George Tucker, of Virginia, writing at the beginning of the present century, made this clause of the Constitution the subject of special eulogy, and pointed to the fact that all the proceedings in relation to the election of a President were to be brief, summary, and decisive; that the right of the President to his office depends upon no one but the people themselves, and that the certificates of his election were "to be publicly opened and counted in the presence of the whole national legislature."

"The Electors, we perceive, are to assemble on one and the same day, in all the different States, at as many different places, at a very considerable distance from each other, and on that day are simply to give their votes. . . . They then disperse and return to their respective habitations and occupations immediately. No pretext can be had for delay; no opportunity is furnished for intrigue and cabal. The certificates of their votes . . . are to be publicly opened, and counted in the presence of the whole national legislature. . . . There is no room for the turbu-



lence of a Campus Martius or a Polish Diet, on the one hand, nor for the intrigues of the Sacred College or a Venetian Senate on the other; unless when it unfortunately happens that two persons, having a majority of the whole number of Electors in their favor, have likewise an equal number of votes, or where by any other means the election may devolve upon the House of Representatives. Then, indeed, intrigue and cabal may have their full scope; then may the existence of the Union be put in extreme hazard."<sup>1</sup>

The authorities I have quoted show that, great as was the satisfaction of the people with the mode of choosing a President, there was still an apprehension that trouble would arise from Congress by the only avenue left open for its influence, namely, the contingency in which the House might elect the President. Every other door was shut and barred against the interference of Congress or any member of Congress.

Now, Mr. Speaker, contrast with the plan that I have sketched the theory of this bill. I have studied its provisions in the light of the Constitution; and I am compelled to declare that it assails and overthrows, to its very foundation, the constitutional plan. Congress, finding itself excluded from every step in the process of electing a President until the very last, from the mere fact that its presence is deemed necessary at the opening of the certificates and counting of the votes, takes occasion of that presence to usurp authority over the whole process from beginning to end. Coming only as an invited guest to witness a grand and imposing ceremony, Congress becomes the chief actor and umpire in the scene; and, under cover of the word "count," proposes to take command of every step in the process of making a President.

Recurring to the illustration that I have used, Congress having a simple part to play in reference to the little block that crowns the pyramid, proposes to reach down through all the others and supervise the whole from apex to base; or, rather, it proposes to overturn the whole pyramid and place it upon its apex, so that it shall rest, not upon the broad base of the people's will, but upon the uncertain and despotic will of Congress. This is usurpation in every meaning of the word. Though the Constitution has sought to keep Congress away from all the process of making a President, this bill creates and places in the control of Congress the enginery by which Presi-

<sup>1</sup> Tucker's Blackstone, Vol. I. Part I., Appendix, pp. 326, 327.

dents can be made and unmade at the caprice of the Senate and House. It grasps all the power, and holds States and Electors as toys in its hands. It assumes the right of Congress to go down into the colleges and inquire into all the acts and facts connected with their work. It assumes the right of Congress to go down into the States, to review the act of every officer, to open every ballot-box, and to pass judgment upon every ballot cast by seven millions of Americans.

I know the bill is not proposed as a permanent law; but I know equally well that, if the Congress of our centennial year shall pass this bill, they will destroy forever the constitutional plan of electing a President. Pass this bill, and the old constitutional safeguards are gone. Congress becomes a grand returning board from this day forward; and we shall see no more Presidents elected by the States until the people rebuke the apostasy and rebuild their old temple. Gentlemen on the other side of the House have expressed their indignation that one or two States in the Union have established returning boards to examine and purge the returns from the ballot-boxes of their State; and I must say for myself that I would not tolerate such boards unless intimidation, outrage, and murder made it necessary to preserve the rights of voters. All the evils that have been charged against all the returning boards of the Southern States this bill invites and welcomes to the Capitol of the nation. It makes Congress a vast, irresponsible returning board, with all the vices of the returning boards of the States, and none of their excuses.

Now, if this general arraignment of the bill be not justly and fairly made, I should be glad to hear the distinguished gentlemen who approve it show in what respect I have misrepresented or exaggerated its provisions.

The early practice, from the first count by John Langdon, by special direction of the constitutional convention, was in accordance with the view I have taken. These precedents have been too often quoted to need repetition.

Mr. Speaker, our people have lived under the Constitution for eighty-seven years; and in all that time, until our government was nearly wrecked by rebellion, Congress has never ventured to touch, with the smallest of its fingers, the action of any recognized State of the Union in creating the electoral colleges, nor the action of the colleges themselves in electing a President.

Why, sir, in 1856, the electoral college in one of our States did not cast its vote on the day fixed by law; but the Democratic President of the Senate counted the vote of Wisconsin and declared the result, in spite of all the clamor that was raised against him by both houses; and that vote stands on record as a part of the official count. For more than three quarters of a century, there has been but one ground on which Congress has ever challenged and excluded an electoral vote; and that ground was that some political organization calling itself a State was not a State in law and in fact. When Missouri tried to vote before it was admitted into the Union, and when Indiana and Michigan tried to vote under like circumstances, their right to an electoral vote was challenged. That challenge might be defended on the ground that Congress alone can admit new States into the Union, and that no political society except the original thirteen States is entitled to an electoral vote, without previous recognition by Congress.

In 1865, while the fires of our great war were still blazing, when the vast war powers of the Constitution had been awakened from their sleep of half a century, and when eleven States had broken away from their normal relations to the Union, Congress, without reflection, and, as they have since discovered, without the warrant of the Constitution, for the sole purpose of keeping States from voting that were not yet restored to their places in the Union, adopted the twenty-second joint rule.<sup>1</sup> This rule was based on the same principle on which Congress had challenged the right of Missouri, Indiana, and Michigan to vote; but, unfortunately, it did not in terms restrict objection to that ground alone. From that joint rule has sprung most of our present entanglement; and the Republican party is responsible. It was one of the many mistakes of that party during those

<sup>1</sup> Joint Rule No. 22 provided that if, upon the reading of the certificate from any State by the tellers, "any question shall arise in regard to counting the votes therein certified, the same having been stated by the presiding officer, the Senate shall thereupon withdraw, and said question shall be submitted to that body for its decision; and the Speaker of the House of Representatives shall, in like manner, submit said question to the House of Representatives for its decision. And no question shall be decided affirmatively, and no vote objected to shall be counted, except by the concurrent votes of the two houses; which being obtained, the two houses shall immediately reassemble, and the presiding officer shall then announce the decision of the question submitted; and upon any such question there shall be no debate in either house. And any other question pertinent to the object for which the two houses are assembled may be submitted and determined in like manner."

years, when, too powerful for its own good or the good of the country, flushed with victory, it went recklessly forward into acts that were unwarranted by sound policy, and of doubtful constitutionality. But for the adoption of the twenty-second joint rule in the midst of war, and its continuation after the war had ended, the hasty judgments of Senators and Representatives would not now embarrass this Congress in solving the present problem.

But it should not be forgotten that, before the present question arose, a Republican Senate confessed the wrong, and abolished the rule. At the last session of Congress every Senator, without distinction of party, voted to declare it unwarranted by the Constitution. Even at this session, and in spite of the passion and heat of this Presidential contest, all but four of the Senators who were present voted that the rule was no longer valid or binding. Every precedent which Congress made during the last fifteen years, under that rule, has come back to plague those who are seeking to find the way out of our present difficulties by following the Constitution and the laws. Without reflection, men of both parties have committed themselves to the theory of the twenty-second joint rule; and their commitments embarrass their action to-day. It is best for men and parties frankly to confess their errors, and correct them.

But to return to the pending bill. Besides the general arraignment I have made, I find in the first section of the bill that it invites objections to counting the votes of the States. It commands the presiding officer that, whenever a State is called, he shall call for objections; and as many objections as any two members of Congress, one from each house, may please to make, shall be filed, no matter what the ground of objection may be; and immediately the two houses shall separate to consider them. If both houses agree so to do, the vote of any State shall be rejected.

The first section deliberately provides that, though a State has appointed Electors in perfect accordance with the law,—though its electoral college may have fulfilled all points of the law,—though the certificates may be regular and perfect in every particular,—yet, on the objection of two members of Congress, the two houses may throw it out, may stifle the voice of that State, may nullify the constitutional election of a President. A legislative body is not obliged to give rea-

sons for what it may lawfully do. It can act for bad reasons if it choose. I know the presumption of law is, that all functionaries will do their duty; but when we are conferring powers, we should ask what it is that we permit to be done. And the plain declaration of this first section is, that Congress may, at its discretion, for any reason, good or bad, or for no reason, stifle the vote of any State. The Constitution commands that the votes *shall be counted*; this bill declares that the votes may be rejected. It is a monstrous assumption, a reckless usurpation of power. Congress may not use the vast powers herein granted; but a vote for this bill is a vote that Congress can thus act.

In opposition to this grant, I hold that neither house nor both houses, acting separately or concurrently, have any more authority to refuse to hear the voice of a State when it speaks through the law in electing a President, than Great Britain has to say that the State shall not vote. Yet this first section invites contests, and assumes the right of Congress, at will, to reject the vote of any State. If this section becomes a law, every close State will hereafter grow a luxurious crop of contests, and unload their noxious harvests in the national Capitol. Not as in the past, one in a century, but squadrons of Cronins will invade the electoral college at each future election.

From what part of the Constitution is this measureless assumption of power drawn? I have carefully read the debates in both houses to find the source of this alleged authority, and I find but two clauses on which the allegation is based. The first is the simple fact of the presence of the two houses at the opening and counting of the votes. How much power can be evoked from the word "presence"? We have seen that, in all the previous steps in the process of electing a President, the little that Congress was permitted to do by the Constitution was merely to fix a date; and finally, in the concluding act, the agency of Congress is narrowed down to a mere shadow, to a presence. That is all. But a great deal of ingenuity and eloquence have been expended to add power to that "presence." We are told it would be trifling with the dignity of Congress to call the two houses as mere spectators of a dumb show.

It may throw some light upon this word "presence," if we inquire what the different States of the Union have done in the matter of opening and declaring the votes of their people for

State officers. I have taken the pains to examine the Constitutions of all the States of the Union except that of Colorado, which I have not seen, and I find this. In thirty of the thirty-seven States, the act of opening the votes and counting and declaring them is definitely and absolutely described in their Constitutions as an executive act. In thirty States of the Union the duty is devolved upon executive officers. There are seven States, most of them the older States, in which the Legislature itself, acting jointly, or by means of joint committees, is the canvassing and returning board to examine the votes and declare the result.

MR. HOAR. Does not my honorable friend know that, in every American State in existence when the Constitution was adopted, the vote for Governor was counted by the two branches of the Legislature?

I will answer my friend with a great deal of pleasure by saying that, in a majority of all the original thirteen States, in 1787, the Legislatures elected the Governors. The people did not elect their supreme executive officer; and, as a matter of course, when the Governor was elected by the Legislature, the Legislature managed the whole process from beginning to end. It is true that in the gentleman's own State, in Connecticut, and in New Hampshire, the popular votes for Governor were, and in some States are still, returned, canvassed, counted, and declared by the Legislatures themselves.

MR. HOAR. My friend does not answer the question to its full extent. Does he not know that, in every one of the old thirteen States, the vote for Governor was counted by the Legislature, it being true that in some of them the Legislature cast the vote as well as counted it?

MR. LAWRENCE. Let me say that it is not true of New York. On the contrary, the votes there were canvassed by officers designated, and the Legislature had no power over the subject.

Allow me to read the provision of the Constitution of my own State, made in 1802, under the immediate inspiration of the constitutional era, a provision that still stands in the Constitution of Ohio with only a slight verbal change. "The Speaker of the Senate . . . shall open and publish them [the returns], in the presence of a majority of the members of each house of the General Assembly." Substantially the same language is used in the present Constitutions of twenty-one States of the Union. In these States, it is the unbroken practice that

the presiding officer of the Senate or House does open and does publish and does declare the result; and only where a contest arises, regulated by law, is the result as declared by him questioned at all. Though their Constitutions require the presence of a majority of both houses, they have no function except that of witnesses. If the dignity of twenty-one Legislatures is not affronted by this provision, the dignity of our two houses ought not to suffer by granting its presence one day in four years.

An incident occurred in the State of Ohio nearly thirty years ago which is worthy of mention. The election for Governor was close and doubtful. In obedience to the Constitution, both houses of the Legislature assembled, and the President of the Senate proceeded to open and publish the returns. As the tellers were making the lists and footing up the votes an objection was made to counting the vote from one of the counties, and the business was delayed by tumult; when the President of the Senate, taking the certificates from the hands of the tellers, completed the count and declared the result, in obedience to the Constitution. He did not permit the performance of an executive duty to be prevented or hindered by the presence of legislative witnesses.

The claim is set up, that the presence of the two houses implies that they are to do something, — that they are to count the votes. Formulate that construction in definite words and it will read: "In the presence of the two houses the votes shall be counted by the two houses." That is, they shall count the votes *in their own presence*. Let us not charge the framers of the Constitution with such stupid tautology.

We have seen that in the third step two things are to be done, two acts to be performed; not acts of legislation, not laws to be devised, but acts to be done, — executive acts. And the only executive officer present is the President of the Senate. One of these two acts he is expressly commanded to perform; he "shall open all the certificates." That is past question. In reference to the other, the Constitution says it *shall be done*. We are asked why the language changes from the active to the passive voice. I have already suggested the reason: that when the roll of the States is called, each answers through the certificates which announce their votes for President and Vice-President. The States speak through the electoral colleges when the certificates are read; and nothing is left but the imperial

command: "the votes shall then be counted." Arithmetic does the work. It may be in the person of the President of the Senate, a teller, or a clerk.

What can be plainer than that our fathers intended that a certain, summary, and unquestioned result should be had? They determined to create a President; and adopted a plan which, if not overthrown, would certainly accomplish the result. I am not controverting the position taken by my friend from Massachusetts,<sup>1</sup> and I think justly, that, under the general clause in another section of the Constitution, Congress may regulate the method of doing anything that the Constitution orders to be done. I admit most fully that Congress may regulate the act of opening the certificates, and may regulate the work of counting; but it cannot push its power to regulate beyond the meaning of the words that describe the thing to be done. It cannot ingraft a judiciary system upon the word "open." It cannot evolve a court-martial from the word "count." It cannot erect a star-chamber upon either or both of these words. It cannot plant the seeds of despotism between the lines or words of the Constitution.

I have no doubt that Congress, under the general clause referred to, may regulate how the opening of the certificates shall be done, whether in alphabetical or chronological order; and may make any regulation necessary and appropriate. I have no doubt that Congress may provide by law who shall count or add up the votes; how the lists of votes shall be recorded, — whether on paper or parchment. I do not hold that the Constitution has made it the exclusive duty of the President of the Senate to count the votes. That is no part of my argument. It makes no difference who counts, only so that the counting is done. I am seeking to find what authority Congress may exercise in reference to the election of the President. I admit that Congress may legislate upon the subject wherever the Constitution has made legislation possible. But I insist that Congress can go no farther. In reference to the last act of the process, Congress cannot go beyond the just scope and meaning of the word "count." If gentlemen want to "stick in the bark" in their construction of this clause, let me follow their example for a moment. If you tell me that the power of the President of the Senate ends with the word "open," then I tell you that the

<sup>1</sup> Mr. Hoar.



presence of the two houses is dispensed with at the same instant. He shall, in the presence of the two houses, open all the certificates. Stop there. If at that point "the Constitution turns its back upon the President of the Senate," it also, at the same moment, turns its back upon the two houses. The "presence" and the President disappear together.

But I do not propose thus to read the Constitution with a microscope. I admit the difficulty of the situation. I recognize honest differences of opinion in regard to the true construction of the clause. But after reading them all, I return to that clear and comprehensive exposition of the venerable Chancellor Kent, which was full of wisdom and prophecy. It was his opinion, that, in the absence of legislation on the subject, it would be the duty of the President of the Senate to count the votes and declare the result. I do not object to an act of Congress to regulate all that can be regulated. I have never objected to such legislation. In 1868, on my motion, a resolution was passed by this House directing our Judiciary Committee to inquire into this question of such vital and transcendent importance, and report what legislation was possible. But no action was taken; and in the absence of legislation, we are remanded to the Constitution itself. If we obey it, we shall find a plain way out of our troubles.

Again I return to the bill before us, and call attention to the second section, to the case where there are two returns. And here again is an invitation to anybody to get up a contest by sending "papers purporting to be certificates of electoral votes." It does not limit the contest to double returns from the officers of a State; but two or more returns from anybody residing within the territory of a State may be considered under the provisions of this section. If anybody within a State manufactures a return, calls it a certificate of votes of Electors, and forwards it to the President of the Senate, he must receive it and treat it as a return, and submit it to the tribunal provided by this section.

Now, in the case of a double return, a course is to be taken wholly unlike that which is laid down in the first section, where the vote of the State is left at the mercy of the two houses. The double returns from a State are to be sent to a mixed Commission, consisting of an equal number of members from each house of Congress and from the Supreme Court. That

Commission is virtually clothed with power to hear and determine the vote of any such State, and its decision is the law, final and conclusive, unless both houses shall concur in reversing the decree. That Commission is authorized to do whatever the two houses may do in reference to deciding the Presidential election. That is, Congress delegates its power to fifteen persons. If it be a delegation of legislative power, it is clearly in conflict with the Constitution; for all authorities concur in the doctrine that legislative power cannot be delegated. If the power conferred on the Commission be executive or judicial power, then the members of the Commission are officers of the United States, and their appointment is a legislative appointment. But the Constitution has placed the appointing of all officers in the hands of the President and the heads of the departments.

When an associate justice of the Supreme Court, the late Judge Nelson, was appointed on the joint high commission to negotiate the treaty of Washington, his name was sent to the Senate and confirmed on the 10th of February, 1871, as were the nominations to the same commission of the Secretary of State and the Attorney-General. It was found necessary, in order to comply with the Constitution, that those commissioners should be appointed by the President and confirmed by the Senate. If the Commissioners here proposed are officers, how can you take five Senators and five Representatives and make them officers, when the Constitution forbids that a member of either house shall hold any office under the United States? Notice these difficulties that beset you at every step as you walk through the mazes of this bill.

But a far more important question is that of the powers conferred upon this Commission. Here is certainly a new thing under the sun. This Commission of fifteen persons is empowered to roam at will throughout the realms of the Constitution and laws, and to assume whatever jurisdiction they think they are entitled to assume in reference to the subject. No jurisdictional limits are prescribed; but the Commission is endowed "with the same powers now possessed by the two houses, acting separately or together." The two houses of Congress say, in effect, to the Commission: "We transfer our powers to you. Construe them for yourselves. Use or refuse them as you please. If you choose to confine yourselves to the papers that have been delivered to the President of the Senate, halt there.

If you conclude to enter the electoral colleges and overhaul them, enter. If you choose to content yourselves with such an examination, stop there; but if you wish to go deeper, and embrace within the sweep of your examination all the States and all the officers of the States, all the ballot-boxes and all the ballots in them, do so. Take the Sherman report, take the Morrison report, take the Howe report, take the Palmer report, take the Florida report, the South Carolina report, and the Cronin report. Accumulate cart-loads of reports and documents upon your tables, and sit down at your leisure to digest and make the most of them."

Such, Mr. Speaker, is the scope of possible power given to this Commission. But that is not enough. They may "take into view such petitions, depositions, and other papers, if any, as shall, by the Constitution and now existing law, be competent and pertinent in such consideration." They may also send for persons and papers, because they have all the powers possessed by the two houses, or either of them; and this house certainly has shown its power to send for persons and papers beyond any of its predecessors.

Now, I would treat this bill with all respect, for I do most sincerely respect the men who made it. But when the members of this Commission come to verify and explore their powers, they will find one limitation so thoroughly Pickwickian that I am sure they will enjoy it as literature, if not as law. That limitation is, in the brief and crisp language of the bill, "if any." The Commission may do all these things enumerated; may exercise all the vast powers residing in the Constitution, or conferred upon either house of Congress, or both, "if any." In reading this clause I was reminded of a speech delivered in this hall about ten years ago by a gentleman who was imploring us to receive our Southern brethren that came knocking at the doors of Congress, and not keep them out any longer. A distinguished gentleman from Illinois rose and said: "I desire to ask the gentleman from New Jersey what he would do if our Southern brethren, as he calls them, should come to our doors with certificates of election to Congress, and ask to be admitted while their hands are still red with the blood of our brethren of the North?" Pausing solemnly for a moment, the orator replied: "If our Southern friends come to the door of this House and ask to be admitted, I, sir, for one, am in

favor of receiving them in the very spirit in which they come to us, *provided they come in that spirit.*" So the Commission may do all and singular, and exercise all powers that are given, "if any"; but of the "if any" they must judge.

Now, Mr. Speaker, I call the attention of my distinguished friend from Massachusetts<sup>1</sup> to what may happen if this bill should become a law. From a careful reading of its provisions, it appears entirely possible for the two houses and the Commission to prevent the declaration of any result whatever. Remembering that there are thirty-eight States; that in each case the President of the Senate must call for objections; that upon each objection the two houses must separate; that the debate may proceed for two hours upon each objection; and that the House may take a recess for one day on each of these objections, a failure to reach a result is altogether possible. Suppose the case of Florida is reached, and one party finds itself disappointed in the judgment of the tribunal, and is so determined not to be pleased with the result that it prefers to prevent a completion of the count; how can such an attempt be prevented under the provisions of this bill?

There are but twenty-eight secular days from the day when the count begins until this Congress will expire by limitation. I want to ask my friend from Massachusetts whether he thinks there is no danger in that direction; whether he does not also see that this bill may make it impossible for the President of the Senate to obey the plain mandate of the Constitution, that he "shall open all the certificates, and the votes shall then be counted"? There may be no *then* left in which to open the certificates near the foot of the list.

MR. HOAR. As my distinguished friend from Ohio has invited my attention to his argument, he will allow me to ask him whether the case he puts is not precisely such a one as may happen under any government under the sun; whether in any government the constituent parts may not refuse to do their duty. And what would happen, under his theory, if the President of the Senate did not choose to count the votes? Does the gentleman suppose the two houses of Congress are any more likely than any one man to fail to perform their constitutional duty, and thus permit the government to go to pieces?

My friend strengthens my argument. If the President of the Senate should refuse to open the certificates, the Senate can

<sup>1</sup> Mr. Hoar.

depose him in an hour, and put another President in his place who will obey the Constitution.

MR. HOAR. Suppose the Senate should refuse to do it?

Then you have a legislative body which you cannot control; and this illustrates the radical evil of this bill. It admits to a share in counting the votes, two uncontrollable legislative bodies; but when that duty is in the hands of one person he is liable to punishment for neglect or malfeasance in office. And precisely for that reason, my theory of the Constitution, is safer and more practicable than that of my friend.

MR. HOAR. Then the body that you cannot control is the only thing you have got to control him.

Impeachment, expulsion, personal disgrace, all bear with tremendous force upon the individual officer. He is more amenable to public opinion and to the law that can seize him, and acts with a keener sense of personal responsibility than a legislative body where responsibility is divided. The bad behavior of the two houses is my friend's problem, not mine. When the houses go wrong, there is no remedy in a case like this. *Quis custodiet ipsos custodes?*

MR. HOAR. That is a doctrine you cannot find in the American Constitution, or in the utterances of a single one of its framers.

I think my friend will acknowledge that all executive officers are subject to impeachment, removal, and punishment; but will he find anything in the doctrine of the fathers, in the Constitution or the laws, by which a legislative body can be punished for a dereliction of duty?

The radical and incurable defect of this bill is, that it puts a vast, cumbrous machine in the place of the simple, plain plan of the Constitution; it adopts a method which invites and augments the evils from which we now suffer. It assumes that seven members of the Commission will cancel another seven; and that the decision will finally turn upon the action of the fifteenth unknown member. In what respect is this better than to leave the President of the Senate to decide which is the true certificate, subject to be overruled by the concurrent vote of the two houses? In one case, the decision may be made in secret, by a person who is yet unknown. In the other, it is made in the presence of both houses of Congress, by the second highest

executive officer of the nation. That there are difficulties in the present situation, I freely admit; that there may be doubt, honest doubt, in the minds of honest men as to who is elected President, I admit. But I think the bill introduced by my colleague from Ohio,<sup>1</sup> which provides for submitting to the Supreme Court those questions of constitutional law about which we differ, would be far better. To the adjudication of that great and honored tribunal, all would bow with ready obedience; but this novel, dangerous, and cumbrous device is, in my judgment, unwarranted by the Constitution. If we adopt it, we shirk a present difficulty; but in doing so, we create far greater ones for those who come after us. What to us is a difficulty will be to them a peril.

Mr. Speaker, I have trespassed too long upon the indulgence of the House; but I cannot withhold from the gentleman from Massachusetts<sup>2</sup> the tribute of my admiration for the earnestness and eloquence with which he closed his defence of this measure. I even shared his enthusiasm, when, looking forward to the future of this nation, he pictured to our imagination the gratitude of those who may occupy these halls a hundred years hence for the wisdom which planned and the virtue which adopted this act, which my friend believes to be the great act of the century, — an act that solves a great national difficulty, that calms party passion, that averts the dangers of civil war. Let us hope, Mr. Speaker, that they will not be compelled to add, that, though this act enabled the men of 1877 to escape from temporary troubles, yet it entailed upon their children evils far more serious and perils far more formidable; that it transmitted to them shattered institutions, and set the good ship of the Union adrift upon an unknown and harborless sea. I hope they may not say that we built no safeguard against dangers except the slight ones that threatened us. It would be a far higher tribute if they could say of us: —

“The men of 1876, who closed the cycle of the first century of the republic, were men who, when they encountered danger, met it with clear-eyed wisdom and calm courage. As the men of 1776 met the perils of their time without flinching, and through years of sacrifice, suffering, and blood conquered their independence and created a nation, so the men of 1876, after having defended the great inheritance from still greater perils,

<sup>1</sup> Mr. Foster.

<sup>2</sup> Mr. Hoar.

bravely faced and conquered all the difficulties of their own epoch, and did not entail them upon their children. No threats of civil war, however formidable, could compel them to throw away any safeguard of liberty; the preservation of their institutions was to them an object of greater concern than present ease or temporary prosperity; instead of framing new devices which might endanger the old Constitution, they rejected all doubtful expedients, and, planting their feet upon the solid rock of the Constitution, stood at their posts of duty until the tempest was overpassed, and peace walked hand in hand with liberty, ruled by law."

During the many calm years of the century, our pilots have grown careless of the course. The master of a vessel sailing down Lake Ontario has the whole breadth of that beautiful inland sea for his pathway. But when his ship arrives at the rapids of La Chine, there is but one path of safety. With a steady hand, a clear eye, and a brave heart, he points his prow to the well-fixed landmarks on the shore, and, with death on either hand, makes the plunge and shoots the rapids in safety. We too are approaching the narrows; and we hear the roar of angry waters below, and the muttering of sullen thunder overhead. Under-ried by breakers or tempest, let us steer our course by the Constitution of our fathers, and we shall neither sink in the rapids, nor compel our children to shoot Niagara and perish in the whirlpool.

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THE question, If the President of the Senate abuses his trust, declaring the wrong man elected, how can he be punished, and what redress have the people, and the man wrongfully deprived of the office? did not come within the range of his discussion. It may be pertinent, therefore, to add, that Mr. Garfield once assented to this series of propositions, as covering all the ground from the first step to the last one:—

1. Each State is to choose its Electors in its own way. If this is by a popular election, the State determines the voting precincts, names the judges of election, and canvasses the vote. No power in the world is competent to go behind the returns to inquire what has been done. The nation is bound irrevocably by the action and findings of the State.

2. Congress is in no sense a returning board. Neither Congress nor the houses have anything to do with the substance of opening the certificates and counting the votes. This was with him a great objection to the Electoral Bill. "It makes Congress a vast, irresponsible returning board,

with all the vices of the returning boards of the States, and none of their excuses." The houses are present simply as witnesses of what is done. They might make rules as to the *manner* of proceeding, — such as the employment of tellers, the order in which certificates should be drawn, — but nothing more.

3. The opening of the certificates and the counting of the votes are made the duty of the President of the Senate. As respects the substance of the proceeding, everything is in his breast. If there be two sets of papers, he is to decide between them. Of the regularity of the papers he is the sole judge.

4. If the President of the Senate abuse his trust, he may be impeached or otherwise proceeded against according to law. As respects him, there is no other than punitive redress.

5. But suppose he declares the wrong man elected? This question may be answered by another one: Suppose, on the theory that Congress counts the votes, that the wrong man is declared elected? The courts are open. Whatever can be legally done to correct what is wrong in the one case can be legally done in the other.

6. If any one recoil from this theory of the Constitution because it reposes too much power in one man, — the President of the Senate, — it can be replied, that it is far safer to repose the power and the responsibility in one man, who can be reached by legal process, than to repose them in the two houses of Congress, consisting of several hundred members, who are swayed by all the storms of politics, who cannot be reached by any legal process, and who are responsible only to public opinion.



# THE FLORIDA RETURNS

IN THE ELECTION OF 1876.

ARGUMENT MADE IN THE ELECTORAL COMMISSION,

FEBRUARY 9, 1877.

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WHEN the law creating the Electoral Commission was enacted, the Republican party had a majority in the Senate, the Democratic party in the House of Representatives. To save the appearance of partisanship, since such an arrangement would make no difference with the political complexion of the Commission, it was agreed among the party leaders that the Senate should appoint three Republican and two Democratic, the House three Democratic and two Republican Commissioners. Mr. Garfield was unanimously selected by his fellow Republican members, and the House ratified the selection, January 30, 1877.

The Electoral Commission was organized, January 31. The act made it the duty of the Commission to consider the certificates, votes, or papers from a State that should be referred to it, "with the same powers, if any, now possessed for that purpose by the two houses acting separately or together, and by a majority of votes decide whether any and what votes from such State are the votes provided for by the Constitution of the United States, and how many and what persons were duly appointed Electors in such State, and may therein take into view such petitions, depositions, and other papers, if any, as shall by the Constitution and now existing law be competent and pertinent in such consideration." Hence almost the first and by far the most difficult duty that the Commission had to perform was to determine the nature and extent of its own powers. What powers, if any, had the two houses, acting separately or together? and what petitions, depositions, and other papers were competent and pertinent in such consideration under the Constitution and the existing law? These questions came to the front in the Florida case, which was the first of the disputed States brought before the Commission.

The Florida board of State canvassers canvassed the returns of the election of 1876 as directed by law, and declared the Republican candi-

dates duly elected, and the Governor of the State gave them the certificate of election. So the regular return from Florida gave the four Electoral votes from the State to Mr. Hayes and Mr. Wheeler. This is Return No. 1. Returns No. 2 and No. 3 from Florida, which differed only in minor points, were to the effect that the Democratic candidates had been elected, and that they had cast the four votes for Mr. Tilden and Mr. Hendricks. The Democratic objectors to the first certificate held that Messrs. Pearce, Humphries, Holden, and Long, the Electors who cast the votes therein returned, had not been appointed Electors of the State of Florida "in such manner as its Legislature had directed, or in any manner whatever"; but that the pretended certificate of election signed by M. L. Stearns as Governor of said State was in all respects untrue, and was corruptly procured and made in pursuance of a conspiracy "between the Governor, the pretended Electors, and other persons to the objectors unknown, with intent to deprive the people of Florida of the right to appoint Electors, and to deprive the Democratic candidates, Messrs. Carr, Yonge, Hilton, and Bullock, of the right to said office." The Democratic objectors asked permission to introduce evidence to sustain these and other propositions. Still further, they asked leave to introduce testimony to prove that the canvassers had acted under erroneous views of the law. This was a proposition to go behind the returns from the State, and by implication to canvass the votes cast for Electors in Florida. To this the Republican managers and the Hayes counsel before the Commission objected, holding that the action in the case by the State authorities was final and conclusive upon Congress, and therefore upon the Commission. The argument involved, first, the powers in such cases of the two houses separately or together, if any; and secondly, the construction of the electoral law itself. It was upon this question of admitting evidence to prove fraud, thereby going behind the returns from the State, that Mr. Garfield made this argument. By a vote of eight to seven the Commission refused to admit such evidence, and decided that the Republican Electors were duly appointed by the State of Florida. The ground of the decision as to the Electors was thus stated in the report made, February 9, 1877, to the President of the Senate:—

"That it is not competent under the Constitution and the law, as it existed at the date of the passage of said act, to go into evidence *aliunde* on the papers opened by the President of the Senate in the presence of the two houses, to prove that other persons than those regularly certified to by the Governor of the State of Florida, in and according to the determination and declaration of their appointment by the board of State canvassers of said State prior to the time required for the performance of their duties, had been appointed Electors, or by counter proof to show that they had not, and that all proceedings of the courts or acts of the Legislature or of the Executive of Florida, subsequent to the casting of

the votes of the Electors on the prescribed day, are inadmissible for any such purpose."<sup>1</sup>

It is pertinent to add, that the question as to the powers of the two houses of Congress, separately or together, in the cases pending, was purposely left undetermined in the law creating the Electoral Commission. This is shown by the proceedings of the Senate for January 24, 1877.

Mr. Morton offered this amendment to the bill: "*Provided*, That nothing herein contained shall authorize the said Commission to go behind the finding and determination of the canvassing or returning officers of a State authorized by the laws of the State to find and determine the result of an election for Electors."

Mr. Edmunds, to test the question on all sides, offered this amendment to Mr. Morton's, declaring that he should himself vote against it: "That the said Commission shall have authority to go behind the finding and determination of the canvassing or returning officers," etc.

Mr. Thurman said: "I shall vote against them both. I have a very strong and decided opinion, I may say, that to a certain extent the decision of a canvassing or returning board may be inquired into, gone behind, in the language here used; but whatever may be my opinion upon these subjects, I shall not vote for either of these propositions, because to attempt to decide either of them is to kill the bill."

Both amendments were lost, and the bill passed, leaving the Commission to inquire what power it had in the premises.

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**M**R. PRESIDENT, — We are called upon to determine a rule of evidence upon a proffer of testimony by counsel. This is purely a question of law, to be decided within the limitations of the statute which created this Commission. We cannot go beyond those limitations for any purpose whatever. We are bound by our oaths to search the meaning of the statutes, and make our answer to the proffer on its merits under the law, without regard to the consequences which may result from the decision.

Such being my view of our duty, I have been pained to notice that, running through all the arguments of the counsel who offered this testimony, and through the remarks of those members of the Commission who favor its reception, has appeared the assumption, that those who offer the testimony are

<sup>1</sup> Proceedings of the Electoral Commission, p. 56.

able to prove great and manifold frauds, and that those who oppose its reception do so because they do not wish to expose fraud. I wish to repel this assumption, as being not only outside of the law we are seeking to administer, but as being gratuitous and wholly unfounded in fact. It may not be out of place to call the attention of the Commission to the fact, that four counts of the Electoral vote of Florida have been made, as appears in the several Congressional reports on that subject. Without vouching for the correctness of any of them, I will state by whom they were made, and what is the alleged result of each.

First. On the 28th of November, 1876, the Secretary of the State of Florida laid before the canvassing board the returns of the votes for Electors from all the counties of the State; and a count of this gross vote, before any canvass was made by the board, before any vote was rejected or any correction was made, is declared to have shown that the Hayes Electors had forty-three majority over the Tilden Electors.

Second. On the 6th of December, the board of State canvassers made their official report of the vote as canvassed and compiled by themselves according to law; and that report declared that the Hayes Electors had received 925 majority.

Third. On the 10th of January, in obedience to the order of the Supreme Court, which had issued to the board of canvassers a peremptory writ of mandamus, ordering them to canvass the votes for Governor, and to include in the count some polls which they had thrown out, the board reconvened and recanvassed the vote for Governor. That canvass resulted in the declaration that Drew was elected Governor, and Stearns was not. Although the order of the court did not disturb the former canvass, so far as it related to the Presidential Electors, yet, if the order had applied to that canvass, the result would have been 211 majority for the Hayes Electors.

Fourth. After Governor Drew was inaugurated and the new Legislature had assembled, proceedings in *quo warranto* before the District Court were had, which resulted, late in January, in an order for the new board of State canvassers, which had been appointed by Governor Drew, to recanvass the votes for Presidential Electors. That canvass was made; the result was forwarded to the President of the Senate, and was received by him less than two weeks ago. According to that count, the

Tilden Electors received a popular majority of eighty-seven. But this count was made long after the electoral college had met, given its votes, and dissolved. Some discredit is attached to this result from the allegation that this count was made by a board specially appointed to achieve a special result, after its importance became known. The confirmation of this count by the Legislature of Florida has the same *post hoc* character.

Here, then, we have four real or pretended counts of the popular vote of Florida for Electors; and three of them give the Hayes Electors a majority ranging from 43 to 925; and the fourth, which was made nearly two months after the Electoral College had voted and had become *functus officio*, showed for the Tilden Electors eighty-seven majority. I do not vouch for the accuracy of any of these counts; but they are sufficient to show how unfounded and unjust is the pretension that virtue and right are on the side of the Tilden Electors, and that frauds and false counting are to be attributed to the other side. The extremest claim made on behalf of the Tilden Electors is but a majority of eighty-seven; and that is set up against three counts on the other side as *prima facie* evidence of the truth.

I have referred to these facts only for the purpose of repelling the assumption that those who deny the authority of this Commission to canvass the popular votes of a State do so because of any desire or willingness to cover up fraud or prevent its exposure. I will add, that, while one political party charges errors and frauds on the part of the State board of canvassers in declaring the result of the election, the other party charges fraud, violence, and intimidation at the polls to prevent a full and fair vote at the election. We must resolutely turn away from the passionate outcries of both parties, and from every consideration except the law which we have sworn to obey, and, in the light of that law, determine what evidence, if any, we can consider in reaching a decision of the case.

But first let us consider what class of evidence is offered, and what allegations are sought to be established, that we may more intelligently measure the offer by the provisions of the law under which we are acting. Let us survey the boundaries of the field which we are invited to enter.

First. In the opening of his speech before us, one of the objectors, Mr. Field, said he should "have occasion to mention canvassers only in one county," and "that county was decisive

of the result." He asked us to hear evidence that the county canvassers of Baker County threw out the votes of two polls, one in the Darbyville precinct, and another in the Johnsonville precinct.

Thus, at the first step of the contest, not only are we asked to go behind the certificate of the Governor, and behind the determination of the State board of canvassers, but we are asked to review and correct the alleged errors and wrong-doings of a county judge, a county clerk, and a county sheriff, in making up their returns of votes to the Secretary of State. How shall we do this? Certainly no member of this Commission will deny that, if we enter the door opened by Mr. Field, we must hear both sides. We must summon the judge, the clerk, the sheriff, to learn precisely what they did and the reason for it, and must have before us the returns from Johnsonville and Darbyville, in order to ascertain whether they were lawful and regular returns, such as the county officers were required by law to include in the general returns of Baker County. Probably, in order to get at the very truth, we should be compelled to summon the election officers of Darbyville and Johnsonville, and examine the ballots and poll lists, and any contest arising in reference to them.

Second. But while Mr. objector Field is willing to rest his case upon the polls in one county, Mr. O'Connor, the leading counsel for the Tilden Electors, asks us to enter a much larger field. He offers evidence to show that the State board of canvassers, "acting on certain erroneous views when making their canvass, by which the Hayes Electors appeared to be chosen, rejected wholly the returns from the county of Manatee, and parts of the returns from each of the following counties: Hamilton, Jackson, and Monroe." Mr. O'Connor adds, that he trusts he has omitted none, but has had no consultation. This extends the area concerning which evidence is offered to election precincts in five counties.

Third. Mr. Evarts, the leading counsel for the Hayes Electors, at the close of his speech, refers to the votes of five counties, one of which was not named by Mr. Field or Mr. O'Connor.

Fourth. In the reports of the committees of the Senate and House on the subject of the Florida election, I observe that testimony has been taken in reference to polls in seventeen different counties of the State. A portion of that testimony, I

have no doubt, is contained in the large packages brought before us, but not yet opened. Much of the testimony referred to in the Senate report relates to the proceedings at polling-places, — to alleged frauds on the part of voters, and to errors on the part of officers who conducted the election.

This summary of the evidence proffered is sufficient to show that we cannot take one step beyond the final determination which the State itself has made, without going to the bottom of the poll. In brief, this Commission must assume to be the canvassing and returning board of Florida. A bare statement of the proposition shows that its accomplishment by us is not merely inconvenient, — it is utterly impossible. But if the law under which we are acting commands us to undertake it, we must obey. Though I opposed the bill in the House, and regarded it, as I still do, in conflict with the constitutional plan of counting the electoral vote, my opinion was overruled by the two houses; and I shall do all in my power to carry out the provisions of the act in its letter and spirit. And this brings me to search the act itself to ascertain our powers and duties under it.

This law is based on the assumption that it is the right and the duty of the two houses of Congress, meeting together, to count the votes for President and Vice-President. It prescribes the order of proceeding to perform that duty. When the certificates of any State are opened, if no objection be made, the votes of that State shall at once be counted. If objection be made, two modes of procedure are provided, — one for a single return, and another for a double return. The two houses pass upon objections to a single return; this Commission is required to act in cases of double returns. In either case the action is to be according to the Constitution and the law. In each, the object to be reached is to count the lawful votes of the State. The provisions of the act which regulates the conduct of the two houses in cases of single returns will throw light upon the duty of the Commission in cases of double returns. The first section of the act provides that, in cases where there is but one return from a State and an objection is made to the count, the two houses shall separate, and each shall act upon such objection. The fourth section provides that

“When the two houses decide upon an objection that may have been made to the counting of any electoral vote or votes from any State, or

upon objection to a report of the Commission, or other question arising under this act, each Senator and Representative may speak to such objection or question ten minutes, and not oftener than once ; but after such debate shall have lasted two hours, it shall be the duty of each house to put the main question without further debate."

Can it be claimed that this provision implies the hearing of testimony and the trial of a contest? The whole time allowed to the two houses to decide the gravest objections that may be raised to the counting of the vote of any State or of any Elector is but two hours ; and that brief period is devoted, not to the hearing of evidence, but to debate. There is no provision in the section for taking testimony, or trying disputed questions of fact. The reasonable construction of the section is, that the two houses decide any questions of law, or any matter of informality, which may appear on the face of the certificates opened by the President of the Senate. It has been said by an honorable member of the Commission, that, in deciding upon an objection to a single return, the two houses may exercise their acknowledged power of inquiry by sending for persons and papers, and may use testimony already taken by their committees ; but it must be remembered that the contents of the certificate on which the objection is based can be known by neither house, nor by any member of either house, until it is opened in their presence ; for the objection provided for in the act is " to any vote or paper from a State." Certainly it will not be claimed that any testimony taken, before the contents of the sealed package are made known, can be valid and lawful testimony to sustain an objection made afterwards. Such testimony might be *ex parte*, misleading, and false ; and yet in the two hours allowed by the bill it might be wholly impossible to procure evidence to overcome it.

If, then, we take the proceedings of the two houses, under the first and fourth sections of the act, as a precedent for our action here, we find no warrant for receiving the evidence offered. Again, if we take the proceedings of the two houses under the first and fourth sections as a precedent, we should compare the time granted to the two houses with the time we have already consumed on this case. We are far into the sixth day of our proceedings. This is the first of four cases to be submitted ; and we are now debating, not the merits of the case, but a preliminary question of procedure. It is not too much to say that



the admission of the evidence proffered will wholly defeat the object of the bill.

But the learned Commissioner<sup>1</sup> who has just spoken calls attention to the clause of the act which confers upon us our powers. It is in these words:—

“All such certificates, votes, and papers so objected to, and all papers accompanying the same, together with such objections, shall be forthwith submitted to said Commission, which shall proceed to consider the same, with the same powers, if any, now possessed for that purpose by the two houses, acting separately or together, and by a majority of votes decide whether any and what votes from such State are the votes provided for by the Constitution of the United States, and how many and what persons were duly appointed Electors in such State, and may therein take into view such petitions, depositions, and other papers, if any, as shall, by the Constitution and now existing law, be competent and pertinent in such consideration.”<sup>2</sup>

This clause declares what questions we are to decide, and prescribes the rule of evidence by which the decision is to be reached. The rule of evidence is, that we may “take into view such *petitions, depositions, and other papers, if any, as shall, by the Constitution and now existing law, be competent and pertinent in such consideration.*” In applying this rule we have “*the same powers, if any, now possessed for that purpose by the two houses, acting separately or together.*” That is, the Commission is clothed with the powers of the two houses in reference to counting the votes of Electors, but in nothing else.

The act speaks of “petitions and depositions,” but it does not permit us to consider them unless we find that the Constitution and the law, as it existed before the passage of this act, authorized the two houses to employ them in counting the votes.

This act confers no new powers upon the two houses, but it makes this Commission the interpreter of the powers which they possessed before its passage. It is well known that the framers of the act were unable to agree upon the question whether the Constitution confers upon the two houses authority to challenge, for any purpose, the determination of the State authorities in reference to the appointment of Electors; and because they could not agree, they purposely left it an open question, to be decided by the Commission. For one, I did

<sup>1</sup> Mr. Bayard.

<sup>2</sup> Section 2.

not consider it an open question; and I was unwilling to place it in the power of any commission to declare that the houses possess such authority. But the act permits us to decide and pass upon the question, and we are bound to decide it in accordance with the Constitution and existing law. Let us fully understand the precise question which we are to decide.

The law of Florida provides that the Secretary of State, the Attorney-General, the Comptroller of Public Accounts, together with any member of the cabinet who may be designated by them, shall "form a board of State canvassers, and proceed to canvass the returns of the election, and determine and declare who shall have been elected as shown by such returns. If any such returns shall be shown or shall appear to be so irregular, false, or fraudulent that the board shall be unable to determine the true vote for any such officer or member, they shall so certify, and shall not include such return in their determination and declaration."<sup>1</sup>

This board, thus authorized to "determine and declare" what persons have been chosen by the State, did determine and declare that four persons had been appointed Electors of President and Vice-President; and the certificate of the Governor, now before us, is acknowledged to be in accordance with the determination. On this state of the law and the facts, assuming that the Constitution empowers the two houses, or either of them, to count the electoral votes, does this authority to count carry with it the authority to take testimony or to consider evidence to show that the State board of canvassers acted upon erroneous views of the law of the State, or made errors and mistakes in determining and declaring who were elected? This is the main question we are now called upon to decide. If the two houses possess such authority, we may hear the testimony. If they do not, we could not consider it if it were here in our hands.

The distinguished Commissioner<sup>2</sup> who has just spoken claims this authority for the Commission, on the ground that the words "existing law" include the *lex parliamentaria* under which each house may send for persons and papers, and may take testimony upon any subject it pleases; and that, as a matter of fact, each house has already taken testimony in reference to the election in Florida, and in other States.

<sup>1</sup> Section 4 of Act of February 27, 1872.

<sup>2</sup> Mr. Bayard.

This authority to take testimony is not expressly conferred upon either house by the Constitution. It belongs to the class of implied powers. It is incidental to the power to make laws. Because Congress has authority to enact laws, it is a necessary incident to that power that each house may procure such information as will enable it to act with intelligence. Incidental authority cannot exceed the express authority from which it is derived. Where the authority to legislate ends, there the incidental authority to take testimony also ends.

The testimony taken for purposes of legislation is not testimony in the judicial sense. It is not taken in accordance with the rules of evidence which regulate a trial before a jury or court; but it is rather the information obtained by a special inquiry, made for the purpose of ascertaining the opinions and wishes of intelligent citizens upon questions requiring the action of Congress. I doubt if one deposition in ten, taken by the committees sent to Florida, would be admissible in any judicial inquiry.

Besides the testimony taken in aid of legislation, each house may also take testimony in the case of a contested election of a member, in proceedings to censure or expel a member, or in the still more strictly judicial proceedings in impeachment. But these are authorized by the clauses of the Constitution which provide for the trial of impeachments, and those which empower each house to "be the judge of the election, returns, and qualifications of its own members," and to punish or expel its members for disorderly behavior. These clauses confer no authority whatever upon this Commission. They do not relate to the subject matter which has been referred to us.

It will not do for us to claim the same powers which we should possess if the Constitution made the two houses the judge of the elections, returns, and qualifications of Electors of President and Vice-President. The fact that no such power is expressed in the Constitution, is strongly against our right to infer it, and virtually amounts to the denial of such a power.

But I base my opinion on the rule of evidence upon other clauses of the Constitution, which seem to me conclusive of the question. I cannot better state my position than to summarize the argument which I made in the House two weeks ago.<sup>1</sup> I will read the only two clauses from which it is claimed that

<sup>1</sup> See speech on "Counting the Electoral Vote."

Congress derives any power whatever to inquire into the action of the States in appointing Electors of President and Vice-President. The second clause of the first section of Article II, provides as follows: —

“ Each State shall appoint, in such manner as the Legislature thereof may direct, a number of Electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress. But no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an Elector.”

And the third clause of the same provides: —

“ The Congress may determine the time of choosing the Electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.”

These two clauses contain all the powers conferred upon the States in appointing Electors, and contain also all the limitations upon these powers. There are five expressed or implied limitations upon the power of the States, and only five. The limitations are either absolute in the Constitution itself, or such as authorize Congress to fix limitations. And if Congress has any authority whatever to interfere with the action of the States in the appointment of Electors, that authority must be found in some one or more of the five limitations. Now what are these limitations?

First. It must be a State that elects the Electors; and as Congress alone has the authority to admit new States into the Union, if any political organization, not a State, should cast a vote for Presidential Electors, and if such pretended Electors should send a certificate of their vote for President and Vice-President, the Congress would undoubtedly have power to inquire into the right of such political organization to participate in the election.

Second. No State can have more Electors than the number of Senators and Representatives to which that State is entitled in Congress at the time of the Presidential election. If any State presumes to elect more, no doubt that can be inquired into. The surplus votes cannot be counted. That is the second limitation.

Third. The Constitution provides that no person shall be appointed an Elector for President and Vice-President who is either a Senator or Representative in Congress, or holds any office of trust or profit under the United States. Without

doubt, a violation of this provision may be inquired into; for it is distinctly declared as a limitation of the authority of the State. Whether that inquiry can be made without special legislation prescribing a mode of procedure, is a question aside from the topic I am now discussing.

Fourth. Congress is empowered by the Constitution to fix the day when the States shall vote for Electors; and as Congress has fixed a day, the Tuesday after the first Monday in November, the State has no right to vote for Electors on any other day, except that, in case a State, having held an election on that day, has failed to make a choice, its Legislature may provide for holding an election on a subsequent day, in accordance with the act of Congress approved on January 23, 1845. Doubtless the inquiry may be made whether the election was held on the day fixed by law.

Fifth. The Constitution provides that Congress may determine the day on which the Electors in all the States shall give their votes for President and Vice-President. By the act of March 1, 1792, that fixed day is the first Wednesday of December,—within thirty-four days of the date of the general election. From this it follows that all the steps which are necessary to complete the appointment of the Electors must have been taken by the first Wednesday in December, when the Electors are to vote for President and Vice-President. For the purposes of my argument I do not follow the process of electing a President beyond the appointment of the Electors.

To sum up these limitations in brief. Congress, in obedience to the Constitution, fixes the day for choosing the Electors, and the day when they must vote. The Constitution prescribes that *States* only shall choose Electors. It prescribes the number of Electors for each State, and limits their qualifications. These are the only limitations upon the authority of the States in the appointment of Electors of the President. Every other act and fact relating to their appointment is placed as absolutely and exclusively in the power of the States, as it is within their power to elect their governors or their justices of the peace. Across the line of these limitations Congress has no more right to interfere with the States than it has to interfere with the election of officers in England. To speak more accurately, I should say that the power is placed in the Legislatures of the States; for if the Constitution of any State were silent upon

the subject, its Legislature is none the less armed with plenary authority, conferred upon it directly by the national Constitution.

It is insisted by those who oppose the view I am taking, that, though the Constitution authorizes the States to appoint Electors in such manner as the Legislatures thereof may direct, yet the two houses of Congress, in counting the Electoral votes, may inquire whether the State authorities proceeded in accordance with their own laws, and may correct any errors in the process, or any violation of the State law. To this I answer, that the power to appoint includes the power to do all those things necessary to complete the appointment, and to determine and declare who have been appointed. In pursuance of its authority to appoint Electors, the State may not only provide for holding a popular election as the mode of choosing them, but it may also provide by what means the result of such election may be verified and declared; and we have already seen that the Legislature of Florida has made such provision. The laws of that State prescribe all the steps, from the casting and counting of the ballots at the several polling-places, to the final determination and declaration of the result by the board of State canvassers. If any revision of that result be possible, it is the right of the Legislature of Florida to provide for it, not the right of the two houses of Congress, or either of them.

The final determination of the result of the election having been declared by the authority empowered to determine and declare it, that act becomes the act of the State; and the two houses of Congress can no more question such declaration than they can question the primary right of appointment by the State.

For these reasons, Mr. President; I shall vote against receiving the evidence offered. In conclusion, I will add that the preservation of the right of the States under the Constitution to appoint Electors, and declare who have been appointed, is, in my judgment, a matter of much greater importance than the accession of any man to the Presidency.

# THE LOUISIANA RETURNS

## IN THE ELECTION OF 1876.

ARGUMENT MADE IN THE ELECTORAL COMMISSION,

FEBRUARY 16, 1877.

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IN general, the issue before the Electoral Commission in the case of Louisiana was the same as in the case of Florida. The same state of things existed, — two electoral colleges and plural certificates. Mr. Garfield states the two issues made before the Commission in the second paragraph of this argument.

Technically, the cases were different in several points; but the main question still was the admission of evidence for the purpose of overturning the determination of the State officers. It was also claimed, on the part of the Senators and Representatives objecting to Certificate No. 1, and the counsel who appeared before the Commission to support said objectors, that an admitted vacancy of one in the State returning board vitiated and rendered illegal the canvass and findings made by said board. By a vote of eight to seven the Commission decided that the Republican Electors were duly appointed, and that their votes for President and Vice-President should be counted. The argument was thus stated in the report made to the President of the Senate, February 16, 1877: —

“The brief ground of this decision is, that it appears upon such evidence as by the Constitution and the law named in said act of Congress is competent and pertinent to the consideration of the subject, that the before-mentioned Electors appear to have been lawfully appointed such Electors of President and Vice-President of the United States for the term beginning March 4, A. D. 1877, of the State of Louisiana, and that they voted as such at the time and in the manner provided for by the Constitution of the United States and the law; and the Commission has by a majority of votes decided, and does hereby decide, that it is not competent, under the Constitution and the law as it existed at the date of the passage of said act, to go into evidence *aliunde* the papers opened

by the President of the Senate in the presence of the two houses to prove that other persons than those regularly certified to by the Governor of the State of Louisiana, on and according to the determination and declaration of their appointment by the returning officers for elections in the said State prior to the time required for the performance of their duties, had been appointed Electors, or by counter proof to show that they had not; or that the determination of the said returning officers was not in accordance with the truth and the fact, the Commission by a majority of votes being of opinion that it is not within the jurisdiction of the two houses of Congress assembled to count the votes for President and Vice-President to enter upon a trial of such question.

“The Commission by a majority of votes is also of opinion that it is not competent to prove that any of said persons so appointed Electors as aforesaid held an office of trust or profit under the United States at the time when they were appointed, or that they were ineligible under the laws of the State, or any other matter offered to be proved *aliunde* the said certificates and papers.

“The Commission is also of opinion, by a majority of votes, that the returning officers of election who canvassed the votes at the election for Electors in Louisiana were a legally constituted body, by virtue of a constitutional law, and that a vacancy in said body did not vitiate its proceedings.”<sup>1</sup>

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MR. PRESIDENT, — The rule of evidence adopted by the Commission in reference to Florida was in fact decisive of that case. The same will doubtless be true in the case now before us. The discussion has disclosed the fact, that the rule of evidence and the merits of the case stand together, and I shall proceed upon that understanding in my remarks.

There can be no difference in principle between the Florida and the Louisiana cases, so far as the rule of evidence is concerned, unless it be that the allegation of fraud, and the offer to prove fraud on the part of the returning board, brings this case under principles different from those which the Commission applied to the Florida certificate. In that case, the counsel proffered evidence to show that the State board of canvassers had proceeded upon an erroneous view of the law. In this case, they allege not only error on the part of the returning board in the construction of the law under which they acted, but they offer to prove actual fraud.

<sup>1</sup> Proceedings of the Electoral Commission, February 16, 1877, p. 119.



I have listened with great pleasure to the clear and able argument of the distinguished Commissioner<sup>1</sup> who has just spoken. He has aided us in the discussion by making the strongest possible presentation of the argument in favor of admitting the evidence. I will follow the order he has adopted, and will offer some suggestions in reply. He holds: —

First. That, assuming the law of Louisiana which created the returning board to be constitutional, the board was itself not lawfully organized, because the vacancy was not filled as required by the act of November 20, 1872, which provides that "in case of vacancy by death, resignation, or otherwise, by either of the board, the vacancy shall be filled by the residue of the board." Authorities have been cited to sustain this view. It is no doubt true that, where the law creates a board, unless otherwise specially provided, its membership must be full before it can become a legal board. But the rule is otherwise where it has once been full and a vacancy has subsequently happened. In the case before us, however, it is not necessary to go into the general doctrine; for we are able to determine the point in controversy by the laws of Louisiana, as construed by the courts of that State. I remind the Commission of the point so well made a few days since by Mr. Commissioner Field, in the Florida discussion, that the construction given to a statute of a State by its Supreme Court is binding upon all other States and upon the United States; and that, for all practical purposes, the construction so given becomes as much a part of the statute as though the language of the court were incorporated into the text of the law. There can be no doubt of the correctness of this position.

In *Bank of Hamilton v. Dudley*, 2 Peters, 492, Chief Justice Marshall, delivering the opinion of the court, said: "The judicial department of every government is the rightful expositor of its laws; and emphatically of its supreme law."

Again, in *Elmendorf v. Taylor*, 10 Wheaton, 159, the same great judge says: —

"This court has uniformly professed its disposition, in cases depending on the laws of a particular State, to adopt the construction which the courts of the State have given to those laws. This course is founded on the principle, supposed to be universally recognized, that the judicial department of every government, where such department exists, is the

<sup>1</sup> Mr. Thurman.

appropriate organ for construing the legislative acts of the government. . . . We receive the construction given by the courts of a nation as the true sense of the law, and feel ourselves no more at liberty to depart from that construction than to depart from the words of the statute. . . . On the same principle, the construction given by the courts of the several States to the legislative acts of those States is received as true, unless they come in conflict with the Constitution, laws, or treaties of the United States."

The later decisions of the Supreme Court are in accordance with this doctrine. (See 12 Wheaton, 167, 168; 6 Peters, 291; 7 Howard, 818; 8 Howard, 558, 559; 11 Howard, 318; 14 Howard, 504; 2 Black, 599; 1 Wall. 175.)

Now apply this doctrine to the point under consideration. The Supreme Court of Louisiana has decided that the returning board of 1872, created under the act of March 16, 1870, and consisting of but four members (there being one vacancy), was the lawful returning board of the State. The court also decided that the clause of the act of 1870 requiring vacancies to be filled, which is precisely the same as in the act of 1872, is not mandatory, and a failure to fill the vacancy does not render unlawful the acts of a remaining quorum. I refer to the case of *Bonner v. Lynch*, 25 Louisiana Annual Reports, 267, and to the cases therein cited. The court say: —

"We decided in the case of *Kennard v. Morgan*, and again in the case of *Hughes v. Pipkin*, that the board of returning officers composed of John Lynch, George E. Bovee, James Longstreet, and Jacob Hawkins, was the legal returning board of the State at the late November election. That board, it appears, returned the defendant, Lynch, as elected Judge of the Fourth District Court of New Orleans; and upon that return the acting Governor issued a commission to him according to law."<sup>1</sup>

The court held the returns of the election by that board valid; and upon the principle so long and so well settled by the Supreme Court of the United States we are concluded on the question. As a matter of right and fairness, the board ought to have filled the vacancy by appointing a Democrat; but their failure to do so did not invalidate their acts done in pursuance of the law.

Second. The distinguished Commissioner holds that, even if the board had been full, and organized in accordance with the law, yet the law itself, and the board created by it, are unconsti-

<sup>1</sup> Page 268.

tutional and unrepubli- can. Here, again, I appeal for my answer to the authority of the Supreme Court of Louisiana, which is conclusive upon this Commission and upon all courts. I quote again from *Bonner v. Lynch*, 25 Louisiana Annual Reports: —

“The Legislature has seen proper to lodge the power to decide who has or has not been elected, in the returning board. It might have conferred that power upon the courts, but it did not. Whether the law be good or bad, it is our duty to obey its provisions, and not to legislate. . . . Having no power to revise the action of the board of returning officers, we have nothing to do with the reasons or grounds upon which they arrived at their conclusion.”<sup>1</sup>

The court declares the law valid, and that alone ends the controversy. But I submit that it is not necessary to have recourse to the Constitution of the State to find authority for the Legislature to prescribe the mode of appointing Electors of President and Vice-President. The national Constitution confers that power directly upon the Legislature of the State. In 1796, at the time of the Presidential election, there was no provision in the Constitution or laws of Vermont for choosing Electors. But the Legislature of that State, of its own motion, appointed the Electors, and Congress did not question the validity of the transaction. Whether the acts of the returning board were in conflict with the Constitution of Louisiana or not, they were in accordance with the mode of procedure prescribed by the Legislature; and the national Constitution confers upon the State Legislature the sole and exclusive authority to prescribe the mode of appointment.

In view of the other clause of the objection, that the law is unrepubli- can, it may be worth while to consider the cause which led to its enactment.

If I were framing a body of election laws for Ohio, I certainly should not adopt the Louisiana law as my model. But it is difficult to see how the election laws that prevail in most of the States could be made effective to repress the evils that have afflicted Louisiana. No State of the Union has passed through an experience so sad and so calamitous. It is not necessary to repeat the history of the tragic events which, for several years, threatened to dissolve the bonds of society, and to destroy both liberty and law in that State. It is sufficient for my present purpose to call the attention of the Commission to Article 103

<sup>1</sup> Page 268.

of her present Constitution, adopted in 1868. It is in these words: "The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting under adequate penalties all undue influence thereon from power, bribery, tumult, or other improper practice." I doubt if a similar provision can be found in the Constitution of any other State in the Union. It is probable that no other State has found, by terrible experience, that such a provision was necessary to its peace. Will any one say that it is unrepugnant for a State to require its Legislature to protect its voters against "bribery and tumult" at elections?

The law under which the returning board acted at the late election was passed in pursuance of this provision of the Constitution. In its title it is declared to be "An Act to regulate the conduct, and to maintain the freedom and purity of elections; to prescribe the mode of making the returns thereof; to provide for the election of returning officers; to define their powers and duties; and to enforce Article 103 of the Constitution." It is a general law, applicable to all elections held within the State. If its provisions are unrepugnant, then the State itself is unrepugnant; for all the officers which the State has elected during the last seven years have been chosen and declared elected in pursuance of this law, or a law substantially like it. We are told that the powers granted to the returning board are unrepugnant. It should not be forgotten that the power to canvass, determine, and declare the result of elections must be lodged somewhere; that some authority or authorities of a State must finally determine who have been elected.

In Ohio, for example, the duties of the State board of canvassers are wholly ministerial. They can do nothing but add up the returns sent from the counties, and announce the result. The actual work of canvassing and judging is left, not to one board, but to four or five thousand boards, called judges of election, who sit behind the ballot-boxes, clothed with power to administer oaths and prevent the casting of unlawful ballots. When the polls are closed, each of these local returning boards proceeds to determine and declare the result. But they do not count, as lawful votes, "all the ballots actually cast." If they find two votes so folded together that in their judgment both were cast by the same voter, such ballots are thrown out, and constitute no part of the lawful vote. If they find a printed

name pasted over another name on the ticket, they reject the ballot for that name. If they find, on completing the count, that the number of ballots in the box exceeds the number of names on the poll lists, they draw out, by lot, a number of ballots equal to the excess, and reject them wholly from the count. It may be that every fraudulent ballot was put in by one political party, and that every vote drawn out and rejected by the judges was lawfully cast by the other party. But the judges are ministers of law; and they purge the poll before declaring the result. It is not the count of ballots actually cast, but the result as declared by these judges, which constitutes the lawful vote of the precinct. The declarations made and certified to, at the four thousand ballot-boxes of Ohio, are forwarded through the county officers to the designated State officers; and there remains only the ministerial work of addition and declaration.

In Louisiana it was found impossible to preserve peace and order at all the polls of the State, if the local officers of elections were intrusted with the quasi-judicial powers which are exercised by such officers in Ohio. And hence, in the matter of counting votes, the Louisiana statute enjoins only ministerial duties upon the local election officers. They must count what they find in the ballot-boxes, and must forward the result, together with the poll lists, through the parish officers, to the State returning board. In that board the law has vested the quasi-judicial powers without which no popular election can be conducted. To that board are delivered the unpurged polls of the State, and the law requires them "to canvass and compile the returns of the election, and declare the names of all persons and officers who have been duly and lawfully elected."

In making that canvass and compilation, the board must proceed in the order laid down in the statute: "They shall compile, first, the statements from all polls or voting-places at which there shall have been a fair, free, and peaceable registration and election." And whenever proof is made to the board, as required by the statute, —

"Of any riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences, which prevented, or tended to prevent, a fair, free, and peaceable vote of all qualified electors entitled to vote at such poll or voting-place, such returning officers shall not canvass, count, or compile the statement of votes from such poll or voting-place until the statements from all other polls or voting-places shall have been can-

vassed and compiled. The returning officers shall then proceed to investigate the statements of riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences, at any such poll or voting-place."

And for that purpose they have power to send for persons and papers, and to examine witnesses. The statute then declares that, —

"If, after examination, the said returning officers shall be convinced that said riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences did materially interfere with the purity and freedom of the election at such poll or voting-place, or did prevent a sufficient number of the qualified electors thereat from registering and voting to materially change the result of the election, then the said returning officers shall not canvass or compile the statement of the votes of such poll or voting-place, but shall exclude it from their returns."

Here, then, is a board upon whom the State of Louisiana has conferred those quasi-judicial powers which, in other States, are usually conferred upon the judges of election in the several voting-precincts. Who shall say that it is unrepugnant for a State of the Union to adopt the Louisiana mode of conducting elections rather than the Ohio mode? Certainly each State has the right to choose that method which it deems best for its own protection.

Third. The distinguished Commissioner holds that, if the returning board, in making their returns, exceeded the jurisdiction conferred upon them by law, all their acts in excess of such jurisdiction are void; and that this Commission may examine and decide whether the board did in fact exceed its jurisdiction. He does not insist, as some have done, that the two houses of Congress have authority to question the real voice of a State in declaring who have been chosen as Electors; but he holds that they may inquire whether the returning board did utter the true voice of the State. His proposition is strongly put, but I believe it to be unsound. Its real meaning is obscured by the use of the word "jurisdiction." If, under cover of inquiring into the jurisdiction of the returning board, Congress may go behind the determination of that board, it follows that the power of Congress is not limited to the counting of the electoral votes, but extends to the counting of the popular vote by which the Electors themselves were chosen.

The authority of the State to appoint Electors, as I tried to show in the Florida case, carries with it the authority to do every act necessary to complete the appointment, and to determine and declare who have been appointed. It must also carry with it the authority to decide whether the board created for the purpose of determining and declaring the result has acted within its jurisdiction. If the State has made no complaint of excess of jurisdiction on the part of the board, it is difficult to see how the two houses of Congress can do so. Jurisdiction in general may depend upon territory, upon time, or upon subject matter. In this case the only question relates to subject matter. But the very subject matter upon which the board is authorized to act is summed up in a single sentence: "They are to determine what persons have been elected according to law." That they did determine and declare. But the learned Commissioner says they made an unjust decision; that they excluded votes which ought to have been counted, and, in arriving at the result, adopted methods which were beyond their jurisdiction. But, like every other tribunal, they were the judges of their own jurisdiction, unless the law itself provides another tribunal to determine that question.

It will not do to say that, because a judgment is erroneous, it is therefore beyond the jurisdiction of the tribunal that declares it. Jurisdiction to decide a case implies jurisdiction to decide it wrong. Hundreds of cases before the Supreme Court have turned on the question of jurisdiction, and that question has often been decided by a divided court. The distinguished members of this Commission who are justices of that court will probably admit that that great tribunal may sometimes have passed upon the merits of a case of which it was erroneously held that they had jurisdiction. But, as their judgments are final, even such erroneous decision was valid.

Now, it is not denied that the law of Louisiana confers upon the returning board the power "to determine and declare" who have been appointed its Electors. That duty is their jurisdiction. In the case of the Governor and other State officers, the Legislature may revise the finding of the board; but in determining who have been appointed Electors, no such power of revision is conferred upon the Legislature. It follows, that the determination of the board, if not overruled by the courts of that State, is the final and conclusive decree of the State itself.

That decree we have no power to question or review. The State appoints Electors and declares who have been appointed. The utmost that can be claimed for the two houses of Congress is the authority to count the vote cast by the Electors. In doing that they may inquire whether the certificates of votes are genuine; whether they are signed by the recognized officers of the State; in short, may inquire if the certificates do, in fact, represent the determination of the State. But beyond that determination Congress cannot go. In issuing certificates, the Governor does not represent the State. He acts at the request of Congress. The act of 1792 makes it his duty to certify to the President of the Senate what the State has done in reference to the appointment of Electors. If his certificate does not testify truly, the authority which counts may go behind the certificate until the actual declaration of the State is found; but there the inquiry ends. To go one step further is to invade the exclusive domain of State authority.

I am no champion of State sovereignty, as that doctrine has sometimes been taught in our political history. But there are rights so clearly and exclusively conferred upon the States, that to invade them is to break up the solid foundation of our institutions; and if one act can be more sovereign than another, it may be fairly said that the most sovereign act which a State of this Union can perform is the act of choosing the men who shall cast its vote for President and Vice-President. To the theory now urged upon us, that we may review all the process by which Louisiana has given her vote for President at the late election, I oppose this highest and most unquestionable right of each State of the Union.

It has been said in the course of our deliberations, that this view of the case is technical; that what is asked on the other side is to ascertain the very right and truth of this matter,—to ascertain who was in fact really voted for by the people of Louisiana. I might respond by saying that the objections to the finding of the returning board are themselves in the highest degree technical. We are asked to go behind the decree of the returning board; but for what purpose? For the purpose of adding to the count some votes actually cast, but which were rejected by the board as unlawful. We are told that some of these polls were improperly rejected; and why improperly? Because it is alleged that, in rejecting these polls, certain tech-



nical formalities were not complied with. For example, it is alleged that the protests against the validity of these rejected ballots were not filed within forty-eight hours after the closing of the ballot-boxes; and if protests were not filed within that time, the board could not consider them, no matter how corrupt or fraudulent the ballot might be. They say we stand upon a technicality; but they ask us to break through one, only to rest upon another.

If this Commission has authority to go behind the decree of the returning board for any purpose, it must have the power to go behind it for all the purposes of ascertaining the truth; and should we enter upon such an inquiry, should we open the testimony that both sides will proffer, we shall find a group of allegations like this: that in forty-two parishes of Louisiana, where both sides agreed that there was a fair and free election, the Hayes Electors received an aggregate of 6,000 majority; that in two groups of parishes where the validity of the returns was contested, there existed such a state of intimidation and terror, violence and murder, that the voice of the Republican party was almost wholly suppressed; that, for example, in the parish of East Feliciana, which for years had cast a large Republican majority, not one Republican vote was cast at the late election; that in many precincts within the disturbed districts hundreds of negroes were forced by the coercion of threats and intimidation to vote the Democratic ticket against their will; and that on the whole, within the terrorized districts, the voice of the Republican voters was so effectually stifled as to produce an apparent majority for the Democratic Electors, sufficient to overcome the 6,000 Republican majority in the undisturbed portions of the State.

If we take one step behind the determination of the State authorities, we must go to the bottom of the case. It will not do to go just far enough to find votes actually cast, and shut our eyes to the violence and outrage that put such votes in the boxes. The duty of purging the polls, and finding the real result of the election, was by law enjoined upon the returning board of the State. That duty they performed. Whether wisely or unwisely, justly or unjustly, in every instance, I am not prepared to say; but I take the liberty to remark, that, after a careful study of the history of that election, and considering the turbulence and irregularities which have long prevailed in

that State, I am of the opinion that, on the whole, the decree of the returning board is in accordance with substantial justice. I have no doubt that thousands of voters were prevented from the exercise of their suffrage. For that evil the laws of Louisiana provide no remedy. But they do command the rejection of polls that are tainted by violence, intimidation, and fraud. And, in doing that, the State has, in part, repaired the wrong sought to be committed upon her people.

Before concluding, I must refer to the single feature in which the Louisiana case is said to differ from the case of Florida. There counsel offered evidence to show that the board of canvassers had acted upon an erroneous view of the law, and had made errors and mistakes in determining the result of the election. Here they offer evidence to show that the returning board acted fraudulently in determining the result. On the doctrine that fraud vitiates everything, we are told that, if fraud be proved in this case, it vitiates the determination of the board.

But the allegation of fraud does not confer jurisdiction of a subject which the law does not authorize a tribunal to consider. The real question is, whether the allegation of fraud in the processes of the returning board confers upon the two houses of Congress, or upon this Commission acting in their stead, the jurisdiction to inquire into those processes and hear evidence to prove fraud. A case decided by the Supreme Court of the United States in 1870, and which has already been referred to by one of the Commissioners for another purpose, applies so strikingly to the point under consideration that I will cite its leading feature. I refer to the case of *Virginia v. West Virginia*, 11 Wallace, 39. In adjusting the boundary between the States of Virginia and West Virginia an agreement was made that the counties of Jefferson and Berkeley might become a part of West Virginia, on condition that a majority of the votes cast on that question in the two counties should be found in favor of annexation. A special statute regulated the mode of conducting the election and determining the question, and provided, among other things, that "The Governor of this State, if of the opinion that the said vote has been opened and held, and the result ascertained and certified pursuant to law, shall certify the result of the same, under the seal of this State, to the Governor of the said State of West Virginia."

The election was held and the result declared by the Governor. But subsequently the State of Virginia filed a bill in chancery against West Virginia to recover the jurisdiction of those counties, upon the ground that the vote was not fairly taken, and that the returns upon which the Governor issued his certificate were false and fraudulent. The bill alleged, in terms, "that the vote taken was not a fair and full expression of the people of those counties, and that the officers who made their returns to the Governor falsely and fraudulently suggested, and falsely and untruly made it to appear to the Governor of the Commonwealth, that a large majority of the votes was given in favor of annexation; and that his determination of the result, being based upon such false and fraudulent returns, was illegal and void."

These allegations are strikingly analogous to the offers of proof now pending before this Commission. In reference to the allegations of fraud, Mr. Justice Miller, delivering the opinion of the court, said: —

"But, waiving these defects in the bill, we are of opinion that the action of the Governor is conclusive of the vote as between the States of Virginia and West Virginia. He was in legal effect the State of Virginia in this matter. In addition to his position as executive head of the State, the Legislature delegated to him all its power in the premises. It vested him with large control as to the time of taking the vote, and it made his opinion of the result the condition of final action."<sup>1</sup>

Even upon an allegation of fraud, the court would not go behind the determination of the officer on whom the State had conferred the authority to declare the result of the election. This is precisely the case before us. The State of Louisiana had empowered the returning board to determine and declare who had been appointed Electors, and having provided no appeal from its decision, its action became the final and conclusive determination of the State; and neither Congress nor this Commission has any authority to inquire whether there was fraud or error in the process by which the determination was reached.

To sum up the points already made: —

In appointing her Electors, the State of Louisiana has followed the method prescribed by her Legislature. That method has been reviewed by her supreme judicial tribunal, and has

<sup>1</sup> 11 Wallace, 62, 63.

been declared to be in accordance with her Constitution. It is also in accordance with the Constitution of the United States. Of all the steps leading to that appointment, the State, through her chosen organs, is the sole determining power. She has determined and declared that the persons named in Certificate No. 1 were duly and lawfully appointed her Electors of President and Vice-President. Those persons met at the time required by law; finding vacancies in their number, they filled such vacancies in the manner prescribed by the law of the State; and, in pursuance of the national Constitution, they cast their votes and certified the same to the President of the Senate. These certificates have been opened in the presence of the two houses of Congress; and there remains but one duty more, and that is, to obey the imperial command of the Constitution, which declares, "The votes shall then be counted."

Certificate No. 2 comes with no semblance of authority. It is signed by a man who for three years has not even pretended to be Governor. It is based upon no finding or declaration of any officer or pretended officer of the State. It has no validity whatever. It carries upon its face all the indications of worthlessness.

I shall vote against receiving the proffered evidence, and in favor of counting the votes reported in the first certificate.

## A CENTURY OF CONGRESS.

PAPER CONTRIBUTED TO THE ATLANTIC MONTHLY,  
JULY, 1877.

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WE have seen the close of our centennial year, during which societies, the States, and the nation have been reviewing the completed century and forecasting the character of that which has just begun. Our people have been tracing the footprints of the fathers along the many paths which united to form the great highway whereon forty-four millions of Americans are now marching. If we would profit by the great lessons of this memorial year, we must study thoughtfully and reverently the elements and forces which have made the republic what it is, and which will in a great measure shape and direct its future. No study of these themes which does not include within its range a survey of the history and functions of the American Congress can lead to a just view of our institutions.

Indeed, the history of liberty and union in this country, as developed by the men of 1776 and maintained by their successors, is inseparably connected with the history of the national legislature. Nor can they be separated in the future. The Union and the Congress must share the same fate. They must rise or fall together.

The germ of our political institutions, the primary cell from which they were evolved, was the New England town; and the vital force, the informing soul, of the town was the town-meeting, which for all local concerns was king, lords, and commons in one. It was the training-school in which our fathers learned the science and the art of self-government, the school which has made us the most parliamentary people on the globe.

In what other quarter of the world could such a phenomenon have been witnessed as the creation of the State government of California, in 1849, when out of the most heterogeneous and discordant elements a constitution and body of laws were framed

and adopted, which challenge comparison with those of the oldest governments in the world? This achievement was due to the law-making habit of Americans. The spirit of the town-meeting guided the Colonies in their aspirations for independence, and finally created the Union. The Congress of the Union is the most general and comprehensive expression of this legislative habit of our people.

The materials for tracing the origin of Congress are scanty; but they are sufficient to show the spirit which gave it birth.

The idea of a congress on this continent sprang from the necessity of union among the Colonies for mutual protection; and the desire for union logically expressed itself in an inter-colonial representative assembly. Every such assembly in America has been a more or less marked symbol of union.

The first decisive act of union among the Colonists was the convention of 1690, at New York. The revolution of 1688, in England, resulted in immediate and desperate war between that country and France, and soon involved the British and French Colonies of America. The French of Canada, aided by the Northern Indians, determined to carry the flag of Louis XIV. down the valley of the Hudson, and thus break in twain the British Colonies. To meet this danger and to retaliate upon France, the General Court of Massachusetts, ever watchful of the welfare of its people, addressed letters of invitation to the neighboring Colonies, asking them to appoint commissioners to meet and consult for the common defence. These commissioners met in convention at New York, on the 1st of May, 1690, and determined to raise an "army" of eight hundred and fifty-five men, from the five Colonies of New York, Massachusetts, Connecticut, Plymouth, and Maryland, to repel the threatened invasion and to capture Canada in the name of William and Mary.<sup>1</sup> Some of our historians have called this meeting of commissioners "the first American Congress." I find no evidence that the name "Congress" was then applied to that assembly; though it is doubtless true that its organization and mode of procedure contained the germ of the future Congress.

The New York convention called upon each of the five Colonies for its quota of troops for the little army, and intrusted the management of the campaign to a board or council of war,

<sup>1</sup> Documentary History of New York, Vol. II. p. 239; and Bancroft's History of the United States, Vol. III. p. 183.

consisting of one officer from each Colony. The several quotas were proportioned to the population of the several Colonies, while the great and small Colonies had an equal voice in directing the expedition. Here, in embryo, was the duplex system of popular and state representation.

Sixty-four years later, a convention of commissioners from seven of the Colonies met at Albany and called themselves a "Congress." So far as I have been able to discover, this was the first American assembly which called itself by that name. It was probably adopted because the convention bore some resemblance to that species of European international convention which in the language of diplomacy was called a Congress. In order to obtain a clearer view of this important Albany Congress of 1754, we must understand the events which immediately preceded it.

In 1748, in obedience to orders from England, the Governors of the Northern Colonies met at Albany to conclude a treaty of peace with the Six Nations. After this was accomplished, the Governors, sitting in secret council, united in a complaint that their salaries were not promptly and regularly paid, but that the Colonial legislatures insisted upon the right to determine, by annual appropriations, the amounts to be paid. This petition, forwarded to the dissolute Duke of Bedford, then at the head of the Colonial administration, was answered by a royal order directing the Governors to demand from the Colonial legislatures the payment of fixed salaries for a term of years, and threatening that, if this were not done, Parliament would impose upon the Colonies a direct tax for that purpose. Thus the first overt act which led to the Revolution was a demand for higher salaries; and, on the motion of the Colonial Governors at Albany, the British Board of Trade opened the debate in favor of Parliamentary supremacy. Six years later came the reply from seven Colonies through the Albany Congress of 1754.

War with France was again imminent. Her battalions had descended the Ohio, and were threatening the northern frontier. The Colonial Governors called upon the legislatures to send commissioners to Albany to secure the alliance of the Six Nations against the French, and to adopt measures for the common defence. On the 19th of June, 1754, twenty-five commissioners met at the little village of Albany, and, following the example of the Governors who met there six years before, com-

pleted their treaty with the Indians, and then opened the question of a Colonial union for common defence.

Foremost among the commissioners was Benjamin Franklin; and through his voice and pen the Congress and the Colonies replied to the demands of England by proposing a plan of union to be founded upon the rights of the Colonies as Englishmen. If his plan had been adopted, independence might have been delayed for half a century. Curiously enough, it was rejected by the Colonies as having "too much of the prerogative in it," and by England as having "too much of the democratic." But the talismanic words "Union" and "Congress" had been spoken, and from that hour were never forgotten. The argument for Colonial rights had also been stated in the perfect style of Franklin, and was never to be answered.

The second assembly which called itself a Congress met at New York, in 1765. The mercantile policy of England, embodied in the long series of Navigation Acts, had finally culminated in Lord Grenville's Stamp Act and the general assertion of the right of Parliament to tax the Colonies in all cases whatsoever. Again Massachusetts led the movement for union and resistance. On the 6th of June, 1765, her Legislature adopted a resolution, offered by James Otis, to call a congress of delegates of the thirteen Colonies, "to consult together" and "consider of a united representation to implore relief." This call was answered by every Colony; and on the 7th of October, 1765, twenty-seven delegates met at New York, and elected Timothy Ruggles, of Massachusetts, chairman.

There for the first time James Otis saw John Dickinson; there Gadsden and Rutledge sat beside Livingston and Dyer; there the brightest minds of America joined in the discussion of their common danger and common rights. The session lasted eighteen days. Its deliberations were most solemn and momentous. Loyalty to the Crown and a shrinking dread of opposing established authority were met by the fiery spirit which glowed in the breasts of the boldest thinkers. Amidst the doubt and hesitation of the hour, John Adams gave voice to the logic and spirit of the crisis when he said: "You have rights antecedent to all earthly government; rights that cannot be repealed or restrained by human laws; rights derived from the Great Legislator of the Universe."<sup>1</sup>

<sup>1</sup> Bancroft's History of the United States, Vol. V. p. 345.



Before adjourning they drafted and adopted a series of masterly addresses to the King, to the Parliament, to the people of England, and to their brethren of the Colonies. They had formulated the thoughts of the people, and given voice to their aspirations for liberty. That Congress was indeed "the day-star of the Revolution"; for though most of its members were devotedly loyal to the Crown, yet, as Bancroft has said, some, like James Otis, as they went away from that Congress, "seemed to hear the prophetic song of the sibyls chanting the spring-time of a new empire."

Nine more years of supplication and neglect, of ministerial madness and stubborn Colonial resistance, bring us to the early autumn of 1774, when the Continental Congress was assembling at Philadelphia. This time, the alarm had been sounded by New York that a sister Colony was being strangled by the heavy hand of a despotic ministry. The response was immediate and almost unanimous. From eleven Colonies came the foremost spirits to take counsel for the common weal. From the assaulted Colony came Samuel and John Adams, Cushing, and Paine. They set out from Boston in August, escorted by great numbers as far as Watertown. Their journey was a solemn and triumphant march. The men of Hartford met them with pledges to "abide by the resolves which Congress might adopt," and accompanied them to Middletown with carriages and a cavalcade. The bells of New Haven welcomed them, and Roger Sherman addressed them. After visiting the grave of the regicide Bidwell, they left New Haven to be received at New York by the "Sons of Liberty," who attended them across the Hudson. Everywhere they were exhorted to be true to the honor of England and the liberties of America.<sup>1</sup> With them, from New York and New England, came Jay and Livingston, Sherman and Deane, Hopkins and Duane. From the South came Washington and Henry, Randolph and Lee, Gadsden and Rutledge, and many others whose names are now familiar; in all fifty-five men, sent by eleven Colonies.

On Monday, the 5th of September, 1774, the delegates met at Smith's Tavern, in Philadelphia, and proceeded in a body to Carpenters' Hall. With what dignity and solemnity they began their work! Choosing as chairman Peyton Randolph, of Virginia, and for secretary the gentle and learned Charles Thom-

<sup>1</sup> Bancroft, Vol. VII. Chaps. VIII., IX.

son, the translator of the Septuagint and the Greek Testament, they formally declared themselves "the Congress," and their chairman "the President." And how soon the spirit of union, in the presence of a common danger, began to melt down the sharp differences of individual opinion!

The first psalm and prayer to which that Congress listened sounded like a chapter of history and prophecy combined. The psalm was not selected for the occasion, but was a part of the regular Episcopal service for that day, the 7th of the month: "Plead thou my cause, O Lord, with them that strive with me, and fight thou against them that fight against me. Lay hand upon the shield and buckler, and stand up to help me. Bring forth the spear, and stop the way against them that persecute me. Say unto my soul, I am thy salvation. Let them be confounded and put to shame that seek after my soul. Let them be turned back and brought to confusion that imagine mischief for me. Let them be as the dust before the wind, and the angel of the Lord scattering them." When the minister had ended the formal service, the spirit of the occasion burst forth from his lips in these memorable words of prayer: "Look down upon these American States who have fled to thee from the rod of the oppressor, and have thrown themselves on thy precious protection, desiring to be henceforth dependent only on thee; to thee they have appealed for the righteousness of their cause."

What would we not give for a complete record of the proceedings of that Congress! It sat with closed doors, with no reporters, and made no official record except the brief journal of motions and votes. To this journal, to private letters, and to tradition, we are indebted for all we know of its proceedings. The delegates were clothed with no legislative powers. They could only consult and recommend. But they held higher commissions than any which can be embodied in formal credentials. It was their high duty to formulate the thoughts and express the aspirations of the New World. Yet no organized body of men ever directed with more absolute sway the opinions and conduct of a nation.

As a reply to the Boston Port Bill, they requested all merchants and traders not to send to Great Britain for more goods until the sense of the Congress should be taken on the means for preserving the liberties of America. And this request was

at once complied with. Knowing that the conduct of England was inspired by greed, that she had adopted the shop-keepers' policy, Congress resolved that, after a given date, the Colonies would not buy from England, nor sell to her merchants any commodity whatever, unless before that date the grievances of America should be redressed. And public sentiment rigidly enforced the resolution. With more distinctness and solemnity than ever before, the cause of the Colonists, based on the inalienable laws of nature and the principles of the English constitution, was declared in addresses to the King, to the Parliament, and to the people of America. Then, recommending that a new Congress be called the following spring, the Congress of 1774 adjourned, without day, on the 14th of October.

The most striking fact connected with that Congress is that its resolutions were obeyed as though they had been clothed with all the sanctions of law. I doubt whether any law of Congress or of any State legislature has been so fully obeyed, in letter and spirit, as were the recommendations of the Continental Congress of 1774. But its action had been far from unanimous. There were strong men, like Jay, who were conservative by nature and culture, and who restrained the more fiery enthusiasm of Henry and Adams; there were timid members, who shrank from a contest with the royal authority; and there were traitors to the cause, who, like Galloway, secured a seat that they might more effectively serve the King as a royal spy. The resolves of that Congress and its address to the Colonies were potent educating forces, which prepared the people for a great struggle.

Franklin was in England at that time, as the agent of the Colonies, and presented the petitions of Congress. Parliament answered by declaring Massachusetts in rebellion. The King replied by sending an army to Boston, and by offering to protect all loyal Americans, but ordering all others to be treated as traitors and rebels.

On the 10th of May, 1775, on the morning of the capture of Ticonderoga by Ethan Allen, the second Continental Congress assembled at Philadelphia. The conduct of the King and Parliament, and the events at Boston, Lexington, and Concord, had already demonstrated the impossibility of reconciliation. It is difficult to imagine a situation more perplexing and more perilous than that which confronted the fifty-four members of

the Congress of 1775. Their jurisdiction and powers were vague and uncertain; they were in fact only committees from twelve Colonies, deputed to consult upon measures of conciliation, but with no means of resistance to oppression beyond the voluntary agreement to suspend importations from Great Britain. "They formed no confederacy. They were not an executive government. They were not even a legislative body. They owed the use of a hall for their sessions to the courtesy of the carpenters of the city; there was not a foot of land on which they had a right to execute their decisions, and they had not one civil officer to carry out their commands, nor the power to appoint one." They had no army, no treasury, no authority to tax, no right but to give counsel. "They represented only the unformed opinion of an unformed people."

Yet that body was to undertake the great argument of reason with the foremost statesmen of Europe, and the greater argument of war with one of the first military powers of the world. That Congress was to consolidate the vast and varied interests of a continent, express the will and opinion of three millions of people, and, amid the wreck and chaos of ruined colonial governments, rear the solid superstructure of a great republic. Strange as it now seems to us, timidity and conservatism controlled its action for nearly a year. The tie of affection that bound the Colonists to England was too strong to be rudely severed. They deluded themselves by believing that, while the Tory party was their enemy, England was still their friend. Though their petition had been spurned with contempt, yet they postponed the most pressing necessities of the time in order to send a second humble petition and await an answer. After all, this delay was wise: the slow process of growth was going forward and could not be hastened. It was necessary that all thoughtful men should see the hopelessness of reconciliation. It was necessary that the Dickinsons and the Jays should be satisfied.

In the mean time, Congress was not idle: it was laying the foundation of the structure soon to be reared. In its proceedings, we find the origin of many customs which still prevail. On the 15th of May, 1775, it was ordered "that this body will to-morrow resolve itself into a committee of the whole, to take into consideration the state of America." This formula, modified only by the change of a single word, still

describes the act by which each branch of our Congress resolves itself into "a committee of the whole on the state of the Union." On the 31st of May, 1775, on motion of Dr. Franklin, a committee was appointed to provide for "establishing post for conveying letters and intelligence through the continent." Franklin was made chairman of the committee, and thus became, in fact, the first postmaster-general of the United States. By resolution of June 14, 1775, Washington was made the chairman of our first committee on military affairs. On the 27th of May, 1775, it was resolved that Mr. Washington, Mr. Schuyler, Mr. Mifflin, Mr. Deane, and Mr. Samuel Adams be a committee to consider of ways and means to supply these Colonies with ammunition and military stores. Thus Washington was the chairman of our first committee of ways and means.

While Congress was waiting for the King's answer to their second petition, Franklin revived the "plan of union" which he had suggested twenty-one years before, at the Albany Congress, and which finally, with a few changes, became the Articles of Confederation.

It was not until the spring of 1776 that the action of the British government destroyed all hopes of reconciliation; and when, at last, the great Declaration was adopted, both the Colonies and the Congress saw that their only safety lay in the boldest measures. By the Declaration of Independence, the sovereignty of the Colonies was withdrawn from the British crown and lodged in the Continental Congress. No one of the Colonies was ever independent or sovereign. No one Colony declared itself independent of Great Britain; nor was the declaration made by all the Colonies together *as Colonies*.<sup>1</sup> It was made in the name and by the authority of the good people of the Colonies as one nation. By that act they created, not independent States, but an independent nation, and named it "The United States of America"; and, by the consent of the people, the sovereignty of the new nation was lodged in the Continental Congress. This is true, not only in point of law, but in point of history. The Congress became the only legislative, executive, and judicial power of the nation; the army became the army of the Continental Congress. One of its regiments, which was

<sup>1</sup> See Von Holst's Constitutional and Political History of the United States, 1750-1833, page 6.

recruited from the nation generally, was called "Congress's Own," as a sort of a reply to the "King's Own," a royal regiment stationed at Boston. Officers were commissioned by Congress, and were sworn to obey its orders. The President of Congress was the chief executive officer of the nation. The chairmen of committees were heads of the executive departments. A committee sat as judges in admiralty and prize cases. The power of Congress was unlimited by any law or regulation, except the consent of the people themselves.

On the 1st of March, 1781, the Articles of Confederation, drafted by Congress, became the law of the land. But the functions of Congress were so slightly changed that we may say, with almost literal truth, that the Continental Congress which met on the 10th of May, 1775, continued unchanged in its character, and held an almost continuous session for thirteen years. "History knows few bodies so remarkable. The Long Parliament of Charles I., the French National Assembly, are alone to be compared with it."<sup>1</sup> Strange as it may appear, the acts of the Continental Congress which finally brought most disaster to the people were those which gave to Congress its chief power. With no authority to levy direct taxes, Congress had but one resource for raising revenue, — forced loans, in the form of bills of credit. And so long as the Continental money maintained a reasonable share of credit, Congress was powerful, It was able to pay its army, its officers, and its agents, and thus to tide over the most difficult period of the Revolution.

Great and conspicuous as were the services of the Continental Congress, it did not escape the fate which has pursued its successor. Jealousy of its power was manifested in a thousand ways; and the epithet "King Cong" was a byword of reproach during the latter half of the war. The people could not hear with patience that the members of Congress were living in comfort while the soldiers were starving and freezing at Valley Forge. They accused Congress of weakness, indecision, and delay; of withholding its full confidence from Washington; and finally of plotting to supersede him by assigning an ambitious rival to his place. It is no doubt true that some intriguing members favored this disgraceful and treacherous design; but if all had been patriots and sages, they would not have been representative men.

<sup>1</sup> Hildreth's History of the United States, Vol. III. p. 547.

The Continental Congress was a migratory body, compelled sometimes to retire before the advance of the British army, and sometimes to escape the violence of the mob who assaulted its doors and demanded appropriations. Beginning its sessions in Philadelphia, it took refuge in Baltimore before the end of 1776. Later, it returned to Philadelphia; went thence to Lancaster; thence to York; then again to Philadelphia; thence, in succession, to Princeton, to Annapolis, and to Trenton; and finally terminated its career in the city of New York.

The estimation in which that Congress was held is the best gauge by which to judge of the strength and weakness of our government under the Confederation. While the inspiration of the war fired the hearts of the people, Congress was powerful; but when the victory was won, and the long arrears of debts and claims came up for payment, the power of Congress began to wane. "Smitten with the curse of poverty, their paper money first depreciating, and then repudiated, overwhelmed with debts which they could not pay, pensioners on the bounty of France, insulted by mutineers, scouted at by the public creditors, unable to fulfil the treaties they had made, bearded and encroached upon by the State authorities, issuing fruitless requisitions which they had no power to impose, vainly begging for additional authority which the States refused to grant, thrown more and more into the shade by the very contrast of former power, the Continental Congress sunk fast into decrepitude and contempt."<sup>1</sup>

During the last three or four years of its existence, few men of first-class abilities were willing to serve as members; it was difficult to secure the attendance of those who were elected; and when a quorum was obtained, it was impossible, under the Articles of Confederation, to accomplish any worthy work. Even after the adoption of the new Constitution, the old Congress was so feeble that for many months it was doubtful whether it had enough vitality left to pass the necessary ordinance appointing the day for the Presidential election, and the day for putting the new government in motion. With a narrowness and selfishness almost incredible, the old Congress wrangled and debated and disagreed for weeks and months before they could determine where the new government should find its temporary seat.

<sup>1</sup> Hildreth's History of the United States, Vol. III. p. 548.

It is sad to reflect that a body whose early record was so glorious should be doomed to drag out a feeble existence for many months, and expire at last without a sign, with not even the power to announce its own dissolution.

I have always regarded our national Constitution as the most remarkable achievement in the history of legislation. As the weakness of the old Confederation became more apparent, the power of the separate States became greater, and the difficulties of union were correspondingly increased. It needed all the appreciation of common danger, springing from such popular tumults as Shays's rebellion, all the foreign complications that grew out of the weakness of the Confederation, and, finally, all the authority of the fathers of the Revolution, with Washington at their head, to frame the Constitution, and to secure its adoption. We are apt to forget how near our government was brought to the verge of chaos, and to forget by how small a vote the Constitution was adopted in many of the States. Only in Delaware, New Jersey, and Georgia was the vote unanimous. Even Massachusetts gave it but a majority of nineteen in a vote of three hundred and fifty-six. In Virginia it received but ten majority, in New Hampshire eleven, and in Pennsylvania twenty-three. These votes disclose the strength of the political parties—Federal and Antifederal—to which the Constitution gave birth. This brings us to the Congress of the Constitution, which began its first session at New York on the 4th of March, 1789.

Fears were entertained that some of the States might neglect or refuse to elect Senators and Representatives. Three States had hitherto refused to adopt the Constitution. More than a month passed before a quorum of the Senate and House appeared in New York; but on the 6th of April, 1789, a quorum of both houses met in joint session, and witnessed the opening and counting by John Langdon of the votes for President and Vice-President.<sup>1</sup> Having despatched the venerable Charles Thomson, late secretary of the old Congress, to Mount Vernon to inform Washington of his election, the new Congress addressed itself to the great work required by the Constitution. The three sessions of the First Congress lasted in the aggregate five hundred and nineteen days, exceeding by more than fifty

<sup>1</sup> John Langdon was President of the Senate *pro tem.* for the First Congress under the Constitution.



days the sessions of any subsequent Congress. It was the high duty of this body to interpret the powers conferred upon it by the Constitution, and to put in motion, not only the machinery of the Senate and House, but the more complex machinery of the executive and judicial departments.

It is worth while to observe with what largeness of comprehension and minuteness of detail the members of that Congress studied the problems before them. While Washington was making his way from Mount Vernon to New York, they were determining with what ceremonials he should be received, and with what formalities the intercourse between the President and the Congress should be conducted. A joint committee of both houses met him on the Jersey shore, in a richly furnished barge, and, landing at the Battery, escorted him to the residence which Congress had prepared and furnished for his reception. Then came the question of the title by which he should be addressed. The Senate insisted that "a decent respect for the opinion and practice of civilized nations required a special title," and proposed that the President should be addressed as "His Highness, the President of the United States of America, and Protector of their Liberties." At the earnest remonstrance of the more republican House, the Senate gave way, and finally agreed that he should be addressed simply as "the President of the United States."

It was determined that the President should, in person, deliver his "annual speech," as it was then called, to the two houses in joint session; and that each house should adopt an address in reply, to be delivered to the President at his official residence. These formalities were manifestly borrowed from the practice of the British Parliament, and were maintained until near the close of Jefferson's administration.

Communications from the executive departments were also to be made to the two houses by the heads of those departments in person. This custom was unfortunately swept away by the republican reaction which set in a few years later.

Among questions of ceremony were also the rules by which the President should regulate his social relations with citizens. Washington addressed a long letter of inquiry to John Adams, and to several other leading statesmen of that time, asking their advice on this subject. The inquiry resulted in the conclusion that the President should be under no obligation to

make or return any social call; but regular days were appointed, on which the President should hold levees and thus maintain social intercourse with his fellow-citizens. At these assemblages the President and Mrs. Washington occupied an elevated dais, and introductory ceremonies of obeisance and salutation were carefully prescribed.

Not less curious, as indicating the spirit of that time, were the formalities of intercourse between the two branches of Congress. When a communication was sent from one house to the other, the messenger was required to make his obeisance as he entered the bar, a second as he delivered his message to the presiding officer, a third after its delivery, and a final obeisance as he retired from the hall. It was much debated whether the members of each house should remain standing while a communication was being delivered from the other. These formalities were subsequently much abridged, though traces of them still remain.

In adopting its rules of procedure, the House provided, among other things, that the sergeant-at-arms should procure a proper symbol of his office, of such form and device as the Speaker should direct, to be placed *on* the table during the sitting of the House, but *under* the table when the House is in committee of the whole; said symbol to be borne by the sergeant-at-arms when executing the commands of the House during its sitting. This symbol, now called the Speaker's mace, modelled after the Roman *fascis*, is a bundle of ebony rods, fastened with silver bands, having at its top a silver globe surmounted by a silver eagle. In the red-republican period of Jefferson's administration, an attempt was made to banish the mace; and a zealous economist in the House of Representatives proposed to melt down and coin its silver, and convert the proceeds into the treasury. The motion failed, however, and the mace still holds its place at the right hand of the Speaker, when the House is in session.

The House conducted its proceedings with open doors; but the Senate, following the example of the Continental Congress, held all its sessions in secret until near the end of the second Congress. Since then, its doors have been closed during executive sessions only.

It is greatly to the credit of the eminent men who sat in the first Congress, that they deliberated long and carefully before

they completed any work of legislation. They had been in session four months when their first bill, "relating to the time and manner of administering certain oaths," became a law. Then followed in quick succession the great statutes of the session: to provide a revenue to fill the empty treasury of the nation; to create the department of the treasury, the department of foreign affairs, the department of war; to create an army; to regulate commerce; to establish the government of the national territory; and, that monument of juridical learning, the act to establish the judiciary of the United States.

I must not omit from this summary the ninth statute in the order of time, the "act for the establishment and support of light-houses, beacons, buoys, and public piers." As an example of broad-minded statesmanship on the subject, that statute stands alone in the legislative history of the last century. Everywhere else the commerce of the ocean was annoyed and obstructed by unjust and vexatious light-house charges. But our first Congress, in a brief statute of four sections, provided "that from the 15th day of August, 1789, all the light-houses, beacons, buoys, and public piers of the United States shall be maintained at the expense of the national treasury." From that date the lights of our coast have shone free as the sunlight for all the ships of the world.

Great as were the merits of that first Congress, it was not free from many of the blemishes which have clouded the fame of its successors. It dampens not a little our enthusiasm for the "superior virtues of the fathers" to learn that Hamilton's monument of statesmanship, the Funding Bill, which gave life to the public credit and saved from dishonor the war debts of the States, was for a time hopelessly defeated by the votes of one section of the Union, and was carried at last by a legislative bargain, which in the mildest slang of our day would be called a "log-rolling job." The bill fixing the permanent seat of the government on the banks of the Potomac was the argument which turned the scale and carried the Funding Bill. The bargain carried them both through. Nor were demagogues of the smaller type unknown among our fathers. For example, when a joint resolution was pending in the House of the First Congress to supply each member at the public expense with copies of all the newspapers published in New York, an amendment was offered to restrict the supply to one paper for each

member, the preamble declaring that this appropriation was made "because newspapers, being highly beneficial in disseminating useful knowledge, are deserving of public encouragement by Congress." That is, the appropriation was not to be made for the benefit of members, but to aid and encourage the press! The proprietors of our great dailies would smile at this patriotic regard for their prosperity. It is scarcely necessary to add, that the original resolution passed without the amendment.

Whatever opinions we may now entertain of the Federalists as a party, it is unquestionably true that we are indebted to them for the strong points of the Constitution, and for the stable government they founded and strengthened during the administrations of Washington and Adams. Hardly a month passed, during that period, in which threats of disunion were not made with more or less vehemence and emphasis. But the foundations of national union and prosperity had been so wisely and deeply laid, that succeeding revolutions of public opinion failed to destroy them.

With the administration of Jefferson came the reaction against the formal customs and stately manners of the founders. That skilful and accomplished leader of men, who had planted the germ of secession in the Resolutions of 1798 and 1799, brought to his administration the aid of those simple, democratic manners which were so effectual in deepening the false impression that the preceding administration had sought to establish a monarchy. In delivering his inaugural, Jefferson appeared before Congress in the plainest attire. Discarding the plush breeches, silk stockings, and silver knee-buckles, he wore plain pantaloons; and his republican admirers noted the fact that no aristocratic shoe-buckles covered his instep, but his plain American shoes were fastened with honest leather strings. The carriage and footmen, with outriders in livery, disappeared; and the spectacle of the President on horseback was hailed as the certain sign of republican equality. These changes were noted by his admirers as striking proofs of his democratic spirit; but they did not escape the equally extravagant and absurd criticism of his enemies. Mr. Goodrich has preserved an anecdote which illustrates the absurdity of both parties. Near the close of Jefferson's term, the Congressional caucus had named Mr. Madison for President. The leading barber of Washington (who was of course a Federalist), while shaving a Federalist Senator, vehemently

burst out in this strain: "Surely this country is doomed to disgrace and shame. What Presidents we might have, sir! Just look at Daggett of Connecticut and Stockton of New Jersey! What queues they have got, sir! — as big as your wrist, and powdered every day, sir, like real gentlemen as they are. Such men, sir, would confer dignity upon the chief magistracy; but this little Jim Madison, with a queue no bigger than a pipe-stem! Sir, it is enough to make a man forswear his country!"<sup>1</sup>

Many customs of that early time have been preserved to our own day. In the crypt constructed under the dome of the Capitol, as the resting-place for the remains of Washington, a guard was stationed, and a light was kept burning, for more than half a century. Indeed, the office of keeper of the crypt was not abolished until after the late war. For the convenience of one of the early Speakers of the House, an urn filled with snuff was fastened to the Speaker's desk; and until last year, I have never known it to be empty during the sessions of the House. The administration of Madison, notwithstanding the gloomy prediction of the Federalist barber, restored some of the earlier customs. It had been hinted that a carriage was more necessary to him than to the widower Jefferson. Assisted by his beautiful and accomplished wife, he resumed the Presidential levees; and many society people regretted that the elevated dais was not restored, to aid in setting off the small stature of Mr. Madison.

The limits of this article will not allow me to notice the changes of manners and methods in Congress since the administration of the elder Adams. Such a review would bring before us many striking characters and many stirring scenes. We should find the rage of party spirit pursuing Washington to his voluntary retreat at Mount Vernon at the close of his term, and denouncing him as the corrupt and wicked destroyer of his country. We should find the same spirit publicly denouncing a Chief Justice of the United States as a "driveller and a fool," and impeaching, at the bar of the Senate, an eminent associate justice of the Supreme Court, for having manfully and courageously discharged the high duties of his office in defiance of the party passions of the hour. We should see the pure and patriotic Oliver Wolcott, the Secretary of the Treasury, falsely charged, by a committee of Congress, with corruption in office,

<sup>1</sup> Recollections of a Lifetime, Vol. I. p. 132 (New York, 1857).

and with the monstrous crime of having set on fire the public buildings for the purpose of destroying the evidences of his guilt. We should see the two houses in joint session witnessing the opening of the returns of the electoral colleges, and the declaration of a tie vote between Thomas Jefferson and Aaron Burr; and then, in the midst of the fiercest excitement, we should see the House of Representatives in continuous session for seven days, several members in the last stages of illness being brought in on beds and attended by their wives, while the ballots went on which resulted in Jefferson's election. And we should witness a similar scene, twenty-four years later, when the election of the younger Adams by the House avenged in part the wrong of his father.

In the long line of those who have occupied seats in Congress, we should see, here and there, rising above the undistinguished mass, the figures of those great men whose lives and labors have made their country illustrious, and whose influence upon its destiny will be felt for ages to come. We should see that group of great statesmen whom the last war with England brought to public notice, among whom were Randolph, Clay, Webster, Calhoun, Benton, Wright, and Prentiss, making their era famous by their statesmanship, and creating and destroying political parties by their fierce antagonisms. We should see the folly and barbarism of the so-called code of honor destroying noble men in the fatal meadow of Bladensburg. We should see the spirit of liberty awakening the conscience of the nation to the sin and danger of slavery, whose advocates had inherited and kept alive the old anarchic spirit of disunion. We should trace the progress of that great struggle from the days when John Quincy Adams stood in the House of Representatives, like a lion at bay, defending the sacred right of petition; when, after his death, Joshua R. Giddings continued the good fight, standing at his post for twenty years, his white locks always showing where the battle for freedom raged most fiercely; when the small band in Congress, reinforced by Hale and Sumner, Wade and Chase, Lovejoy and Stevens, continued the struggle amid the most turbulent scenes; when daggers were brandished and pistols were drawn in the halls of Congress; and later, when, one by one, the Senators and Representatives of eleven States, breathing defiance and uttering maledictions upon the Union, resigned their seats and left the

Capitol to take up arms against their country. We should see the Congress of a people long unused to war, when confronted by a supreme danger, raising, equipping, and supporting an army greater than all the armies of Napoleon and Wellington combined; meeting the most difficult questions of international and constitutional law; and, by new forms of taxation, raising a revenue which, in one year of the war, amounted to more than all the national taxes collected during the first half-century of the government. We should see them so amending the Constitution as to strengthen the safeguards of the Union and insure universal liberty and universal suffrage, and restoring to their places in the Union the eleven States whose governments, founded on secession, fell into instant ruin when the Rebellion collapsed; and we should see them, even when the danger of destruction seemed greatest, voting the largest sum of money ever appropriated by one act to unite the East and the West, the Atlantic and the Pacific coasts, by a material bond of social, commercial, and political union.

In this review we should see courage and cowardice, patriotism and selfishness, far-sighted wisdom and short-sighted folly, joining in a struggle always desperate and sometimes doubtful; and yet, out of all this turmoil and fierce strife, we should see the Union slowly but surely rising, with greater strength and brighter lustre, to a higher place among the nations.

Congress has always been, and must always be, the theatre of contending opinions; the forum where the opposing forces of political philosophy meet to measure their strength,—where the public good must meet the assaults of local and sectional interests; in a word, the appointed place where the nation seeks to utter its thought and register its will.

This brings me to consider the present relations of Congress to the other great departments of the government, and to the people. The limits of this article will permit no more than a glance at a few principal heads of inquiry.

In the main, the balance of powers so admirably adjusted and distributed among the three great departments of the government has been safely preserved. It was the purpose of our fathers to lodge absolute power nowhere; to leave each department independent within its own sphere, yet in every case responsible for the exercise of its discretion. But some dangerous innovations have been made.

And, first, the appointing power of the President has been seriously encroached upon by Congress, or rather by the members of Congress. Curiously enough, this encroachment originated in the act of the chief Executive himself. The fierce popular hatred of the Federal party, which resulted in the elevation of Jefferson to the Presidency, led that officer to set the first example of removing men from office on account of political opinions. For political causes alone, he removed a considerable number of officers who had recently been appointed by President Adams, and thus set the pernicious example. His immediate successors made only a few removals for political reasons. But Jackson made his political opponents who were in office feel the full weight of his executive hand. From that time forward, the civil offices of the government became the prizes for which political parties strove; and, forty years ago, the corrupting doctrine that "to the victors belong the spoils" was shamelessly announced as an article of political faith and practice. It is hardly possible to state with adequate force the noxious influence of this doctrine. It was bad enough when the federal officers numbered no more than eight or ten thousand; but now, when the growth of the country, and the great increase in the number of public offices occasioned by the late war, have swelled the civil list to more than eighty thousand, and when to the ordinary motives for political strife this vast patronage is offered as a reward to the victorious party, the magnitude of the evil can hardly be measured. The public mind has, by degrees, drifted into an acceptance of this doctrine; and thus an election has become a fierce, selfish struggle between the "ins" and the "outs," the one striving to keep and the other to gain the prizes of office. It is not possible for any President to select, with any degree of intelligence, so vast an army of office-holders without the aid of men who are acquainted with the people of the various sections of the country. And thus it has become the habit of Presidents to make most of their appointments on the recommendation of members of Congress. During the last twenty-five years it has been understood, by the Congress and the people, that offices are to be obtained by the aid of Senators and Representatives, who thus become the dispensers, sometimes the brokers, of patronage. The members of State legislatures who choose a Senator, and the district electors who choose a Representative, look to the



man of their choice for appointments to office. Thus, from the President downward to the electors themselves, through all the grades of official authority, civil office becomes a vast corrupting power, to be used in running the machine of party politics.

This evil has been greatly aggravated by the passage of the Tenure of Office Act, of 1867, whose object was to restrain President Johnson from making removals for political cause. But it has virtually resulted in the usurpation by the Senate of a large share of the appointing power. The President can remove no officer without the consent of the Senate; and such consent is not often given, unless the appointment of the successor nominated to fill the proposed vacancy is agreeable to the Senator in whose State the appointee resides. Thus it has happened that a policy, inaugurated by an early President, has resulted in seriously crippling the just powers of the Executive, and has placed in the hands of Senators and Representatives a power most corrupting and dangerous.

Not the least serious evil resulting from this invasion of the executive functions by members of Congress is the fact that it greatly impairs their own usefulness as legislators. One third of the working hours of Senators and Representatives is hardly sufficient to meet the demands made upon them in reference to appointments to office. • The spirit of that clause of the Constitution which shields them from arrest "during their attendance at the session of their respective houses, and in going to or returning from the same," should also shield them from being arrested from their legislative work, morning, noon, and night, by office-seekers. To sum up in a word, the present system invades the independence of the Executive, and makes him less responsible for the character of his appointments; it impairs the efficiency of the legislator by diverting him from his proper sphere of duty, and involving him in the intrigues of aspirants for office; it degrades the civil service itself by destroying the personal independence of those who are appointed; it repels from the service those high and manly qualities which are so necessary to a pure and efficient administration; and finally, it debauches the public mind by holding up public office as the reward of mere party zeal.

To reform this service is one of the highest and most imperative duties of statesmanship. This reform cannot be accomplished without a complete divorce between Congress and

the Executive in the matter of appointments. It will be a proud day when an administration Senator or Representative, who is in good standing in his party, can say, as Thomas Hughes said during his recent visit to this country, that, though he was on the most intimate terms with the members of the English administration, yet it was not in his power to secure the removal of the humblest clerk in the civil service of the government.

This is not the occasion to discuss the recent enlargement of the jurisdiction of Congress in reference to the election of a President and Vice-President by the States. But it cannot be denied that the Electoral Bill<sup>1</sup> has opened a wide and dangerous field for Congressional action. Unless the boundaries of its power shall be restricted by a new amendment of the Constitution, we have seen the last of our elections of President on the old plan. The power to decide who has been elected may be so used as to exceed the power of electing.

I have long believed that the official relations between the Executive and Congress should be more open and direct. They are now conducted by correspondence with the presiding officers of the two Houses, by consultation with committees, or by private interviews with individual members. This frequently leads to misunderstandings, and may lead to corrupt combinations. It would be far better for both departments if the members of the Cabinet were permitted to sit in Congress and participate in the debates on measures relating to their several departments,—but, of course, without a vote. This would tend to secure the ablest men for the chief executive offices; it would bring the policy of the administration into the fullest publicity by giving both parties ample opportunity for criticism and defence.

As a result of the great growth of the country and of the new legislation arising from the late war, Congress is greatly overloaded with work. It is safe to say that the business which now annually claims the attention of Congress is tenfold more complex and burdensome than it was forty years ago. For example: the twelve annual appropriation bills, with their numerous details, now consume two thirds of each short session of the House. Forty years ago, when the appropriations were made more in block, one week was sufficient for the work.

<sup>1</sup> See Speech on Counting the Electoral Vote, January 25, 1877.

The vast extent of our country, the increasing number of States and Territories, the legislation necessary to regulate our mineral lands, to manage our complex systems of internal revenue, banking, currency, and expenditure, have so increased the work of Congress that no one man can even read the bills and the official reports relating to current legislation, much less qualify himself for intelligent action upon them. As a necessary consequence, the real work of legislation is done by the committees; and their work must be accepted or rejected without full knowledge of its merits. This fact alone renders leadership in Congress, in the old sense of the word, impossible. For many years we have had the leadership of committees and chairmen of committees; but no one man can any more be the leader of all the legislation of the Senate or of the House, than one lawyer or one physician can now be foremost in all the departments of law or medicine. The evils of loose legislation resulting from this situation must increase rather than diminish, until a remedy is provided.

John Stuart Mill held that a numerous popular assembly is radically unfit to *make good laws*, but is the best possible means of *getting good laws made*. He suggested, as a permanent part of the constitution of a free country, a legislative commission, composed of a few trained men, to draft such laws as the legislature, by general resolutions, shall direct, which draft shall be adopted by the legislature, without change, or returned to the commission to be amended.<sup>1</sup> Whatever may be thought of Mr. Mill's suggestion, it is clear that some plan must be adopted to relieve Congress from the infinite details of legislation, and to preserve harmony and coherence in our laws.

Another change observable in Congress, as well as in the legislatures of other countries, is the decline of oratory. The press is rendering the orator obsolete. Statistics now furnish the materials upon which the legislator depends; and a column of figures will often demolish a dozen pages of eloquent rhetoric.

Just now, too, the day of sentimental politics is passing away, and the work of Congress is more nearly allied to the business interests of the country and to "the dismal science," as political economy is called by the "practical men" of our time. The legislation of Congress comes much nearer to the daily life of the people than ever before. Twenty years ago, the presence

<sup>1</sup> Autobiography, pp. 264, 265 (New York, 1873).

of the national government was not felt by one citizen in a hundred, Except in paying his postage and receiving his mail, the citizen of the interior rarely came in contact with the national authority. Now, he meets it in a thousand ways. Formerly the legislation of Congress referred chiefly to our foreign relations, to indirect taxes, to the government of the army, the navy, and the Territories. Now, a vote in Congress may, any day, seriously derange the business affairs of every citizen.

And this leads me to say that now, more than ever before, the people are responsible for the character of their Congress. If that body be ignorant, reckless, and corrupt, it is because the people tolerate ignorance, recklessness, and corruption. If it be intelligent, brave, and pure, it is because the people demand those high qualities to represent them in the national legislature. Congress lives in the blaze of "that fierce light which beats against the throne." The telegraph and the press will to-morrow morning announce at a million breakfast-tables what has been said and done in Congress to-day. Now, as always, Congress represents the prevailing opinions and political aspirations of the people. The wildest delusions of paper money, the crudest theories of taxation, the passions and prejudices that find expression in the Senate and House, were first believed and discussed at the firesides of the people, on the corners of the streets, and in the caucuses and conventions of political parties.

The most alarming feature of our situation is the fact that so many citizens of high character and solid judgment pay but little attention to the sources of political power, to the selection of those who shall make their laws. The clergy, the faculties of colleges, and many of the leading business men of the community, never attend the township caucus, the city primary, or the county convention; but they allow the less intelligent and the more selfish and corrupt members of the community to "make the slates" and "run the machine" of politics. They wait until the "machine" has done its work, and then, in surprise and horror at the ignorance and corruption in public office, sigh for the return of that mythical period called the "better and purer days of the republic." It is precisely this neglect of the first steps in our political processes that has made possible the worst evils of our system. Corrupt and incompetent presidents, judges, and legislators can be removed; but when the fountains of political power are corrupted, when voters them-

selves become venal and elections fraudulent, there is no remedy except by awakening the public conscience and bringing to bear upon the subject the power of public opinion and the penalties of the law. The practice of buying and selling votes at our popular elections has already gained a foothold, though it has not gone so far as in England. It is mentioned in the recent biography of Lord Macaulay, as a boast, that his four elections to the House of Commons cost him but five hundred pounds.<sup>1</sup> A hundred years ago, bribery of electors was far more prevalent and shameless in England than it now is.

There have always been, and always will be, bad men in all human pursuits. There was a Judas in the college of the Apostles, an Arnold in the army of the Revolution, a Burr in our early politics; and they have had successors in all departments of modern life. But it is demonstrable, as a matter of history, that on the whole the standard of public and private morals is higher in the United States at the present time than ever before; that men in public and private stations are held to a more rigid accountability, and that the average moral tone of Congress is higher to-day than at any previous period of our history.<sup>2</sup> It is certainly true that our late war disturbed the established order of society, awakened a reckless spirit of adventure and speculation, and greatly multiplied the opportunities, and increased the temptations to evil. The disorganization of the Southern States, and the temporary disfranchisement of its leading citizens, threw a portion of their representation in Congress, for a short time, into the hands of political adventurers, many of whom used their brief hold on power for personal ends, and thus brought disgrace upon the national legislature. And it is also true that the enlarged sphere of legislation so mingled public duties and private interests that it was not easy to draw the line between them. From that cause also the reputation, and in some cases the character, of public men suffered eclipse. But the earnestness and vigor

<sup>1</sup> Life and Letters, Vol. II. p. 95 (London, 1880).

<sup>2</sup> On this point I beg to refer the reader to a speech delivered by Hon. George F. Hoar, in the House of Representatives, August 9, 1876, in which that distinguished gentleman said, "I believe there is absolutely less of corruption, and less of maladministration, and less of vice and evil in public life, than there was in the sixteen years which covered the administration of Washington, the administration of John Adams, and the first term of Jefferson." This assertion is maintained by numerous citations in the speech of unquestioned facts.

with which wrong-doing is everywhere punished is a strong guaranty of the purity of those who may hold posts of authority and honor. Indeed, there is now danger in the opposite direction; namely, that criticism may degenerate into mere slander, and put an end to its power for good by being used as a means to assassinate the reputation and destroy the usefulness of honorable men. It is as much the duty of all good men to protect and defend the reputation of worthy public servants as to detect and punish public rascals.

In a word, our national safety demands that the fountains of political power shall be made pure by intelligence, and kept pure by vigilance; that the best citizens shall take heed to the selection and election of the worthiest and most intelligent among them to hold seats in the national legislature; and that, when the choice has been made, the continuance of the representative shall depend upon his faithfulness, his ability, and his willingness to work.

In Congress, as everywhere else, careful study — thorough, earnest work — is the only sure passport to usefulness and distinction. From its first meeting in 1774 to its last in 1788, three hundred and fifty-four men sat in the Continental Congress. Of these, one hundred and eighteen — one third of the whole number — were college graduates. That third embraced much the larger number of those whose names have come down to us as the great founders of the republic. Since the adoption of the Constitution of 1787, six thousand two hundred and eighteen men have held seats in Congress; and among them all, thorough culture and earnest, arduous work have been the leading characteristics of those whose service has been most useful, and whose fame has been most enduring. Galloway wrote of Samuel Adams, "He eats little, drinks little, sleeps little, and thinks much, and is most decisive and indefatigable in the pursuit of his objects." This description can still be fittingly applied to all men who deserve and achieve success anywhere, but especially in public life. As a recent writer has said, in discussing the effect of Prussian culture, 'so we may say of culture in Congress: "The lesson is, that, whether you want him for war or peace, there is no way in which you can get so much out of a man as by training him, not in pieces, but the whole of him; and that the trained men, other things being equal, are pretty sure, in the long run, to be masters of the world."

Congress must always be the exponent of the political character and culture of the people; and if the next centennial does not find us a great nation, with a great and worthy Congress, it will be because those who represent the enterprise, the culture, and the morality of the nation do not aid in controlling the political forces which are employed to select the men who shall occupy the great places of trust and power.

# PROPOSED REPEAL OF THE RESUMPTION LAW.

SPEECH DELIVERED IN THE HOUSE OF REPRESENTATIVES,

NOVEMBER 16, 1877.

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ON the 31st of October, 1877, Mr. Thomas Ewing, of Ohio, Chairman of the Committee on Banking and Currency, reported from that committee a bill bearing this title: "A Bill to repeal the third section of the Act entitled, 'An Act to provide for the Resumption of Specie Payments.'" The section proposed to be repealed was the heart of the Resumption Act of 1875, so that Mr. Ewing's bill struck at the life of resumption.

November 23, a substitute for the Ewing bill, offered by Mr. Fort, of Illinois, was agreed to, and thus amended the bill passed the same day. June 13, 1878, the Senate passed this as a substitute for the House bill: "*Be it enacted, etc.*, That from and after the passage of this act United States notes shall be receivable the same as coin in payment for the four per cent bonds now authorized by law to be issued; and on and after October 1, 1878, said notes shall be receivable for duties on imports." The House refused to concur, and repeal failed.

Pending the original Ewing bill, Mr. Garfield made the following speech.

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"Our own history has recorded for our instruction enough, and more than enough, of the demoralizing tendency, the injustice, and the intolerable oppression on the virtuous and well disposed, of a degraded paper currency, authorized by law, or in any way countenanced by government." — DANIEL WEBSTER.

**M**R. SPEAKER, — We are engaged in a debate which has lasted in the Anglo-Saxon world for more than two centuries; and hardly any phase of it to which we have listened in the course of the last week is new. Hardly a proposition has been heard on either side which was not made one hundred and eighty years ago in England, and almost a hundred years ago in the United States. So singularly does history repeat itself.



That man makes a vital mistake who judges of truth in relation to financial affairs from the changing phases of public opinion. He might as well stand on the shore of the Bay of Fundy, and from the ebb and flow of a single tide attempt to determine the general level of the sea, as to stand on this floor and from the current of opinion in any one debate judge of the general level of the public mind. It is only when long spaces along the shore of the sea are taken into the account, that the grand level is found from which all heights and depths are measured. And it is only when long periods of time are considered, that we find at last that level of public opinion which we call the general judgment of mankind. From the turbulent ebb and flow of the public opinion of to-day I appeal to the settled judgment of mankind on the subject-matter of this debate.

In the short time which is allotted to me, I invite the attention of gentlemen who do me the honor to listen to a very remarkable fact.<sup>1</sup> I suppose it will be admitted on all hands that 1860 was a year of unusual business prosperity in the United States. It was a time when the bounties of Providence were scattered with a liberal hand over the face of our republic. It was a time when all classes of our community were well and profitably employed. It was a time of peace; the apprehension of our civil war had not yet seized the minds of our people. Great crops North and South, great general prosperity, marked the era. If one question of financial policy was settled in the American mind above all other questions at that time, it was that the only sound, safe, trustworthy standard of value was coin of standard weight and fineness, or a paper currency convertible into coin at the will of the holder. That was and had been for several generations the almost unanimous opinion of the American people. It is true there was here and there a theorist, dreaming of the philosopher's stone, dreaming of a time when paper money, which he worshipped as a kind of fetich, would be crowned as a god; but those dreamers were so few in number that they made no ripple on the current of public thought, and their theories formed no part of public opinion. The opinion of 1860-61 was the aggregated result of the opinions of all the foremost Americans who have left a record upon this subject. I make this last statement without fear of contradiction,

<sup>1</sup> Mr. Garfield's time was extended by general consent.

because I have carefully examined the list of illustrious names and the records that they have left behind them. No man ever sat in the chair at Washington as President of the United States who has left on record any word that favors inconvertible paper money as a safe standard of value. Every President who has left a record on the subject has spoken without qualification in favor of the doctrine that I have announced. No man ever sat in the chair of the Secretary of the Treasury of the United States, who, if he has spoken on the subject at all, has not left on record an opinion equally strong, from Hamilton down to the days of the distinguished father of my colleague,<sup>1</sup> and to the present moment. The general judgment of all men who deserve to be called the leaders of American thought ought to be considered worth something in an American House of Representatives on the discussion of a great topic like this.

What happened to cause a departure from this general level of public opinion? Every man knows the history. War, the imperious necessities of war, led the men of 1861-62 to depart from the doctrine of the fathers. They did not depart from it as a matter of choice, but because compelled by overmastering necessity. Nearly every man in the Senate and House of 1862 who voted for the greenback law announced that he did it with the greatest possible reluctance, and with the gravest apprehension for the result. Every man who spoke on the subject, from Thaddeus Stevens to the humblest member of this House, and from Fessenden to the humblest Senator, warned his country against the dangers that might follow, and pledged his honor that at the earliest possible moment the country should be brought back to the old, safe, established doctrine of the fathers. When they made the law creating the greenbacks they incorporated into its essential provisions the most solemn pledge that men could devise, that they would return to the old established doctrines. The very law that created the greenback provided for its redemption and retirement; and whenever the necessities of war required additional issues, new guaranties and new limitations were put upon them to insure their ultimate redemption. They were made upon the fundamental condition, that the number should be so limited forever that under the law of contracts the courts might enforce their sanctions. The men of 1862 knew the dangers from the sad expe-

<sup>1</sup> Mr. Ewing.

rience found in our history; and, like Ulysses, lashed themselves to the mast of public credit when they embarked upon the stormy and boisterous sea of inflated paper money, that they might not be beguiled by the siren song that would be sung to them when they were afloat on the wild waves.

But the times have changed; new men are on deck, — men who have forgotten the old pledges; and now only twelve years have passed, — for as late as 1865 this House, with but six dissenting votes, resolved again to stand in the old ways and bring the country back to sound money, — only twelve years have passed, and what do we find? We find a group of theorists and doctrinaires who look upon the wisdom of the fathers as foolishness. We find some who advocate what they call “absolute money”; who declare that a piece of paper stamped a “dollar” is a dollar; who say that gold and silver are a part of the barbarism of the past, which ought to be forever abandoned. We hear them declaring that resumption is a delusion and a snare; that the eras of prosperity are the eras of paper money. They point us to all times of inflation as periods of blessing to the people and prosperity to business; and they ask us no more to vex their ears with any allusion to the old standard, the money of the Constitution. Let the wild crop of financial literature that has sprung into life within the last twelve years witness how widely and how far we have drifted. We have cut loose from our old moorings, have thrown overboard our old compass and charts; we sail by alien stars, on a harborless sea.

To those who do not believe in keeping the promise of the nation at any time, I make no argument to-day; but to those members in this House who believe that at some time or other we ought to return to the ways of the fathers, to the money of the Constitution, I address myself. There are many among these who believe that some time in the future we can resume specie payments, but who believe it impossible to-day or in 1879, or, if possible, inexpedient. They hold that from such an attempt evils will arise to the country greater than the benefits; and therefore they join in seeking the repeal of the act of 1875. I have no doubt they regret to throw their influence with those men who do not believe in resuming at all. To these I say, Before the final vote is taken, let us reason together.

I want it remembered in the outset, that the greenback currency was and is — so known in the courts and so known every-

where — a forced loan; a loan forced by the government upon its army and upon its other creditors to meet the great emergencies of the war; the primary fact connected with every greenback is that it is a promise to pay. Those who believe in resumption intend that some time or other the nation shall make good the promise.

Now what are the obstacles to resumption in accordance with the law we have passed? The first great obstacle stated by gentlemen who have argued the question is this: that we have not enough currency in the country for its business, and that some measure of contraction will be likely to attend the further execution of the provisions of the resumption law. Before I enter directly upon that objection I desire to state a fact for the consideration of those who hear me. In the prosperous year 1860, when there was free banking in most of the States, and the banks were pushing all the currency they could into circulation without limit, there was in circulation just \$207,000,000 of paper currency, and that was the largest volume that this country had ever known.

MR. BUCKNER. I wish to say that Secretary Cobb reported in 1857 that we had \$215,000,000 of circulation in paper, and \$275,000,000 in coin in gold and silver.

I will say to the gentleman from Missouri, that, not only years ago, but again recently, I have gone through the reports, and made the most careful estimate of which I have been capable, and I beg to state that \$207,000,000 is the recognized settled amount for 1860. It is true that, for a few months just previous to the panic of 1857, the volume of paper money did reach \$215,000,000; but that was wholly exceptional. In no year of prosperity had the volume been so great as in 1860.

Now, nobody estimates the amount of coin in the country in 1860 at more than \$250,000,000. The received estimate is \$200,000,000. Add that sum to the \$207,000,000 of paper circulation, and you have \$407,000,000 of currency, — paper, silver, and gold. How much have we to-day? This day, or rather on the first day of this month, we had \$727,000,000 of greenbacks, bank-notes, fractional currency, and fractional silver; and if you add the \$9,000,000 of copper and nickel money now outstanding, it makes a present volume of \$736,000,000 of currency, counting no gold whatever, although the Pacific coast uses a large amount.

Now, I put it to the judgment of this House if, under free banking \$407,000,000 was the limit of possible currency that could be kept in circulation in 1860, how can it be said that almost twice that amount is needed, and is hardly enough, for the wants of 1877? Have the laws of value changed in seventeen years? Gentlemen who assert a dearth of currency at the present time must point out the new elements in our fiscal affairs that require \$380,000,000 more money than was needed in 1860. No theory of currency that existed in 1860 can justify the volume now outstanding. Either our laws of trade, our laws of value, our laws of exchange, have been utterly reversed, or the currency of to-day is in excess of the legitimate wants of trade. But I admit freely that no Congress is wise enough to determine how much currency the country needs. There never was a body of men wise enough to do that. The volume of currency needed depends upon laws that are higher than Congress and higher than governments. One thing only legislation can do. It can determine the quality of the money of the country. The laws of trade alone can determine its quantity.

In connection with this view, we are met by the distinguished gentleman from Pennsylvania<sup>1</sup> with two historical references, on which he greatly relies in opposing resumption. The first is his reference to France. Follow France, says the honorable gentleman from Pennsylvania, follow France; see how she poured out volumes of paper money, and by it survived a great crisis and maintained her business prosperity. O that the gentleman and those who vote with him would follow France! I gladly accept his allusion to France. As a proof that we have not enough money, he notices the fact that France has always used more money than either the United States or England. I admit it. But does the gentleman not know that the traditions and habits of France in regard to the use of money are as unlike those of England and the United States as those of any two nations of the world can be? I say to the gentleman that in France the bank as an instrument of trade is almost unknown. There are no banks in France except the Bank of France. The Bank has been trying for twenty years to establish branches in all the eighty-nine departments, and thus far only fifty-six branches have been organized. Our national, State, and private banks number nearly ten thousand. The habits of

<sup>1</sup> Mr. Kelley.

the French people are not adapted to the use of banks as instruments of exchange. All the deposits in all the savings banks of France are not equal to the deposits in the savings banks of New York City alone. It is the frequent complaint of Americans who make purchases in Paris, that merchants will not accept drafts even on the Bank of France. Victor Bonnet, a recent French writer, says: —

“The use of deposits, bank accounts, and checks is still in its infancy in this country. They are very little used even in the great cities, while in the rest of France they are completely unknown. It is, however, to be hoped that they will be more employed hereafter, and that here, as in England and the United States, payments will be more generally made through the medium of bankers and by transfers in account current. If this should be the case, we shall economize both in the use of specie and of bank-notes; for it is to be observed that the use of bank-notes does not reach its fullest development except in countries where the keeping of bank accounts is unusual, as is evident by comparing France in this respect with England.”

“M. Pinard, manager of the *Comptoir d'Escompte*, testified before the Commission of Inquiry, that the greatest efforts have been made by that institution to induce French merchants and shopkeepers to adopt English habits in respect to the use of checks and the keeping of bank accounts, but in vain; their prejudices were invincible. ‘It was no use reasoning with them; they would not do it, because they would not.’”<sup>1</sup>

So long as the business of their country is thus done hand to hand by the use of cash, the French need a much greater volume of money in proportion to their business than England or the United States.

How is it in England? Statistics which no man will gainsay show that ninety-five per cent of all the great mercantile transactions of England are done by drafts, checks, and commercial bills, and only five per cent by the actual use of cash. The great business of commerce and trade is done by drafts and bills. Money is now only the small change of commerce.

And how is it in this country? We have adopted the habits of England, and not of France, in this regard. In 1871, when I was chairman of the Committee on Banking and Currency, I asked the Comptroller of the Currency to issue a special order to fifty-two banks. I selected three groups. The first was city

<sup>1</sup> The Example of France, etc., translated from the *Revue des Deux Mondes*, by George Walker, (New York, D. Appleton & Co.,) p. 60, text and Walker's note.

banks; not, however, the clearing-house banks, but the great city banks not in the clearing-house associations. The second consisted of banks in cities of the size of Toledo and Dayton, in the State of Ohio. In the third group, if I may coin a word, I selected the *countryest* banks, the smallest that could be found, at points away from railroads and telegraphs. The order was that those banks should analyze all their receipts for six consecutive days, putting into one column all that can be called cash, coin, greenbacks, bank-notes, or coupons, and into the other list all drafts, checks, or commercial bills. What was the result? In those six days \$157,000,000 was received over the counters of the fifty-two banks; and of that amount \$19,370,000—twelve per cent only—in cash, and \$137,630,000—eighty-eight per cent—in checks, drafts, and commercial bills. Does a country that transacts its business in that way need as much currency afloat among the people as a country like France;—without banks, without savings institutions, and whose people keep their money in hoards?

I remember in one of the novels of Dumas, that when an officer of the French army sent home an agent to run his farm, he loaded him down with silver enough to conduct the business for a year; there was no thought of giving him credit in a bank; but at its beginning enough coin to do the business of the year was locked in the till. So much for the difference between the habits of France and those of Anglo-Saxon countries.

Let us now consider the conduct of France during and since the German war. In July, 1870, the month before the war began, the Bank of France had outstanding \$251,000,000 of paper circulation, and held in its vaults \$229,000,000 of coin. When the war broke out, they were compelled immediately to issue more paper, and to make it a legal tender. In their necessity they took pattern of us, and issued paper until, on the 19th of November, 1873, there was outstanding \$602,000,000 of paper issued by the Bank of France, while the coin in the bank was reduced to \$146,000,000. But the moment their great war was over and their territory freed from the enemy, the French did what I commend to the gentleman from Pennsylvania,—they commenced to reduce their paper circulation, and in one year reduced it almost \$100,000,000, and increased the coin reserve \$120,000,000. By the year 1876 they had pushed into circu-

lation \$200,000,000 of coin, and retired nearly all their small notes. They are at this moment within fifty days of resumption of specie payments. Under their law, fifty days from to-day France will again come into the illustrious line of nations that maintain a sound currency. I commend to the eloquent gentleman from Pennsylvania the example of France.

Before leaving this point, it is worth while to notice the fact that France has not yielded to the paper-money doctrines which find so much favor here. One of her ablest financial writers, Victor Bonnet, writing in July, 1874, says:—

“It is . . . difficult to say to what point we can reduce the credit circulation; but whatever that point may be, a paper currency will never be sound unless it is based on a very considerable reserve of specie, nor unless it is accompanied by a favorable state of the exchanges.

“The fact that we have lately had a paper circulation of 3,000,000,000 francs without depreciation, does not militate against this assertion. This result was accomplished by means of a large reserve of specie, and a favorable state of the foreign exchanges. It succeeded perfectly, and we may fairly assert that, financially speaking, it saved France. Nevertheless, we ran great risks: if trade had not revived immediately after the Commune; if foreigners had not shown confidence in the future of France, by subscribing to our loans; if we had been obliged to export a large amount of specie to pay the Prussian indemnity; in a word, if the exchanges had continued very unfavorable to us, as they were for a brief period at the end of 1871,—our paper money would very quickly have fallen in value, and its downward progress would have been rapid, much more rapid than the increase in its amount. Fortunately for us, the contrary of all this has happened; but let us not draw any false inferences for the future from this happy concurrence of circumstances. We may be sure that the principles which regulate a credit currency are precisely the same in 1874 as they were prior to 1870, and that a condition of legal tender, and suspended specie payments, is always a misfortune. We submit to it when it is inevitable, but we should hasten to get out of it as soon as we have the means.”<sup>1</sup>

But the gentleman has found something in the example of England which he uses to bolster up his opposition to resumption. There is nothing more remarkable than the sudden popularity of certain writers who till very lately were unknown as authorities on finance. About ten years ago, when I tried to make a careful study of these questions, I came across a pam-

<sup>1</sup> The Example of France, etc., pp. 60, 61.



phlet which I thought at the time the most remarkably absurd document I had ever read, — a pamphlet published under the sanction of the name of Sir Archibald Alison, entitled, “England in 1815 and 1845; or, a Sufficient and a Contracted Currency.” I took pains to make a careful synopsis of it, and, as the new doctrines of money sprang up in Congress, I wondered that nobody quoted from Sir Archibald Alison; but I have heard Alison during the last four or five years *ad nauseam*. Who is Sir Archibald Alison? No man who fills an important place in English literary history has less credit on questions of finance than he. Let me give a specimen of Sir Archibald’s financial wisdom, of which the gentleman from Pennsylvania is so enamored. On the second and third pages of the pamphlet to which I have referred, he says: “The eighteen years of war from 1797 to 1815 were, as all the world knows, the most glorious, and, taken as a whole, the most prosperous, that Great Britain had ever known. . . . Prosperity, universal and unheard of, pervaded every department of the empire.” He then enumerates the evidences of this prosperity, and prominent among them is the fact that, while “the revenue raised by taxation was but £21,000,000 in 1796, it had reached £72,000,000 in 1815; the total expenditures from taxes and loans had reached £117,000,000.” Happy people, whose burdens of taxation were quadrupled in eighteen years, and whose expenses, consumed in war, exceeded their revenues by the sum of \$225,000,000 in gold! This is the kind of financial authority that gentlemen now parade with so much satisfaction in the Congress of the United States.

Another man, a Mr. Doubleday, is also drafted into the service. I do not find that any penny-a-liner in England, much less any great journalist, has ever deigned to answer, in an English paper, the twaddle of that writer. He is, however, just now very popular with certain gentlemen in the United States, and he has been flung at us the last six or seven years until it has seemed as though tomahawks were flying through the air, with “Doubleday” inscribed on their blades.

Waiving, however, all that may be said in regard to the merits of these two writers, I say in reply that the overwhelming and fixed opinion of England is that the cash-resumption act of 1819 was a blessing, and not a curse, and that the evils which England suffered from 1821 to 1826 did not arise from the

resumption of cash payments. I appeal to every great writer of acknowledged authority in England for the truth of this position. I ask gentlemen to read the eighth chapter of the second book of Miss Martineau's "History of the Peace," where the case is admirably stated. I appeal also to the opinion of Parliament itself, especially to that of the House of Commons, which is as sensitive an index of public opinion as England knows. When they were within about eighteen months of resumption of specie payments, a motion was made, like the motion of my colleague, that the resumption act be repealed or modified, because it was producing distress. And a number of gentlemen in the House of Commons made speeches of the same spirit as those which we have heard here within the past week. The distress among the people, the crippling of business, the alarm of the mercantile classes, all were paraded in the House of Commons, and were answered by those knights of finance whose names have become illustrious in English history. At the end of a long debate on that proposition, on the 11th of April, 1821, the proposition was rejected by a vote of 141 to 27. In other words, by a vote of 141 to 27 the House of Commons resolved that their act for the resumption of specie payments was not causing distress, ought not to be repealed, and ought not to be modified, except to make it more effective. As a matter of fact, it was so modified as to allow resumption to take place much sooner than was provided in the act of 1819.

But this was not enough. On the 11th of June, 1822, a Mr. Western moved for the appointment of a committee to inquire into the effect of the resumption law, and charged that it had caused a violent contraction of the currency and an injury to the business of the country. Again the subject was fully debated, and the arguments against the resumption act were completely answered. By a vote of 192 to 30 the motion of Mr. Western was rejected; and the Commons resolved that they would not alter the standard of gold or silver, in fineness, weight, or denomination. Surely the House of Commons must be assumed to know something of the condition of England, as much at least as Alison, who wrote upon the subject a quarter of a century afterwards.

Still, gentlemen tell us that the great distress in England was caused by the resumption act. I commend those gentlemen to such great writers as Tooke, who, in his "History of Prices," has

gone over this ground most thoroughly and ably. He says it was the corn laws that produced the great evils from which England suffered in those years. A law had been passed to prevent the price of wheat from falling below eighty shillings per quarter, by prohibiting all foreign importations whenever the price fell below that figure. In other words, England proposed to build a Chinese wall around her island, so as to make wheat one of the most profitable crops for her farmers. Stimulated by that law, the agriculturists of England undertook the growing of wheat on a scale before unknown. And when they had expended millions in reclaiming waste lands and sowing an unusual breadth of wheat, their own harvest and the importations from the colonies flooded the market, lowered the price, and bankrupted thousands of English farmers. In spite of the law, wheat went down to forty-seven shillings and ninepence per quarter, and brought great distress upon the agricultural population. That this fall in the price of wheat was not caused by the resumption act is conclusively shown by the fact that the three great harvests of 1820, 1821, and 1822 were general throughout Europe; and on the Continent the price of wheat declined almost as much as in England itself.

In 1822 a committee of the House of Commons was appointed to inquire into all the causes of the distress. I have read the report in full, and there is not a word in it that attributes any part of the distress to the resumption act of 1819: the causes given are those which I have named.

Mr. Speaker, I was amazed at my friend from Pennsylvania presenting here a table which he found in somebody's atlas, — a table giving the amount of circulating notes in England in different years, from 1818 to 1826, and opposite each year the word "prosperity" or the word "distress." This table has been referred to by gentlemen on the other side as proof that the resumption act of England produced the distress of 1825. If gentlemen will look at their own table, they will find a conclusive answer to their proposition. The gentleman from Pennsylvania said a day or two ago, in answer to a question, that the cash-payment act went into effect in 1823. In that he was mistaken; it went into effect in 1821. But supposing he was correct, his table shows that the years 1824 and 1825 were years of great prosperity and speculation. These two years are so put down in his own table. Does that prove that distress was

produced by the resumption act? The fact is, that the great speculation in the apparent prosperity of 1825 was the beginning and the cause of the tremendous crisis that struck England in the latter part of that year, and prostrated its business again. This is the testimony of her foremost writers.

Before quitting this point, I beg leave at once to put myself in the category to which the gentleman from Pennsylvania assigned the late Secretary of the Treasury, Hugh McCulloch. He read three lines from a paper of Mr. McCulloch in the *North American Review*, and said it was an example of astonishing ignorance or astonishing mendacity. What was the statement denounced as so ignorant or so mendacious? It was that every great crisis in this country has been preceded by an enlargement of paper circulation. I affirm that to be true, and I challenge any man to controvert it. It was true in England always. It has been true in this country always. We had a great crisis in 1797, another in 1817, another in 1837, another in 1857, and our last in 1873, — almost exactly twenty years apart. These crises are periodic, and return as the result of causes springing up among our business people; they have all been preceded by overtrading, speculation, an undue expansion of the instruments of credit, and have all resulted in the same sad uniformity of misery that has followed their culmination.

I now proceed to notice the second point that has been made in favor of this bill. It is assumed that specie payments will injure the debtor class of this country, and thereby oppress the poor; in other words, that the enforcement of the resumption law will oppress the poor, and increase the riches of the rich. It is assumed that the laboring men are in debt, and that the rich men constitute the creditor class. I deny this proposition *in toto*. I affirm that the vast majority of the creditors of this country are poor people; that the vast majority of the debtors of this country are well-to-do people, — in fact, people who are moderately rich. As a matter of fact, the poor man, the laboring man, cannot get heavily in debt. He has not the security to offer. Men lend their money on security; and, in the very nature of the case, poor men can borrow but little. What, then, do poor men do with their small earnings? When a man has earned, out of his hard work, a hundred dollars more than he needs for current expenses, he reasons thus: "I can-

not go into business with a hundred dollars; I cannot embark in trade; but, as I work, I want my money to work." And so he puts his small gains where they will earn something. He lends his money to a wealthier neighbor, or puts it into a savings bank. There were in the United States, on the 1st of November, 1876, 4,475 savings banks and private banks of deposit; and their deposits amounted to \$1,377,000,000, almost three fourths the amount of our national debt. Over two and a half millions of the citizens of the United States were depositors. In some States the deposits did not average more than \$250 each. The great mass of the depositors are men and women of small means, — laborers, widows, and orphans. They are the lenders of this enormous aggregate. The savings banks, as their agents, lend it to whom? Not to the laboring poor, but to business men who wish to enlarge their business beyond their capital. Speculators sometimes borrow it. But, in the main, well-to-do business men borrow these hoardings. Thus the poor lend to the rich.

Gentlemen assail the bondholders of the country as the rich men who oppress the poor. Do they know how vast an amount of the public securities are held by poor people? I took occasion a few years since to ask the officers of a bank in one of the counties of my district, — a rural district, — to show me the number of holders, and the amounts held, of United States bonds, on which his bank collected the interest. The total amount was \$416,000. And how many people held those bonds? One hundred and ninety-six. Of these just eight men held from \$15,000 to \$20,000 each; the other one hundred and eighty-eight ranged from \$50 up to \$2,500. I found in that list fifteen orphan children and sixty widows, who had a little money left them from their fathers' or husbands' estates, and who had made the nation their guardian. And I found one hundred and twenty-one laborers, mechanics, ministers, who had put their small means in the hands of the United States that it might be safe. And they were the "bloated bondholders" against whom so much eloquence is fulminated in this House!

There is another way in which poor men dispose of their money. A man says, I can keep my wife and babies from starving while I live and have my health, but if I die they may be compelled to go "over the hill to the poorhouse"; and, ago-

nized by that thought, he saves of his hard earnings enough to take out and keep alive a small life-insurance policy, so that, if he dies, there may be something left, provided the insurance company to which he intrusts his money is honest enough to keep its pledges. And how many men do you think have done that in the United States? I do not know the number for the whole country; but I do know this, that from a late report of the Insurance Commissioners of the State of New York, it appears that the companies doing business in that State had 774,625 policies in force, and the face value of these policies was \$1,922,000,000. I find, by looking over the returns, that in my State there are 55,000 policies outstanding; in Pennsylvania, 74,000; in Maine, 17,000; in Maryland, 25,000; and in the State of New York, 160,000. There are, of course, some rich men insured in these companies; but the majority are poor people, for the policies do not average more than \$2,200 each. What is done with the assets of these companies, amounting to \$445,000,000? They are loaned out. Here again the creditor class is the poor, and the insurance companies are the agents of the poor to lend their money for them. It would be dishonorable for Congress to legislate either for the debtor class or for the creditor class alone. We ought to legislate for the whole country. But when gentlemen attempt to manufacture sentiment against the resumption act, by saying it will help the rich and hurt the poor, they are overwhelmingly answered by the facts.

Suppose you undo the work of resuming specie payments that Congress has attempted, what will result? You will depreciate the value of the greenback. Suppose it falls ten cents on the dollar. You will have destroyed ten per cent of the value of every deposit in the savings banks, ten per cent of every life-insurance policy and fire-insurance policy, of every soldier's pension, and of every day's wages of every laborer in the nation. In the census of 1870, it was estimated that on any given day there was \$120,000,000 due to the laborers for their unpaid wages. That is a small estimate. Let the greenback dollar come down ten per cent, and you take \$12,000,000 from the men who have already earned it. In the name of every interest connected with the poor man, I denounce this effort to prevent resumption. Daniel Webster never uttered a greater truth in finance, than when he said that of all contrivances to cheat

the laboring classes of mankind none was so effective as that which deluded them with irredeemable paper money. The rich can take care of themselves; but the dead-weight of all the fluctuation and loss falls ultimately on the poor man who has only his day's work to sell.

I admit that in the passage from peace to war there was a great loss to one class of the community, to the creditors; and that in the return to peace there was some loss to debtors. This injustice was unavoidable. The loss and gain did not fall upon the same people. The evil could not be balanced nor adjusted. The debtors of 1862-65 are not the debtors of 1877. Of course, obligations may be renewed, but the most competent judges tell us that the average life of private debts in this country is not more than two years. Now, we have already gone two years on the road to resumption, and the country has been adjusting itself to the new condition of things. The people have expected resumption, and have already discounted most of the hardships and sufferings incident to the change. The agony is almost over; and if we now give up the struggle, we lose all that has been gained, and commit the country once more to the boisterous ocean, with all its perils and uncertainties. I speak the deepest convictions of my mind and heart when I say that, should the resumption act be repealed and no effectual substitute be put in its place, the day is not far distant when all of us, looking back on this time from the depth of the evils which are sure to result, will regret, with all our power to regret, the day when we again let loose the dangers of inflation upon the country.

Gentlemen speak of the years of high prices as years of prosperity. It is true there was a kind of prosperity in the days of high prices; but do not gentlemen know that war prices cannot be kept up forever? Nothing but the extraordinary calamities of war can produce such prices as we knew from 1862 to 1870. To our foreign and domestic markets was added the war market. War sat like a grim monster, swallowing up the accumulated wealth of the country. More than a million men were taken out of the ranks of producers and added to the ranks of consumers, and prices went up; but does anybody dream that these prices could be kept up forever, after the soldiers were mustered out, and the war had closed, and business had begun to resume the normal level of peace? O,

no, gentlemen, it was inevitable that the country must come down from the level of war prices; and the attempt to prevent it is to fight against fate. Unless we bring ourselves steadily and surely, by strong courage and the guidance of law, back to resumption, we shall reach that level by a disastrous fall; but down to it we must come.

I do not undervalue the greenback or its great services to the country; but when the gentleman from Pennsylvania spoke of the greenback as being the thing that put down the rebellion, I thought that, if I had been on the Rebel side, I should have said: "We had a much more liberal supply of paper money than you had; why did it not put you down? Our money was better than yours in one respect; ours set a day of resumption, which was six months after the independence of the Confederate States should be acknowledged." I think, sir, that those gentlemen who are familiar with the financial history of the Confederacy will not join the gentleman in his eulogy on a paper currency cut loose from the coin standard.

Our country needs, not only a national, but an international currency. Let me state a fact of vast importance in this discussion. The yearly foreign trade of this country—its exports and imports—amounts to \$1,500,000,000 in value; and every dollar of that trade must be transacted in coin. We cannot help ourselves. Every article of export that we send abroad is measured by and sold for coin. Every article of import we must pay for in coin. We must translate these coin prices into our currency; and every fluctuation in the value of the greenback falls upon us, and not upon the countries with which we trade. Therefore the commercial interests of America demand that the international and national value of money shall be one, so that what is a dollar in Ohio shall be a dollar the world over. Our money must be international as well as national, unless we wish to isolate this country and have no commerce on the sea.

The trouble with our greenback dollar is this: it has two distinct functions, one a purchasing power, and the other a debt-paying power. Its debt-paying power is equal to one hundred cents, private debt. A greenback dollar will by law discharge one hundred cents of old private debt. But no law can give it purchasing power in the markets of the world, unless it represents a known standard of coin value. Now, what we want is that these two qualities of the greenback dollar shall be made



equal,— its debt-paying power and its general purchasing power. When these are equal, the problem of our currency is solved, and not till then.

We who defend the resumption act propose not to destroy the greenback, but to dignify it, to glorify it. The law that we defend does not destroy it, but preserves its volume at \$300,000,000, and makes it equal to and convertible into coin. I admit that the law is not entirely free from ambiguity. But the Secretary of the Treasury, who has the execution of the law, declares that Section 3579 of the Revised Statutes is in full force, namely: "When any United States notes are returned to the Treasury, they may be reissued, from time to time, as the exigencies of the public interest may require." Although I do not believe in keeping greenbacks as a permanent currency in the United States, although I do not myself believe in the government's becoming a permanent banker, yet I am willing, for one, that, in order to prevent the shock to business which gentlemen fear, the \$300,000,000 of greenbacks shall be allowed to remain in circulation at par, as long as the wants of trade show manifestly that it is needed. Now, is that a great contraction? Is it a contraction at all? Why, gentlemen, when you have brought your greenback dollar up two and one half cents higher in value, you will have added to your volume of money \$200,000,000 of gold coin which cannot circulate until greenbacks are brought to par. Let those who are afraid of contraction consider this fact, and answer it.

Summing it all up in a word, the struggle now pending in this House is, on the one hand, to make the greenback better, and, on the other, to make it worse. The resumption act is making it better every day. Repeal that act, and you make it indefinitely worse. In the name of every man who wants his own when he has earned it, I demand that we shall not make the wages of the poor man shrivel in his hands after he has earned them, but that his money shall be made better and better, until the ploughholder's money is as good as the bondholder's money, and there is no longer one money for the rich and another for the poor.

This is the era of pacification. We believe in the pacification of the country. That is, we seek to pass out of the storm-centre of war that raged over this country so long, and enter the calm circle of peace. We believe in the equality of States,

and the equality of citizens before the law. In these we have made great progress. Let us take one step further. Let us have equality of dollars before the law, so that the trinity of our political creed shall be equal States, equal men, and equal dollars throughout the Union. When these three are realized, we shall have achieved the complete pacification of our country.

We are bound by three great reasons to maintain the resumption of specie payments. First, because the sanctity of the public faith requires it; second, because the material prosperity of the country demands it; and, third, because our future prosperity demands that agitation shall cease, and that the country shall find a safe and permanent basis for financial peace. The conditions are now all in our favor. The Secretary of the Treasury tells us in his report, laid upon our table this morning, that he has \$66,000,000 of gold coin, unpledged for any other purpose, waiting as a reserve for the day of resumption. He is adding to that stock at the rate of \$5,000,000 a month. Our surplus revenue of \$35,000,000 a year will all be added to this reserve. Foreign exchange is now in our favor. We are selling to other nations almost \$200,000,000 a year more than we are buying. All these elements are with us. Our harvests are more bountiful than ever before. The nation is on the wave of returning prosperity. Everywhere business is reviving, and there is no danger except from the Congress of the United States. Here is the storm-centre; here is the point of peril. If we can pass this peril, and not commit ourselves to the dangerous act now threatened, we shall soon see resumption complete.

I notice that gentlemen do not move to strike out the first section of the resumption act. Why? Two years ago my colleague, in his debate in Ohio with Governor Woodford, laughed at silver resumption, so far as the fractional currency was concerned, as absurd and impossible. He spurned the proposition to destroy our paper scrip, which cost but little, and replace it with silver change, which had some value. He argued that every silver coin issued would be hidden away, and none would go into circulation. But since that debate silver resumption under the first section of the act is completed, except that we have not yet been able to find all of the old scrip, so lazily do the people exercise their right of redemption. But gentlemen think that now, if we resume under this section, the greenbacks will all be taken up.

MR. EWING. In the debate with Governor Woodford in 1875 I did make the statement to which the gentleman refers. But that was before the people of this country, or, I presume, the people of the world generally, knew of the furtive and rascally act of demonetization of silver in the adoption of our Revised Statutes. It was before the immense fall of silver. It was when the silver dollar was at a high premium over the greenback dollar. Speaking from conditions then existing, and the price of silver at that time, the statement was reasonable that the fractional silver currency would be taken up and sold, and not go into general circulation.

The trouble with the statement of my friend is, that, the fractional silver currency being twelve per cent below the value of the silver dollar, there was not the slightest danger, at the time he speaks of, that the silver change after being issued would pass out of circulation. He did not believe in silver resumption until that metal became so depreciated as to be worth much less than paper.

Gentlemen think there is danger that the people will present all their greenbacks and demand the coin, if resumption is enforced. Let us see. Remember how slow they have been in giving up their scrip. Suppose that a farmer in one of your Eastern States sells his farm for \$10,000. He wants to remove to the Great West. He gets ten greenbacks of the denomination of \$1,000 each. This is easy to carry; he can put it in his vest pocket. Do you think, as a matter of convenience, he will go to the Assistant Treasurer in New York and get for those greenbacks forty pounds' weight of gold coin to carry in his pockets, or, if the silver dollar should be restored, six hundred and forty pounds of silver? No, gentlemen; the moment your greenback is equal to gold, it is better than gold, for it is more convenient; and it will remain in circulation until the business of the country demands its withdrawal.

In conclusion, Mr. Speaker, if any of the amendments offered to this bill will make resumption more safe, more certain, and will more carefully protect the business interests of the country, such amendments shall have my vote; but any measure that takes back the promise, that gives up what we have gained, that sets us afloat on the wild waves from which we have so nearly escaped, I will oppose to the utmost, confidently trusting to the future for the vindication of my judgment.

## THE NEW SCHEME OF AMERICAN FINANCE.

SPEECH DELIVERED IN THE HOUSE OF REPRESENTATIVES,

MARCH 6, 1878.

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ON the 5th of March, 1878, Mr. W. D. Kelley, of Pennsylvania, made a lengthy speech in reply to Mr. Garfield's speech on the repeal of the Resumption Act, delivered on November 16 of the previous year. The next day Mr. Garfield replied to Mr. Kelley. Certain *ad hominem* portions of his reply are here omitted as not possessing permanent value or interest, although they gave great force and piquancy to the speech when delivered. The House was in Committee of the Whole on the state of the Union.

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“Capital may be produced by industry, and accumulated by economy; but jugglers only will propose to create it by legerdemain tricks with paper.” — THOMAS JEFFERSON.

“If there be, in regard to currency, one truth which the united experience of the whole commercial world has established, I had supposed it to be that emissions of paper money constituted the very worst of all conceivable species of currency.” — HENRY CLAY.

MR. CHAIRMAN, — It is not of my seeking or according to my desire that any interruption of work on the appropriation bills is made by general debate; but the House, by unanimous consent, allowed the gentleman from Pennsylvania two hours and a half yesterday, which he devoted to criticism of a speech which I made one hundred and nine days ago against the repeal of the Resumption Act; and if I take an hour to reply, I can hardly be charged with a wanton delay of the public business. It is of consequence, not only to me, but to all those who have an interest in these subjects, to know whether the main statements on which my former speech was based are trustworthy, and the conclusions warranted by the facts. To these alone I shall invite the attention of the House.

I am laboring under the same embarrassment that I was under on the 16th of November, when I replied to some points made by the gentleman from Pennsylvania. His speech then was withheld from the Record, and I was compelled to reply to it as I remembered it. And now, after the speech, most if not all of which was in manuscript, and for aught I know has been many weeks ready for delivery, was read deliberately to the House, it does not appear in the Record of this morning; and I am again compelled to trust to my memory, to the few notes I made while he read it, and to the brief notices contained in the morning papers. If I shall in any way misrepresent his statements, the fault is mainly his own. I am embarrassed now, as I was also in November, by the fact that the gentleman himself is not here; for I dislike to refer to a member in his absence. But he sat in the room of the Committee of Ways and Means for two hours this morning, and he knew that I had the floor, and that I must speak now if at all.

The first forty minutes of his speech was devoted to attacking a proposition of mine which was incidental and not vitally essential to my argument. The line of my argument was this: that it was generally conceded that 1860 was a time of peace and of general prosperity in this country; that there was fair employment for labor and fair remuneration for the laborer; that it was an era of free banking, and that the volume of the currency was \$207,000,000, — the largest which the country had ever had, except for a brief period in the panic year of 1857. I drew the conclusion, that it was incumbent on gentlemen who say that we have not now enough currency to show how, after all that has occurred to us in years past, — the present depression of prices (which are nearly, if not altogether, as low as in 1860), and the present non-occupation of laborers, — three times as much currency as we then had is still insufficient.

That was the drift of my argument; and upon the preliminary declaration the gentleman spent forty minutes to show that 1860 was one of the most distressful years, except, perhaps, the present, that this country has ever known. In the first place, he denied that it was a year of peace, and for three very curious reasons. First, that during the previous year seventeen men had invaded Virginia at Harper's Ferry! Second, that it was the year of the Presidential election! Third, that the year afterward we had a war! Well, if these three facts prove

that 1860 was not a year of peace, then the gentleman is entitled to say that our currency was adjusted to a war basis during that year. But he denies my statement that 1860 was a year of general prosperity, and asserts that it was a year of great business depression. He bases this opinion upon the propositions, that in 1859 there was a destructive frost in some of the grain-growing sections of the country; that some iron men say it was a disastrous year to the producers and manufacturers of iron; that there were large sheriff's sales in Philadelphia; and that the national government was compelled to negotiate a loan to meet its expenditures. These propositions and the opinion of Mr. Carey are, I believe, the main grounds on which he relies for overturning my position.

For the purpose of my speech, I might have taken the whole decade from 1850 to 1860 as the base-line from which to measure the relative amount of currency needed before the war and now; but I chose the year 1860 as the last year of peace preceding the period of war and inflation. I considered it a fact, admitted by almost every one, that 1860 was a year of very general prosperity; but as the gentleman denies it, I will enumerate briefly a few of the grounds on which I made my statement.

In 1860 the burdens of national taxation were light. All our revenues, including loans, amounted only to \$76,000,000. Our expenditures were \$77,000,000, and our whole public debt but \$65,000,000. The tonnage of our ships upon the seas was 5,353,868 tons, which was more by 140,000 tons than in any other year of our history, before or since. Two thirds of our imports were carried in American bottoms, as were also more than two thirds of our exports. Our exports that year reached the aggregate value of \$400,000,000, which was \$43,500,000 more than during any previous year. Our imports were \$362,000,000, decidedly more than any previous year. And I make the statement on the authority of David A. Wells, that in 1860 we were exporting to foreign countries more American manufactures than in any other year of our history. In a table printed in the Report of the Special Commissioner of the Revenue for 1869,<sup>1</sup> it appears that in 1860 there came to this country 179,000 emigrants, — 58,000 more than during the preceding year.

That year 4,819 patents were issued at the Patent-Office, 1,100 more than the average number for the three years preceding.

<sup>1</sup> Page 10.

In that year we built 1,846 miles of railroad, — a slight increase above the preceding year. The people of the United States consumed 332,000 tons of sugar in 1857, and in 1860 they consumed the enormous amount of 464,000 tons, — more than in any year of our previous history. The mean annual consumption of tea in the United States, which was 16,000,000 pounds in the decade ending with 1850, was 27,000,000 pounds in the decade ending with 1860. This certainly is an indication that the people had something with which to buy.

From 1831 to 1851 the cotton crop of the United States ranged from one million to two and one third millions of bales per annum. In the year 1860 it rose to the enormous amount of 4,675,770 bales; almost 1,000,000 more bales than were grown in the United States in any previous year of our history. I find from the census reports that in 1850 our wheat crop was 100,000,000 bushels, and that in 1860 it was 173,000,000 bushels. In 1850 we raised 592,000,000 bushels of corn; in 1860, 838,000,000 bushels; while in 1870 we raised but 760,000,000 bushels. The crop of 1860 was 78,000,000 bushels more than that of 1870, and 346,000,000 bushels more than in 1850. In the cases of several other of the great cereals, there was a largely increased production. The crop of barley for 1860 was three times that of 1850. The crops of rye and buckwheat in 1860 exceeded those of 1870, as well as those of 1850.

In 1850 the total value of American farms was \$3,250,000,000; in 1860 it was \$6,645,000,000, an increase of 104 per cent, while the population increased but 35 per cent during that decade. The value of farming implements in 1850, was \$151,000,000; in 1860, \$246,000,000, — an increase of 63 per cent; while during the next decade it increased but 42 per cent. From the statistics of manufactures given in the census I find that in 1850 957,000 hands were employed; in 1860, 1,311,000. In 1850 the products of manufactures amounted to \$553,000,000; in 1860, to \$1,009,000,000, — an increase of 82 per cent. But the gentleman tells us it was a year of unusual distress.

He spoke of the condition of the iron interest in 1860. Let me tell him what the Iron and Steel Association say in their report for 1877. I find that in 1860 there were brought from Lake Superior to our mills in the East 116,000 tons of ore, 51,000 tons more than in any other year of our history. I learn that the production of anthracite coal in Pennsylvania in 1860

amounted to 9,807,000 tons, almost 800,000 tons more than in any previous year. I find that the production of bituminous coal and coke for 1860 amounted to 122,000 tons, which was 38,000 tons more than the greatest product of any preceding year.<sup>1</sup> And how much pig-iron did we produce in that year? I find a speech made here by William D. Kelley, January 11, 1870, in which the product for seven or eight years is given; and, according to this speech, in the year 1860 the total product of pig-iron in this country was 913,000 tons.<sup>2</sup> This was 130,000 tons more than the average of the six preceding years; yet he now holds that 1860 was a year of unusual distress.

This is an old debate between the gentleman from Pennsylvania and myself,—a debate that we had eight years ago, when, to justify his extreme views on the tariff, (which, I do not hesitate to say, have done the cause of real protection more harm than the doctrines of the extreme free-traders,) it was necessary for him to make it appear that, because we then had a low tariff, 1860 was a year of great distress. We can find ample ground for the sufficient protection of American manufactures without distorting the history of our country. The gentleman's position lays him open to this dangerous reply, that if the low tariff and insufficient volume of currency of 1860 caused the alleged distress of that year, how will he account for what he admits to be the great distress of 1877, with a much higher tariff and three times the currency?

The fact is, Mr. Chairman, the decade from 1850 to 1860 was one of peace and general prosperity. The aggregate volume of real and personal property in the United States in 1850 was, in round numbers, \$7,135,000,000; in 1860 it was \$16,159,000,000, an increase of 126 per cent, while the population increased but 35 per cent. Yet, to suit a theory of finance, we are told that 1860 was a year of great distress and depression of business, equalled only by the distress of the present year. I hold that the facts I have recited establish, so far as anything can be established by statistics, that the year 1860 was a year not only of general peace, but of very general prosperity, in the United States; and the fact that there were frosts in some fields the year before, sheriff's sales in Philadelphia, and unemployed laborers near some of the mills, not only does not overturn the

<sup>1</sup> Pages 12, 20, 28, 47.

<sup>2</sup> Speeches, Addresses, and Letters, p. 302 (Philadelphia, 1872).



proofs I have submitted, but these proofs show how limited were the disasters of which the gentleman speaks.

The gentleman's second point was to deny the correctness of my statement that no President from the days of Washington till now, and no Secretary of the Treasury from the days of Hamilton till now, had ever given his adhesion to the doctrine of irredeemable paper money. My statement encountered the whirlwind of his condemnation. And he deemed it a sufficient answer to say that President Washington and his great Secretary, Hamilton, themselves devised a bill establishing a United States Bank; that Congress passed it and Washington signed it; that the notes of that bank were made a legal tender; and that thus Washington and Hamilton gave the people a paper currency which would answer their purpose if all the silver and gold should be carried out of the country. The gentleman will find a perfect and overwhelming answer to this argument if he will read the tenth section of that very law. It is in these words: "*And be it further enacted*, That the bills or notes of the said corporation, originally made payable, or which shall have become payable on demand, in gold and silver coin, shall be receivable in all payments to the United States."<sup>1</sup> That is, so long as the notes of the United States Bank were payable on demand in gold and silver coin, so long, and only so long, were they receivable in all payments to the United States. They were not a legal tender for private debts, but only for debts due to the United States, and then only when they were exchangeable for coin. That first Bank of the United States was created by hard-money men; the law which the gentleman cites was a hard-money law; and he can find in it no comfort for his doctrine of unrestricted, irredeemable paper money. I now proceed to make good my statement that the fathers of the Constitution and our Presidents and Secretaries of the Treasury approved of no currency except such as was exchangeable for coin, at the will of the holder proper.

In the Constitutional Convention, as reported in the Madison Papers, Gouverneur Morris moved to strike out the clause which authorized Congress to "emit bills on the credit of the United States." Mr. Ellsworth "thought this was a favorable moment to shut and bar the door against paper money. The mischiefs of the various experiments which have been made

<sup>1</sup> 1 Statutes at Large, 196.

were now fresh in the public mind, and had excited the disgust of all the respectable part of America." Mr. Reed "thought the words, if not struck out, would be as alarming as the mark of the beast in Revelation." Mr. Langdon "had rather reject the whole plan than retain the three words 'and emit bills.'" The words were stricken out by the vote of nine States to two. Mr. Madison voted to strike out the words, but held that their omission "would not disable the government from the use of public notes as far as they could be safe and proper, and would only cut off the pretext for a paper currency, and particularly for making the bills a tender for either public or private debts."<sup>1</sup>

In writing to Thomas Jefferson from Mount Vernon, under date of August 1, 1785, Washington says: "Some other States are, in my opinion, falling into very foolish and wicked plans of emitting paper money. I cannot, however, give up my hopes and expectations that we shall ere long adopt a more just and liberal system of policy."<sup>2</sup>

John Adams said, in a letter to John Jay, July 30, 1786: "I cannot but lament from my inmost soul that lust for paper money which appears in some parts of the United States; there will never be any uniform rule, if there is a sense of justice, nor any clear credit, public or private, nor any settled confidence in public men or measures, until paper money is done away."<sup>3</sup>

In the very letter of Alexander Hamilton to which the gentleman refers, on the subject of establishing a United States Bank, that great Secretary uses these words: —

"The emitting of paper money by the authority of the government is wisely prohibited to the individual States by the national Constitution; and the spirit of that prohibition ought not to be disregarded by the government of the United States. Though paper emissions, under a general authority, might have some advantages not applicable, and be free from some disadvantages which are applicable, to the like emissions by the States separately, yet they are of a nature so liable to abuse, — and it may even be affirmed, so certain of being abused, — that the wisdom of the government will be shown in never trusting itself with the use of so seducing and dangerous an expedient. In times of tranquillity, it might have no ill consequence."<sup>4</sup>

<sup>1</sup> Elliott's Debates, Vol. V. pp. 434, 435.

<sup>2</sup> Writings, etc., Vol. IX. p. 186.

<sup>3</sup> Life and Works, Vol. VIII. p. 410.

<sup>4</sup> Works of Alexander Hamilton, Vol. III. p. 124.

This is not the opinion of a paper-money man. The gentleman has sought to make it appear that Thomas Jefferson favored a paper currency not redeemable in coin, and he commends me to the sixth volume of Jefferson's Works. I will read him a passage from one of the three long letters to Eppes: "Capital may be produced by industry and accumulated by economy; but jugglers only will propose to create it by legerdemain tricks with paper."<sup>1</sup> A single fact will explain all the quotations from Jefferson made by the gentleman. When the Eppes letters were written, the United States was at war with England, with no friendly nation from whom to obtain loans, and our treasury was empty. Mr. Jefferson had long been opposed to the State banks, and he saw that by suppressing them and issuing treasury notes, with or without interest, the government could accomplish two things, destroy State-bank currency, and obtain a forced loan in circulating notes. And so he said in his letter to Eppes, of June 24, 1813.<sup>2</sup> From this letter it appears that Jefferson favored the issue of treasury notes to help the country through a war; but he insisted that they should be wholly retired on the return of peace.

[Here Mr. Garfield read an extract from the letter to Eppes. See the paper entitled "The Currency Conflict," *ante*, p. 256.]

The gentleman has made quotations from Madison. I refer him to a letter addressed to Jefferson, dated August 12, 1786, in which the evils of irredeemable paper money are strikingly stated, closing with these words: "The value of money consists in the uses it will serve. Specie will serve all the uses of paper; paper will not serve one of the essential uses of specie."<sup>3</sup>

Speaking of currency redeemable in specie, Andrew Jackson said: "There never was, nor ever could be, use for any other kind except for speculators and gamblers in stock; and this to the utter ruin of the labor and morals of a country. A specie currency gives life and action to the producing classes, on which the prosperity of all is founded."

James Buchanan declared: "The evils of a redundant paper circulation are now manifest to every eye. It alternately raises and sinks the value of every man's property. It makes a beggar of the man to-morrow who is indulging in dreams of wealth

<sup>1</sup> Works, Vol. VI. p. 241.

<sup>2</sup> *Ibid.*, pp. 139, 141.

<sup>3</sup> Writings, etc., Vol. I. p. 245.

to-day. It converts the business of society into a mere lottery; whilst those who distribute the prizes are wholly irresponsible to the people. When the collapse comes, as come it must, it casts laborers out of employment, crushes manufacturers and merchants, and ruins thousands of honest and industrious citizens."<sup>1</sup>

The records of our Secretaries of the Treasury are equally full and explicit. They concur with Secretary Guthrie, who said in one of his annual reports: "The Constitution of the United States was framed by the men who had felt all the evils thereof [of paper money]; and when provisions were inserted in that instrument that no State should emit bills of credit, nor make anything but gold and silver a tender in payment of debts, and the coinage of money was given to the general government, they believed they had provided for a hard-money currency against the evils of a depreciated one."

The gentleman's third point was a denial of my statement that the legal-tender law was passed with reluctance, under the pressure of overwhelming necessity, and that the men who enacted it, from Stevens to the humblest member of the House, and from Fessenden to the humblest Senator, were at that time in favor of returning to specie payments as soon as possible, and that the law creating greenbacks provided for their redemption. He declared that my statement is discredited by the whole course of the debates. His speech burned with special indignation because I mentioned Thaddeus Stevens as one of the distinguished men who, in 1862, believed in a coin standard. Let me read a sentence from Thaddeus Stevens, uttered in the midst of that debate: "This bill is a measure of necessity, not of choice. No one would willingly issue paper currency not redeemable on demand, and make it a legal tender. It is never desirable to depart from that circulating medium which, by the common consent of civilized nations, forms the standard of value." Let Mr. Stevens's own words answer the gentleman.

[Mr. Garfield also read from Mr. Fessenden and Mr. Sumner, of the Senate, to the same effect. See the paper entitled "The Currency Conflict," *ante*, pp. 248, 249, for the same quotations.]

And so said they all; it was the voice of the Congress. The

<sup>1</sup> Congressional Debates, Vol. XIV. Part I. p. 355.

legal-tender clause passed the Senate by but five majority; with such reluctance did the men of 1862 consent to make anything a legal tender but gold and silver, the recognized money of the world. Their speeches are full of the purpose to return to that money as soon as the necessities of the war would allow.

But the gentleman denies this. Listen to the declaration of Secretary Chase, in his letter of January 20, 1862, to Thaddeus Stevens: "It is not unknown to the committee that I have felt, nor do I wish to conceal that I now feel, a great aversion to making anything but coin a legal tender in payment of debts. It has been my anxious wish to avoid the necessity of such legislation." Then, speaking of the necessity of passing the bill, he points out that its saving clause is found in "the provisions for funding these notes in interest-bearing bonds," and adds: "Such legislation, it may be hoped, will divest the legal-tender clause of the bill of injurious tendencies, and secure the earliest possible return to a sound currency of coin and promptly convertible notes." In his annual report of December 4, 1862, he argues against the plan of increasing the volume of legal-tender notes, asserting that direct issues by the government are always dangerous. He recommends the establishment of the national banks, and then says: "The Secretary recommends, therefore, no mere paper-money scheme, but, on the contrary, a series of measures looking to a safe and gradual return to gold and silver as the only permanent basis, standard, and measure of values recognized by the Constitution, — between which and an irredeemable paper currency, as he believes, the choice is now to be made."<sup>1</sup>

I leave it to the judgment of the House whether these citations do not amply sustain my assertion, which the gentleman attempts to controvert.

The next point which the gentleman made, and in which he develops his favorite theory of finance, is this. He denies that greenbacks are a debt; he denies that they are a "forced loan," and he challenges with all the emphasis of which he is capable my statement that they were so recognized by the leading men at that time. He challenges me to find any such decision of any court of the United States, or of any State, and he completes the vehement denial by saying that if any one in 1862 had called the greenbacks a "forced loan," the statement would

<sup>1</sup> Report on the Finances, p. 21.

have been denounced as the hissing of a venomous Copperhead. On the 4th of December, 1862, the then Secretary of the Treasury, the late Chief Justice of the United States, said in his annual report, that when receipts do not equal the expenditures, the government "may create a debt in small notes, and these notes may be used as currency. This is precisely the way in which the existing currency of [the] United States is supplied. That portion of the expenditure not met by the revenue or by loans has been met by the issue of these notes. Debt in this form has been substituted for various debts in other forms."<sup>1</sup> Did anybody hiss Secretary Chase in 1862 as a "venomous Copperhead" for saying that the greenbacks were a debt?

More than this. A venerable gentleman from Massachusetts, Mr. Thomas, when the legal-tender bill was under debate and about to pass, said he "regarded the legal-tender clause in the bill as in the nature of a forced loan." I quote these words from Spaulding's "Financial History of the War,"<sup>2</sup> — the very words that the gentleman turns upon me with such vehemence for using; yet Thomas was not hissed as a "Copperhead" for the utterance.

The gentleman holds that the greenback is not a debt, but is money, — the people's money; and he defies me to find any respectable court which calls the greenback a "forced loan." I refer him to the Court of Appeals of the State of New York, and read from the opinion of Justice Marvin of that court, pronounced in 1863, in the case of the Metropolitan Bank *v.* Van Dyck. "The issuing and paying out of treasury notes" — that is in 1863, remember — "may be a forced loan to the government. . . . Call the issuing of these treasury notes borrowing money or a forced loan, and the quality in them, making them receivable in payment of all debts, enhances their value, and enables the government to realize from them a greater amount of supplies."<sup>3</sup>

I refer him to a decision, rendered also in 1863, by the Supreme Court of New York in the case of Hague *v.* Powers, in which presiding Justice Smith says: —

"There is probably not a government in Europe which has not been compelled in time of war or national distress to suspend specie payments, and make *forced loans* of the people, by making paper promises to pay, in some form, lawful money and a legal tender in payment of debts.

<sup>1</sup> Report on the Finances, p. 17.

<sup>2</sup> Page 77.

<sup>3</sup> 13 Smith, 522, 523.

. . . . Money being an indispensable agent, and necessary to carry such powers into effect, the power is implied to command, obtain, and secure it by any practicable means known or practised among civilized nations; and that the issue of treasury notes, making them a legal tender in payment of debts, is a proper and lawful means to that end,—a process of borrowing from the people, or making from them a *forced loan* to meet the governmental necessities,—and is entirely within the legitimate power of Congress, as the sovereign legislative authority of the nation.”<sup>1</sup>

Now, what will the gentleman say to his taunting challenge to produce anything from any of the courts calling it a forced loan?

But I do not need to go into the courts of the States to answer the gentleman’s challenge. I read from the opinion of our Supreme Court in the case of *Bank v. Supervisors*, where the Chief Justice, delivering the unanimous opinion of the court, says: “These notes are obligations of the United States. Their name imports obligation. Every one of them expresses upon its face an engagement of the nation to pay to the bearer a certain sum. The dollar note is an engagement to pay a dollar, and the dollar intended is the coined dollar of the United States; a certain quantity in weight and fineness of gold or silver, authenticated as such by the stamp of the government.”<sup>2</sup>

But the gentleman may say this was before the decision which affirmed the validity of the legal-tender law. I will read from the *Legal-Tender Cases*, in the discussion of which you, Mr. Chairman,<sup>3</sup> bore so honorable a part. Mr. Justice Strong, delivering the opinion of the court, said, and I wish this remembered in answer to another point made later in the gentleman’s speech: “We do not rest their validity upon the assertion that their emission is coinage, or any regulation of the value of money; nor do we assert that Congress may make anything which has no value money. What we do assert is, that Congress has power to enact that the government’s promises to pay money shall be, *for the time being*, equivalent in value to the representative of value determined by the coinage acts, or to multiples thereof. . . . It is, then, a mistake to regard the legal-tender acts as either fixing a standard of value, or regulating money values, or making that money which has no intrinsic value.”<sup>4</sup>

<sup>1</sup> 39 Barbour, 459, 461.

<sup>3</sup> Mr. Potter, of New York.

<sup>2</sup> 7 Wallace, 30.

<sup>4</sup> 12 Wallace, 553.

Mr. Justice Bradley says, in the same cases: —

“This power is entirely distinct from that of coining money and regulating the value thereof. . . . It is incidental to the power of borrowing money. . . . It is a pledge of the national credit. It is a promise by the government to pay dollars; it is not an attempt to make dollars. The standard of value is not changed. The government simply demands that its credit shall be accepted and received by public and private creditors during the pending exigency. Every government has a right to demand this when its existence is at stake. . . . It is an indirect way of *compelling* the owner of property to lend to the government. He is *forced* to rely on the national credit.” — Is not there a forced loan? — “He is forced to rely on the national credit. . . . No one supposes that these government certificates are never to be paid; that the day of specie payments is never to return. . . . Through whatever changes they pass, their ultimate destiny is *to be paid.*”<sup>1</sup>

Now, Mr. Speaker, if the greenback was not a promise to be kept, a debt, — a compulsory debt, — a forced loan, — to be paid, then these declarations of the Supreme Court have no meaning. I leave the gentleman to wrestle with the courts.

The gentleman says I misrepresented his criticism of Mr. McCulloch, late Secretary of the Treasury. The passage in controversy is this. The late Secretary said, “All the great financial troubles which have occurred in the United States have been the result of the plethora of paper money; and the crises have always been reached when its volume was the largest.” And it was for this statement that the gentleman from Pennsylvania denounced him as “conspicuously ignorant or conspicuously mendacious.” I expressed the opinion that the Secretary was entirely right, that it was simply a naked truth that all the great financial crises in this country had been preceded by inflation of paper currency, in one form or another. The gentleman now gets over all that by saying Mr. McCulloch had no business to use the term “paper money,” for the reason that there had never been any paper money in this country until the “legal tender” was adopted; that before that there were only banknotes, which were not money. And so, for his use of this term, to which the gentleman attaches a peculiar meaning of his own, he denounces the late Secretary as ignorant or mendacious. I concurred with the Secretary, not only in the truth he asserted, but also in his use of the word. The whole world has used the

<sup>1</sup> 12 Wallace, 560-562.



term "paper money" to describe the various paper currencies that America has had from the beginning until now. And yet the gentleman says that but for this misrepresentation of his speech he would have made no reply to my speech! Behold on what a slender thread hang all our destinies!

He assails my opinion that we need, not only a national, but an international currency. I went on to state that we have a vast volume of foreign trade; and, by the way, either by my mistake or the printer's the aggregate value of our exports and imports was stated at \$1,500,000,000, but my notes said \$1,200,000,000. The gentleman convicts me of conspicuous inaccuracy in that regard, and he is right in the correction. I was right in my notes, but I humbly bow to his correction of my print. But the gentleman denies that there is any such thing as international currency. Did he suppose I was talking about a common coined piece of money, agreed upon among the nations, such as he was trying to secure in our coinage some years ago? Not at all. It was plain, I think, to every one who heard me, that I was speaking of coin, which the whole world recognizes as money, and in which all our foreign trade is measured. Now, the gentleman did not need to tell us that only balances were paid in actual money. Any one who has looked into the horn-books of finance knows that. But while only balances are paid in coin, the value of every pound of merchandise imported or exported is measured in coin; and that is the ground on which I based my demand for a coinage for America, a money for America, which can be used for international as well as for national exchanges.

The next point the gentleman makes is that my reference to resumption in England was exceedingly unfortunate, and my citations of authorities inaccurate. He has learned from a three-line notice in *Allibone* that *Doubleday* was a great financial writer; and he would have us believe that, because *Alison* wrote a history, his views of finance must be sound. But I notice that neither the gentleman nor his "coach," *Mr. Schuckers*, who addressed to the gentleman not less than twenty pamphlet pages on the subject of my November speech, has been able to argue away the stubborn fact, that in 1821, and again in 1822, the House of Commons, by a vote first of five to one, and then of six to one, declared that the Resumption Act of 1819 did not cause the distress which then prevailed. When they

have proved that they know more on the subject than the House of Commons, it will be in order to appeal to Alison and Doubleday, and to assail me for supposing that the Parliament of Great Britain is a fair index of British opinion.

I referred to a chapter of Miss Martineau's *History of England*, in which the causes of the distress are set forth as being those that I alleged, and stated that Thomas Tooke, in his *History of Prices*, held the same opinion. The gentleman from Pennsylvania denies that Tooke holds the opinions that I attributed to him; and Mr. Schuckers disposes of Miss Martineau by saying she was "of all human animals the most forlorn, — a woman atheist, — whose narration is a mere reiteration of Mr. Tooke's, whose follower she was." In answer to the gentleman's denial I quote from Tooke's great work: —

"Never indeed was there a measure dictated by a sounder policy than that by which Parliament determined, in 1819, that the trifling divergence which then existed between the paper and the gold should, as speedily as was conveniently practicable, be remedied, and the convertibility restored with the strongest sanction against its being again suspended. So loudly was that measure called for by every consideration of justice and good faith, and of the most comprehensive view of the public interest, that if, for the purpose of carrying it into effect, some actual derangement of prices and of credit had been distinctly contemplated, the effort would have been amply justified by the object. But there is not the vestige of a ground for supposing that the smallest part of the fall of prices, or of the derangement of credit, in 1819, or from 1819 to 1822, can, according to any evidence of facts or any consistent reasoning, be traced to the operation, direct or indirect, of that measure. The sufficiency of the causes, without reference to Peel's bill, of the fall of prices between 1818 and 1822, can hardly, it is presumed, admit of a doubt in the mind of any person who, unbiased by a preconceived theory, will examine carefully the facts as they will appear in evidence in connection with the fall of prices."<sup>1</sup>

For Tooke's analysis of the corn laws, and their effects on prices and panics, I refer to the first sixty-seven pages of the third volume of his work.

The main facts to which I referred, in regard to resumption in England, remain unchallenged. My statement, that no writer of eminence could be found who takes the opposite view, was doubtless too broad. I have never said that resumption was

<sup>1</sup> Vol. II. p. 76 (London, 1838).

accomplished, or ever can be accomplished, without some hardship. The process is always more or less severe. Perhaps I understand the strength of British opinion to the effect that the Resumption Act produced some distress. But what I did say remains unanswered, and I will venture to say unanswerable; viz. the opinion of Parliament, the recognized official opinion of England, expressed in the most decided and emphatic terms, was, that the resumption of cash payments was a great blessing, a wise and necessary act of restoration after war. This opinion is now held, and has been held for more than half a century, by a great majority of Englishmen.

The gentleman criticises me on another point. He says there is not \$65,000,000 of coin reserve in the treasury available for resumption, and that there is not \$5,000,000 a month coming into the treasury to add to that reserve. Does he forget that what I said was spoken one hundred and nine days ago? What I said was true on the day I uttered it, according to the authority of the Secretary of the Treasury. But I also said that here in Congress was the storm-centre of danger. Will the gentleman deny that the agitation we have had here since November has increased the public distress, and retarded our progress toward resumption?

I do not revive the discussion of the silver bill. I hope that question is now settled, that the agitation is calmed, and that we may go forward into whatever of prosperity is possible for us; and I shall be glad if that measure turns out to be wise. But it is a poor answer to my facts, stated more than one hundred days ago, to say that \$5,000,000 of coin is not now being added to the resumption fund each month, as it was then.

The gentleman says that the great trouble with all our affairs is, and has been, the fatal contraction of our currency, begun by Hugh McCulloch in 1865, and continued in 1866. Mr. Chairman, here is a little history which I wish to read. The years he named were 1865 and 1866. On the 18th of December, 1865, the following resolution was introduced into the House of Representatives: "*Resolved*, That this House cordially concurs in the views of the Secretary of the Treasury [Hugh McCulloch], in relation to the necessity of a contraction of the currency, with a view to as early a resumption of specie payments as the business interests of the country will permit; and we hereby pledge co-operative action to this end as speedily as practicable."

Here are the yeas and nays recorded in the Journal of the House, — 144 yeas and 6 nays; and among the yeas I read the name of William D. Kelley.

MR. BROWNE. Do you find the name of Voorhees on the list?

I did not look; but a gentleman near me has the Journal, and says it is among the yeas.

This reminds me of a little scene that occurred here not many months ago, in the beginning of the silver agitation, when we heard the voice of the titular father of the House denouncing the demonetization of silver in 1873 as a legislative "trick." And yet, when that bill was before the House for action, that same gentleman, then chairman of the committee that framed the bill, assured the House that the committee had considered its provisions carefully, and were satisfied that it ought to pass; that it was useless to attempt to continue the coinage of the silver dollar; that they had dropped it because gold fluctuated so continually that the double standard could not be maintained. Doubtless every man is entitled to change his opinions, and it is often wise to change them. But these examples ought to teach the gentleman, when he assails his brethren for their opinions, to look well to the house in which he lives, and see how many glass windows it contains.

Mr. Chairman, the gentleman's speech from beginning to end was a mere criticism of the little details of my speech. If everything he said were granted, it does not touch whatever of strength there was in my argument. In the main, he busied himself with a fact here and there, a quotation, a citation, or a reference, but did not touch the marrow of what I tried to present. My central proposition was that the greenback currency was a debt to be paid; that, by all the solemn sanctions of law, of honor, of duty, we are bound to make these notes equal to coin, — to redeem them; and it is precisely that which displeased the gentleman. It does not answer my proposition to ramble over my speech and pick up a morsel here and there; to leave the line of debate and become what the Grecians called a *σπερμολόγος*, — a picker up of bird-seed, a snapper up of unconsidered trifles.

In my opinion, Mr. Chairman, the essence of this whole matter will be found in this. The gentleman from Pennsylvania is not content with the legislation that we have had. He de-

nounced silver when it was first proposed as a subsidiary coinage in place of paper scrip, and sought to laugh it out of the House. But it so happens that the wind now sits in another quarter. He and some other financiers of the new school accept silver only as a step to the next stage of controversy. It is not the silver dollar, but the irredeemable paper dollar, to which they cry, "All hail! that shalt be King hereafter." The programme of these advocates of "fiat money" is beginning to appear. We had it in the powerful speech made by the gentleman from Massachusetts,<sup>1</sup> a few days since, in which he said he wanted that dollar stamped upon some convenient and cheap material of the least possible intrinsic value, so that neither its wear nor its destruction would be any loss to the government issuing it. He said he also desired the dollar to be made of such material that it would never be desirable to carry it out of the country. He did not propose to adapt an American system of finance to the wants of any other nation, and especially the Chinese, who are nearly one quarter of the world. He desires also that the dollar so issued shall never be redeemed.

This is the new battle line on which these champions of the new system of American finance challenge all men of both parties, who believe in gold and silver coin, and paper exchangeable for coin, to join issue. They wish to strike from our law the nation's promise and pledge to redeem its notes. They wish to supersede the "barbarism of gold and silver" by a coinage of paper; and in the kingdom to be, when paper—worthless paper—has become our currency, then will the time have arrived, welcomed by the apostles of the new finance, when our bonds will not only come back to us from abroad, but will depreciate to fifty cents on the dollar. This is the very essence of communism.

If I read aright the signs in the political horizon, the time is just at hand when men who love their country, its honor and its plighted faith,—men of both political parties,—will stand together against this new heresy known as "American finance." On the issue which the gentleman and his associates raise, my choice has long since been made. It is an issue of such transcendent importance that it may render all others obsolete. It is the struggle of honor against dishonor, of law against

<sup>1</sup> Mr. Butler.

anarchy, — a struggle in which the peace and safety of both employer and employed, government and people, are involved. In such a contest I care not into what party the issue lands me, or in what company it finds me; when it comes, I shall stand with the men who defend the money of the Constitution and the faith of the country. And we cannot be a moment too soon in understanding the nature and designs of those who are preparing the conflict.

Mr. Chairman, I beg the pardon of the committee for delaying the appropriation bill by this speech, and I specially regret the necessity which compelled me to make it.

## OLIVER P. MORTON.

REMARKS MADE IN THE HOUSE OF REPRESENTATIVES,

JANUARY 18, 1878.

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THE Senate sent the following resolutions to the House of Representatives :—

“ IN THE SENATE OF THE UNITED STATES, January 17, 1878.

“ *Resolved*, That from an earnest desire to show every mark of respect to the memory of Hon. Oliver P. Morton, late a Senator of the United States from the State of Indiana, and to manifest the high estimate entertained of his eminent public services, his distinguished patriotism, and his usefulness as a citizen, the business of the Senate be now suspended, that the friends and associates of the deceased Senator may pay fitting tribute to his public and private virtues.

“ *Resolved*, That a wide-spread and public sorrow on the announcement of his death attested the profound sense of the loss which the whole country has sustained.

“ *Resolved*, That, as a mark of respect for the memory of Mr. Morton, the members of the Senate will go into mourning by wearing crape upon the left arm for thirty days.

“ *Resolved*, That the Secretary of the Senate communicate these resolutions to the House of Representatives.”

Pending these resolutions in the House, Mr. Garfield made the following remarks.

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MR. SPEAKER,— Special training-schools have been established or encouraged by law for all the great professions known among Americans, except statesmanship. And yet no profession requires for its successful pursuit a wider range of general and special knowledge, or a more thorough and varied culture. Probably no American youth, unless we except

John Quincy Adams, was ever trained with special reference to the political service of his country.

In monarchical governments, not only wealth and rank, but political authority, descend by inheritance from father to son. The eldest son of an English peer knows from his earliest childhood that a seat awaits him in the House of Lords. If he be capable and ambitious, the dreams of his boyhood and the studies of his youth are directed toward the great field of statesmanship. To the favored few, this system affords many and great advantages, and upon the untitled many, whom "birth's invidious bar" shuts out from the highest places of power, it must rest with discouraging weight.

Our institutions confer special privileges upon no citizen, and we may now say they erect no barrier in the honorable career of the humblest American. They open an equal pathway for all, and invite the worthiest to the highest seats. The fountains of our strength as a nation spring from the private life and the voluntary efforts of forty-five millions of people. Each for himself confronts the problem of life, and amid its varied conditions develops the forces with which God has endowed him. Meantime, the nation moves on in its great orbit, with a life and destiny of its own, each year calling to its aid those qualities and forces which are needed for its preservation and its glory. Now it needs the prudence of the counsellor, now the wisdom of the lawgiver, and now the shield of the warrior to cover its heart in the day of battle. And when the hour and the man have met, and the needed work has been done, the nation crowns her heroes and makes them her own forever. Such hours we have often seen during the last seventeen years, hours which have called forth the great elements of manhood and strength from the ranks of our people, and filled our pantheon with national heroes.

Seventeen years ago, at a moment of supreme peril, the nation called upon the people of twenty-two States to meet around her altar and defend her life. Of all the noble men who responded to that call, no voice rang out with more clearness and power than that of Oliver P. Morton, the young Governor of Indiana. He was then but thirty-seven years of age. Self-made, as all men are who are worth the making, he had risen from a hard life of narrow conditions by fighting his own way, thinking his own thoughts and uttering them without fear, until, by the fortune of political life, he had become the chief



executive of his State. He saw at once and declared the terrible significance of the impending struggle, and threw his whole weight into the conflict. His State and my own marched abreast in generous emulation. But he was surrounded by difficulties and dangers which hardly found a parallel in any other State. With unconquerable will and the energy of a Titan he encountered and overcame them all; and, keeping Indiana in line with the foremost, he justly earned the title of one of the greatest war Governors of that heroic period. Thus the great need of the nation called forth and fixed in the enduring colors of fame those high qualities which thirty-seven years of private life had been preparing.

To learn the lesson of his great life, let us recall briefly its leading characteristics.

He was a great organizer; he knew how to evoke and direct the enthusiasm of his people. He knew how to combine and marshal his forces, political or military, so as to concentrate them all upon a single object, and inspire them with his own ardor. I have often compared him with Stanton, our great War Secretary, whose windows at the War Office, for many years, far into the night shone out "like battle lanterns lit," while he mustered great armies and launched them into the tempest of war, and "organized victory." In the whole circle of the States, no organizer stood nearer to him in character, qualities, and friendship than Oliver P. Morton.

His force of will was most masterful. It was not mere stubbornness or pride of opinion, which weak and narrow men mistake for firmness; but it was that stout-hearted persistency which, having once intelligently chosen an object, pursues it through sunshine and storm, undaunted by difficulties and unterrified by danger.

He possessed an intellect of remarkable clearness and force. With keen analysis, he found the core of a question, and worked from the centre outwards. He cared little for the mere graces of speech; but few men have been so greatly endowed with the power of clear statement and unassailable argument. The path of his thought was straight, —

"Like that of the swift cannon-ball,  
Shattering that it may reach, and shattering what it reaches."

When he had hit the mark, he used no additional words and sought for no decoration. These qualities, joined to his power

of thinking quickly, placed him in the front rank of debaters, and every year increased his thought.

It has been said that Senator Morton was a partisan, a strong partisan, — and this is true. In the estimation of some this detracts from his fame. That evils arise from extreme partisanship, there can be no doubt. But it should not be forgotten that all free governments are party governments. Our great Americans have been great partisans. Senator Morton was not more partisan than Adams, Jefferson, Jackson, Clay, Calhoun, Benton, Marshall, Taney, or Chase. Strong men must have strong convictions, and “one man with a belief is a greater power than a thousand that have only interests.” Partisanship is opinion crystallized, and party organizations are the scaffoldings whereon citizens stand while they build up the wall of their national temple. Organizations may change or dissolve; but when parties cease to exist, liberty will perish.

In conclusion, let me say that the memory of Governor Morton will be forever cherished and honored by the soldiers of Ohio. They fought side by side with the soldiers of Indiana, and on a hundred glorious fields his name was the battle-cry of the noble regiments which he had organized and inspired with his own lofty spirit.

To the nation he has left the legacy of his patriotism, and the example of a great and eventful life.

# LINCOLN AND EMANCIPATION.

ADDRESS DELIVERED IN THE HALL OF THE HOUSE OF  
REPRESENTATIVES,

FEBRUARY 12, 1878.

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JANUARY 16, 1878, the following communication was presented to the House of Representatives : —

“ TO THE SENATE AND HOUSE OF REPRESENTATIVES IN CONGRESS ASSEMBLED.

“ Your petitioner most respectfully represents as follows : —

“ The Proclamation of Emancipation by President Lincoln was one of the great historic events of the century, — scarcely second in importance to any in our national annals. The historical painting celebrating this act, executed under the direct supervision of President Lincoln at the Executive mansion in 1864, has become widely known through engraved copies which may be seen hanging upon the walls of thousands of homes throughout the land. The public press has from time to time given expression to the popular desire that this painting, associated as it is with the memory of the lamented Lincoln, should be preserved among the other historic art-works of the national Capitol.

“ But the enforced economy in public expenditures, approved by all good citizens, has of late years restricted, and probably for many years to come will restrict, the purchase of works of art by Congress. Meanwhile, there is danger that this painting may be lost to the country by accident, as was the original written proclamation by the burning of Chicago.

“ Your petitioner has, therefore, purchased this painting of the artist, whose earnest study and labor upon it have been protracted through many years, and now respectfully requests that you receive the same as a gift to the nation. Your petitioner has also been moved by the fact that President Lincoln, a few weeks before his death, expressed the wish that this historic painting should become the property of the nation, and be preserved in the national Capitol.

“ Your petitioner ventures the hope that, should her gift meet the approval of Congress, an hour may be designated, on Lincoln’s birthday, February 12, to receive the painting.

“ ELIZABETH THOMPSON.

“ NEW YORK, January 9, 1878.”

Mr. Garfield moved that this memorial be spread upon the Journal of the House ; to which there was no objection. He then introduced this joint resolution, which was agreed to : —

“Whereas, Mrs. Elizabeth Thompson, of New York City, has tendered to Congress Carpenter’s painting of President Lincoln and his Cabinet, at the time of his first reading of the Proclamation of Emancipation : Therefore,

“*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the said painting is hereby accepted in the name of the people of the United States ; and the thanks of Congress are tendered to the donor for the generous and patriotic gift.

“*And be it further resolved,* That the Joint Committee on the Library are hereby instructed to make arrangements for the formal presentation of said painting to Congress, on Tuesday, the 12th of February next ; and said committee shall cause said painting to be placed in an appropriate and conspicuous place in the Capitol, and shall carefully provide for its preservation.

“*And be it further resolved,* That the President is requested to cause a copy of these Resolutions to be forwarded to Mrs. Thompson.”

The Senate also adopted the resolution, and in pursuance of its provisions the hour of two o’clock P. M., Tuesday, February 12, was fixed for the formal presentation and acceptance of the painting.

At two o’clock, the Assistant Doorkeeper of the House announced the Senate of the United States. Preceded by the Vice-President of the United States and accompanied by their Secretary and Sergeant-at-Arms, the Senators entered and took the seats assigned them. The donor of the picture, Mrs. Elizabeth Thompson, with her escort, and the artist, Mr. F. B. Carpenter, also occupied seats on the floor. The painting, which had been covered with the American flag, hung unveiled behind the Speaker’s desk.

The Vice-President (who occupied a chair on the right of the Speaker), said : “The Senate and House of Representatives have convened in joint session for the purpose of receiving, through the munificence of Mrs. Elizabeth Thompson, of the city of New York, Carpenter’s painting, ‘The Signing of the Proclamation of Emancipation.’”

Mr. Garfield then delivered the following speech, presenting the picture to Congress.

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**M**R. PRESIDENT, — By the order of the Senate and the House, and on behalf of the donor, Mrs. Elizabeth Thompson, it is made my pleasant duty to deliver to Congress the painting which is now unveiled. It is the patriotic gift of

an American woman whose years have been devoted to gentle and generous charities and to the instruction and elevation of the laboring poor. Believing that the perpetuity and glory of her country depend upon the dignity of labor and the equal freedom of all its people, she has come to the Capitol to place in the perpetual custody of the nation, as the symbol of her faith, the representation of that great act which proclaimed "liberty throughout all the land unto all the inhabitants thereof." Inspired by the same sentiment, the representatives of the nation have opened the doors of this chamber to receive at her hands the sacred trust.

In coming hither, these living representatives have passed under the dome and through that beautiful and venerable hall which, on another occasion, I have ventured to call the third House of the American Congress, that silent assembly whose members have received their high credentials at the impartial hand of history. Year by year, we see the circle of its immortal membership enlarging; year by year, we see the elect of their country, in eloquent silence, taking their places in this American Pantheon, bringing within its sacred precincts the wealth of those immortal memories which made their lives illustrious; and year by year, that august assembly is teaching deeper and grander lessons to those who serve in these more ephemeral houses of Congress.

Among the paintings hitherto assigned to places within the Capitol are two which mark events forever memorable in the history of mankind, — thrice memorable in the history of America. The first is the painting by Vanderlyn, which represents, though with inadequate force, the great discovery which gave to the civilized world a new hemisphere. The second, by Trumbull, represents that great Declaration which banished forever from our shores the crown and sceptre of imperial power, and proposed to found a new nation upon the broad and enduring basis of liberty.

To-day, we place upon our walls this votive tablet, which commemorates the third great act in the history of America, — the fulfilment of the promises of the Declaration.

Concerning the causes which led to that act, the motives which inspired it, the necessities which compelled it, and the consequences which followed and are yet to follow it, there have been, there are, and still will be great and honest differences of

opinion. Perhaps we are yet too near the great events of which this act formed so conspicuous a part, to understand its deep significance and to foresee its far-off consequences. The lesson of history is rarely learned by the actors themselves, especially when they read it by the fierce and dusky light of war, or amid the deeper shadows of those sorrows which war brings to both. But the unanimous voice of this House in favor of accepting the gift, and the impressive scene we here witness, bear eloquent testimony to the transcendent importance of the event portrayed on yonder canvas.

Let us pause to consider the actors in that scene. In force of character, in thoroughness and breadth of culture, in experience of public affairs, and in national reputation, the Cabinet that sat around that council-board has had no superior, perhaps no equal in our history. Seward, the finished scholar, the consummate orator, the great leader of the Senate, had come to crown his career with those achievements which placed him in the first rank of modern diplomatists. Chase, with a culture and a fame of massive grandeur, stood as the rock and pillar of the public credit, the noble embodiment of the public faith. Stanton was there, a very Titan of strength, the great organizer of victory. Eminent lawyers, men of business, leaders of states and leaders of men, completed the group.

But the man who presided over that council, who inspired and guided its deliberations, was a character so unique that he stood alone, without a model in history or a parallel among men. Born on this day, sixty-nine years ago, to an inheritance of extremest poverty; surrounded by the rude forces of the wilderness; wholly unaided by parents; only one year in any school; never, for a day, master of his own time until he reached his majority; making his way to the profession of the law by the hardest and roughest road; — yet by force of unconquerable will and persistent, patient work, he attained a foremost place in his profession,

“And, moving up from high to higher,  
Became on Fortune's crowning slope  
The pillar of a people's hope,  
The centre of a world's desire.”

At first, it was the prevailing belief that he would be only the nominal head of his administration, — that its policy would be directed by the eminent statesmen he had called to his council.

How erroneous this opinion was may be seen from a single incident.

Among the earliest, most difficult, and most delicate duties of his administration was the adjustment of our relations with Great Britain. Serious complications, even hostilities, were apprehended. On the 21st of May, 1861, the Secretary of State presented to the President his draught of a letter of instructions to Minister Adams, in which the position of the United States and the attitude of Great Britain were set forth with the clearness and force which long experience and great ability had placed at the command of the Secretary. Upon almost every page of that original draught are erasures, additions, and marginal notes in the handwriting of Abraham Lincoln, which exhibit a sagacity, a breadth of wisdom, and a comprehension of the whole subject, impossible to be found except in a man of the very first order. And these modifications of a great state paper were made by a man who but three months before had entered for the first time the wide theatre of Executive action.

Gifted with an insight and a foresight which the ancients would have called divination, he saw, in the midst of darkness and obscurity, the logic of events, and forecast the result. From the first, in his own quaint, original way, without ostentation or offence to his associates, he was pilot and commander of his administration. He was one of the few great rulers whose wisdom increased with his power, and whose spirit grew gentler and tenderer as his triumphs were multiplied.

This was the man, and these his associates, who look down upon us from the canvas.

The present is not a fitting occasion to examine, with any completeness, the causes that led to the Proclamation of Emancipation; but the peculiar relation of that act to the character of Abraham Lincoln cannot be understood, without considering one remarkable fact in his history. His earlier years were passed in a region remote from the centres of political thought, and without access to the great world of books. But the few books that came within his reach he devoured with the divine hunger of genius. One paper, above all others, led him captive, and filled his spirit with the majesty of its truth and the sublimity of its eloquence. It was the Declaration of American Independence. The author and the signers of that instrument

became, in his early youth, the heroes of his political worship. I doubt if history affords any example of a life so early, so deeply, and so permanently influenced by a single political truth, as was Abraham Lincoln's by the central doctrine of the Declaration, — the liberty and equality of all men. Long before his fame had become national he said, "That is the electric cord in the Declaration, that links the hearts of patriotic and liberty-loving men together, and that will link such hearts as long as the love of freedom exists in the minds of men throughout the world."

That truth runs, like a thread of gold, through the whole web of his political life. It was the spear-point of his logic in his debates with Douglas. It was the inspiring theme of his remarkable speech at the Cooper Institute, New York, in 1860, which gave him the nomination to the Presidency. It filled him with reverent awe when on his way to the capital to enter the shadows of the terrible conflict then impending, he uttered, in Independence Hall, at Philadelphia, these remarkable words, which were prophecy then, but are history now: —

"I have never had a feeling, politically, that did not spring from the sentiments embodied in the Declaration of Independence. I have often pondered over the dangers which were incurred by the men who assembled here, and framed and adopted that Declaration of Independence. I have pondered over the toils that were endured by the officers and soldiers of the army who achieved that independence. I have often inquired of myself what great principle or idea it was that kept this confederacy so long together. It was not the mere matter of the separation of the Colonies from the mother land, but that sentiment in the Declaration of Independence which gave liberty, not alone to the people of this country, but, I hope, to the world for all future time. It was that which gave promise that, in due time, the weight would be lifted from the shoulders of all men. This is the sentiment embodied in the Declaration of Independence. Now, my friends, can this country be saved upon that basis? If it can, I will consider myself one of the happiest men in the world if I can help to save it. If it cannot be saved upon that principle, it will be truly awful. But if this country cannot be saved without giving up that principle, I was about to say, *I would rather be assassinated on this spot than surrender it.*"<sup>1</sup>

Deep and strong was his devotion to liberty; yet deeper and stronger still was his devotion to the Union; for he believed

<sup>1</sup> Life, Public Services, and State Papers of Abraham Lincoln, by Henry J. Raymond, pp. 154, 155 (New York, 1865).



that without the Union permanent liberty for either race on this continent would be impossible. And because of this belief, he was reluctant, perhaps more reluctant than most of his associates, to strike slavery with the sword. For many months, the passionate appeals of millions of his associates seemed not to move him. He listened to all the phases of the discussion, and stated, in language clearer and stronger than any opponent had used, the dangers, the difficulties, and the possible futility of the act. In reference to its practical wisdom, Congress, the Cabinet, and the country were divided. Several of his generals had proclaimed the freedom of slaves within the limits of their commands. The President revoked their proclamations. His first Secretary of War had inserted a paragraph in his annual report advocating a similar policy. The President suppressed it.

On the 19th of August, 1862, Horace Greeley published a letter, addressed to the President, entitled "The Prayer of Twenty Millions," in which he said, "On the face of this wide earth, Mr. President, there is not one disinterested, determined, intelligent champion of the Union cause who does not feel that all attempts to put down the rebellion and at the same time uphold its inciting cause are preposterous and futile."

To this the President responded in that ever-memorable reply of August 22, in which he said: —

"If there be those who would not save the Union unless they could at the same time save slavery, I do not agree with them.

"If there be those who would not save the Union unless they could at the same time destroy slavery, I do not agree with them.

"*My paramount object is to save the Union, and not either to save or to destroy slavery.*

"If I could save the Union without freeing any slave, I would do it. If I could save it by freeing all the slaves, I would do it, — and if I could do it by freeing some and leaving others alone, I would also do that.

"What I do about slavery and the colored race, I do because I believe it helps to save the Union; and what I forbear, I forbear because I do not believe it would help to save the Union. I shall do less whenever I shall believe that what I am doing hurts the cause, and I shall do more whenever I believe doing more will help the cause."<sup>1</sup>

Thus, against all importunities on the one hand and remonstrances on the other, he took the mighty question to his own heart, and, during the long months of that terrible battle-

<sup>1</sup> Raymond's Life, etc., p. 253.

summer, wrestled with it alone. But at length he realized the saving truth, that great, unsettled questions have no pity for the repose of nations. On the 22d of September, he summoned his Cabinet to announce his conclusion. It was my good fortune, on that same day, and a few hours after the meeting, to hear, from the lips of one who participated, the story of the scene. As the chiefs of the Executive Departments came in, one by one, they found the President reading a favorite chapter from a popular humorist. He was lightening the weight of the great burden which rested upon his spirit. He finished the chapter, reading it aloud. And here I quote, from the published Journal of the late Chief Justice, an entry, written immediately after the meeting, and bearing unmistakable evidence that it is almost a literal transcript of Lincoln's words.

“The President then took a graver tone, and said: ‘Gentlemen, I have, as you are aware, thought a great deal about the relation of this war to slavery; and you all remember that, several weeks ago, I read to you an order I had prepared upon the subject, which, on account of objections made by some of you, was not issued. Ever since then my mind has been much occupied with this subject, and I have thought all along that the time for acting on it might probably come. I think the time has come now. I wish it was a better time. I wish that we were in a better condition. The action of the army against the rebels has not been quite what I should have best liked. But they have been driven out of Maryland, and Pennsylvania is no longer in danger of invasion. When the rebel army was at Frederick, I determined as soon as it should be driven out of Maryland to issue a proclamation of emancipation, such as I thought most likely to be useful. I said nothing to any one, but I made a promise to myself and (hesitating a little) to my Maker. The rebel army is now driven out, and I am going to fulfil that promise. I have got you together to hear what I have written down. I do not wish your advice about the main matter, for that I have determined for myself. This I say without intending anything but respect for any one of you. But I already know the views of each on this question. They have been heretofore expressed, and I have considered them as thoroughly and carefully as I can. What I have written is that which my reflections have determined me to say. If there is anything in the expressions I use, or in any minor matter which any one of you thinks had best be changed, I shall be glad to receive your suggestions. One other observation I will make. I know very well that many others might, in this matter as in others, do better than I can; and if I was satisfied that the public confidence was more fully possessed by any one of them than

by me, and knew of any constitutional way in which he could be put in my place, he should have it. I would gladly yield it to him. But though I believe I have not so much of the confidence of the people as I had some time since, I do not know that, all things considered, any other person has more; and, however this may be, there is no way in which I can have any other man put where I am. I am here. I must do the best I can and bear the responsibility of taking the course which I feel I ought to take.'

"The President then proceeded to read his Emancipation Proclamation, making remarks on the several parts as he went on, and showing that he had fully considered the subject in all the lights under which it had been presented to him."<sup>1</sup>

The Proclamation was amended in a few matters of detail. It was signed and published that day. The world knows the rest, and will not forget it till "the last syllable of recorded time."

In the painting before us, the artist has chosen the moment when the reading of the Proclamation was finished, and the Secretary of State was offering his first suggestion. I profess no skill in the subtle mysteries of art criticism. I can say of a painting only what the painting says to me. I know not what this may say to others; but to me it tells the whole story of the scene in the silent and pathetic language of art.

We value the Trumbull picture of the Declaration — that promise and prophecy of which this act was the fulfilment — because many of its portraits were taken from actual life. This picture is a faithful reproduction, not only of the scene, but of its accessories. It was painted at the Executive mansion, under the eye of Mr. Lincoln, who sat with the artist during many days of genial companionship, and aided him in arranging the many details of the picture.

The severely plain chamber, not now used for Cabinet councils; the plain marble mantel, with the portrait of a hero President above it; the council table at which Jackson and his successor had presided; the old-fashioned chairs; the books and maps; the captured sword, with its pathetic history; — all are there, as they were in fact fifteen years ago. But what is of more consequence, the portraits are true to the life. Mr. Seward said of the painting, "It is a vivid representation of

<sup>1</sup> *Life and Public Services of Salmon Portland Chase*, by J. W. Schuckers, pp. 453, 454 (New York: D. Appleton & Co., 1874).

the scene, with portraits of rare fidelity"; and so said all his associates.

Without this painting, the scene could not even now be reproduced. The room has been remodelled; its furniture is gone; and Death has been sitting in that council, calling the roll of its members in quick succession. Yesterday he added another name to his fatal list; and to-day he has left upon the earth but a single witness of the signing of the Proclamation of Emancipation.

With reverence and patriotic love, the artist accomplished his work; with patriotic love and reverent faith, the donor presents it to the nation. In the spirit of both, let the reunited nation receive it and cherish it forever.

## THE ARMY AND THE PUBLIC PEACE.

SPEECH DELIVERED IN THE HOUSE OF REPRESENTATIVES,

MAY 21, 1878.

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SOON after the Democratic party gained the control of the House of Representatives, in December, 1875, they began a series of attempts to reduce the size and impair the strength of the army. At that time the number of enlisted men authorized by law was thirty thousand. June 1, 1876, the House passed a bill that reduced the cavalry regiments from ten to eight and the infantry regiments from twenty-five to twenty, abolished the regimental organization of the artillery, consolidated the Quartermaster's and Subsistence Departments, reorganized the Medical Department, and made other changes of less importance in the organization of the army. No action was had upon this bill in the Senate. At the session of 1876-77, the Army Appropriation Bill failed to pass, because the House insisted upon restricting the President's power to use the army in the States of Louisiana and South Carolina. At the extra session of 1877, the House put upon the Army Bill for the fiscal year ending June 30, 1878, a proviso "that nothing herein contained shall authorize the recruiting the number of men on the army rolls, including Indian scouts and hospital stewards, beyond twenty thousand men"; but the Senate insisted that the number should be twenty-five thousand, and the House receded. The Army Bill for the next fiscal year, as reported from the Committee on Appropriations, and as passed by the House, limited the rank and file of the army to twenty thousand. The Senate again insisted on twenty-five thousand, and the House again receded. The act as finally approved contained a prohibition of the use of any part of the army as a *posse comitatus*, or otherwise for executing the laws except as expressly authorized by the Constitution or by act of Congress; and referred the reform and reorganization of the army to a commission of three Senators and five Representatives. Pending the bill in Committee of the Whole House, in the form reported from the Committee on Appropriations, Mr. Garfield made the following remarks.

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MR. CHAIRMAN, — I have listened with great interest to the discussion of this subject, and especially to the speech of the gentleman from New York<sup>1</sup> who opened the discussion. In many points of his speech I concur; but there is one main point in the bill upon which I differ from him and from the majority of the Committee on Appropriations. It is the question of the strength of the army which we ought to maintain. If in anything I have heretofore said or written upon this subject I have unnecessarily or improperly run into partisanship, I shall certainly not do so to-night.

It will be admitted on all hands that the conditions of this country are altogether unlike those of European governments in regard to the character and methods of national defence. No man can read the tables that record the size and cost of the armies of Europe without a sense of amazement. Fortunately, we are so situated geographically that we do not need a standing army on any such scale as those of Europe. When I find a country with one fourth of the population of the United States maintaining an army four times as large as ours, it is with a just pride that I can say I live in a country which, when the perils of war come, can at once convert the mass of its citizens into a column of defenders, and create an army and a navy sufficient to meet the emergencies of a great war. But while I say that, I recognize the imperative necessity of maintaining a military organization of the best kind known among men; and such an army every patriotic man will agree we ought to maintain. What that army ought to be is a fair question for debate. There have been for many years, among military men, two theories: one is that we should keep up only a sufficient force in all branches of the army to meet the immediate wants of actual military service; the other is the Calhoun theory, that we ought to have an army so organized and disciplined that, when a sudden emergency comes upon us, it can be expanded by mere enlistment to double or quadruple its size, with nothing in the way of organization to new-model or create. Indeed, this was the theory of Washington, but Calhoun stated it with admirable force and clearness, and thus gave it new prominence, in 1820.<sup>2</sup> It has been the generally

<sup>1</sup> Mr. Hewitt.

<sup>2</sup> See the close of the speech on "The Reduction of the Army," Vol. I. p. 428.

received theory of American statesmen in reference to our army. Hence I was sorry to see the gentleman from New York adopt the other theory, and abandon the plan laid down by General Sherman, of an army with a peace maximum of twenty-five thousand, but which can be expanded to two hundred thousand without the addition of a single regiment, by increasing the number of companies and filling the battalions and companies to their war maximum. Now, it may be that this is too extensive a scheme; it may not be the best; but, in my judgment, a scheme that is capable of expansion by mere enlistments is most economical, is wisest for the country, and therefore the best.

But laying this subject aside, and with it all questions of army organization, I address myself for a few moments solely to the question of how large an army we need. I do not now speak so much of the officers as of the force of enlisted men; though all, I think, will admit that, if we continue the skeleton plan, we must keep more officers than would be barely necessary to command the troops we have. We must have officers enough to command a larger force, in case we should find it necessary to expand the army. I hope gentlemen will remember the striking fact called to our attention by the gentleman from New York,<sup>1</sup> that, in our century of national existence, one sixth of all our years have been years of war, not counting Indian wars; and we cannot expect to live through the next century with a less per cent of war years than we have had in the century past.

Now, why do we need an army? First and foremost, we need it to keep alive the knowledge and practice of military science. If we knew there would not be an Indian war, or a foreign war, in our generation, — if we knew there would be no trouble on any part of our borders, — I should still say we needed an army large enough to keep alive the practical knowledge of military science and art. How large the army should be for this purpose, it would be difficult to determine, and it is perhaps unnecessary to discuss. An army would be needed, even were there no immediate danger of war; but we have no guaranty of perpetual peace. We need an army for our great border. Our northern line runs from ocean to ocean. We have had trouble on that border, not only in the way of war, but also in the way of raids that have threatened the public peace. Gentlemen re-

<sup>1</sup> Mr. McCook.

siding near the Vermont line remember well the raids that have happened there, and the international difficulties that have threatened to embroil us in consequence.

Our southern border, though shorter, is in greater need of military protection. At this very time the distinguished gentleman from Texas<sup>1</sup> tells us of the serious difficulties on that border, where we have a dangerous neighbor, — dangerous not because of her strength, but because she is weak, ill-governed, ill-disciplined, and revolutionary, and therefore all the more liable to disturb our peace. That gentleman reports from his committee, that, from the mouth of the Rio Grande to El Paso a force of not less than five thousand men is indispensable to the protection of the peace of Texas. This, then, is the condition of things for which we must provide on that frontier.

We have now a possession that extends almost to the shores of Asia, — a possession which, if the great war now threatening Europe shall come, will require looking after if we would take care of our international relations in the troubles that may arise between Russia and England. Do gentlemen know the striking fact, that from the California coast to the westernmost point of Alaska is eight hundred miles farther than it is from the same coast to the easternmost point of Maine?

But, leaving Alaska out of the account altogether, the enormous extension of our frontier settlements within the last few years makes old calculations obsolete as a basis for determining the size of the army. The gentleman from New York very properly said that this was more a matter of posts than of miles; and I wish to call his attention to the test by posts. In 1846 we had an army of 13,374 men, and at that time we had ten arsenals and thirty-nine garrisoned posts, — an average of two hundred and sixty-five soldiers to a post. I take it that nobody then considered our army too large. That was before the Mexican war had begun, and before any increase of force had been made in anticipation of that war. But not one of those posts was as far west as the centres of Kansas and Nebraska. In 1860, our posts had increased to one hundred and nine, including arsenals; and our army was but little larger than in 1846. But in 1878, taking the lowest figures that have been given, our arsenals are nineteen, and our garrisoned posts one hundred and sixty-one; and with our army at its present size we have about

<sup>1</sup> Mr. Schleicher.



two hundred and fifty men to each post, — a number smaller by fifteen than we had thirty-two years ago. Now two thirds of all the posts are west of the hundredth meridian, — west of the westernmost post in 1846. The centre of our population is constantly moving westward; but the frontier line of settlement is moving much more rapidly. The pioneers are now scattered throughout that vast interior empire which was an untrodden wilderness thirty years ago, and the necessity of protection against the Indians is more urgent now than then. Judged, therefore, by the number of posts, judged by the spaces occupied, judged by the line of national boundaries, judged on any of the grounds by which we can measure the proper size of an army, we have relatively a smaller army to-day than we had in 1846.

MR. HEWITT. My friend from Ohio has omitted to make a comparison with 1860. If he will refer to that period, he will find that the number of men at our posts then averaged a little over one hundred.

In 1860 the average number at each of our posts was about one hundred and thirty, according to my estimate, and was insufficient; but the great interior between the one hundredth meridian and the Sierras was hardly touched by the advancing tide of settlement.

I have been reasoning upon the size of an army as it exists on paper. I wish to say to gentlemen that it is the opinion of all men who are competent judges of the question, that the paper strength of our army, widely distributed as it now is, must be reduced one third in order to get its real, effective strength. I believe there is no great manufactory anywhere in the United States, when all the machinery is running and the hands are in full force, whose superintendent will not tell you he must subtract ten per cent at least for the casualties which occur day by day. If he has a thousand hands in his service, when the ordinary loss from sickness and other casualties is taken into account, the effective force per day will not be more than nine hundred. The percentage of loss is obviously much greater in an army scattered, as ours is, over many thousands of miles.

The reasons for this great reduction of effective strength can be seen at a glance. They are the casualties of sickness from exposure; death and wounds in skirmish and battle; desertion, a most serious element, which does not apply in any ordinary

business; expiration of the term of enlistment; and, finally, the necessary loss of time which elapses between the loss of one soldier and the recruiting, drilling, and getting to the post of his successor. It takes usually about four months from the time of his enlistment to get a recruit to his post in a state of efficiency. Accordingly, General Sherman tells me that he can never reckon the effective force of our peace establishment at more than two thirds of the paper force. Now, if we make our army on paper twenty-five thousand, its effective force will not exceed sixteen thousand five hundred. If we make it on paper twenty thousand, we must reduce that number one third to find the effective force. The pending proposition is therefore to give us an army of but thirteen thousand five hundred effective men, which I believe to be a dangerous reduction.

I have mentioned all the leading reasons save one why we should maintain an army and that one I approach reluctantly; but I deem it my duty to speak plainly. Of all the passages in the speech of my distinguished friend from New York, the one which was to me least satisfactory, both in its statement and its logic, was that in regard to the necessity of an army for keeping the peace within the States. Let me read a paragraph, and while I read let us forget party if we can, and everything but the fact that we are American citizens. Let us, for a few moments, reflect upon questions which may in the near future rise above, and possibly for a time overwhelm, all political organizations in this country, if they are not handled plainly, justly, courageously, by the American people. The gentleman from New York said: —

“Now we are told that we ought to have a large army, and a very large army, in order to put down impending strikes. I take issue with that proposition. It is not in accordance with the theory of this government that the United States is to maintain an army for the purpose of restraining any portion of its citizens in their just rights. The right to strike is a just right. No man can coerce another to do work against his will. It is just as sacred a right as the right to employ, if you can find somebody who is willing to hire himself out to you. The wisdom of strikes is quite another matter.”<sup>1</sup>

Now I agree absolutely with that statement; but I submit that it is a statement which so far as I know nobody ever con-

<sup>1</sup> Congressional Record, May 18, 1878, page 3538.

troverted in this country. With all kindness to the gentleman, he has set up a man of straw and knocked it down valorously. I have never heard of an American who denied the right of any man to refuse to work. I have never heard of an American anywhere who denied the right of a thousand or ten thousand men to refuse to work unless their wages were increased, or to refuse to work if their wages were diminished. It is a right as broad and universal as American liberty. But that is not the thing anybody has denounced, so far as I know. The gentleman neither grapples with nor states the dangerous element connected with the subject. I can do as I please about working for you; I can refuse to work at low wages, or high wages, or any wages; but when I unite with others, and by force and violence prevent you from working, I have violated your right as a laborer and as a man. The real mischief and wrong attending many strikes has been this: that men who needed the opportunity to work, who were ready to work, and who were reasonably satisfied with their opportunities for work, have been coerced, menaced, driven, overpowered, forbidden to work; and thus men have sometimes been deprived of the free exercise of their right to work, because somebody else wanted to manage their affairs for them. That has been the mischief of American strikes.

Now, while I hold to the right of all laborers to manage their own affairs, each for himself, I say it at whatever hazard, the man who lays any obstacle in the way of any American which prevents him from working is a breaker of the law and a violator of the first right of a laborer.

MR. BANKS. How is it with capitalists who combine with other capitalists against the employed?

It is just as great a violation of the law, and is deserving of just as great, and, if possible, greater condemnation.

It is not the strikes, it is not the proper and lawful refusal of laborers to be oppressed by capitalists, that threatens the public peace; but it is the unlawful interference with the rights of laborers, the spirit of mob violence and misrule, — a spirit not born on our soil, nor in harmony with our traditions; it is "the red fool-fury of the Seine" transplanted here, taking root in our disasters, and drawing its life only from our misfortunes, which has lately so seriously threatened, and may still more seriously imperil, the stability of our institutions.

Gentlemen tell us it is the business of the States to protect their citizens against insurrection and violence. But our fathers provided a stronger defence for moments of supreme peril. The American people are not likely soon to forget the events of July last, when, in a great group of States belting the continent from ocean to ocean, the lives and property of many millions of citizens were rescued from sudden and imminent peril by the prompt and effective response of our army to the constitutional demand of the States for its aid. Here, Mr. Chairman, I hold in my hand the copies of brief but eloquent letters and telegrams from ten great States of this Union,—all of them sent within the space of one week,—calling upon the President of the United States for help; ten great States, reaching from the Atlantic to the Pacific,—Maryland and West Virginia among them; ten great States, among them California and the empire States of the Northwest; calling for the arms of the republic to shield and save them in their hour of distress. Had we been at that moment in session, do you think we would have voted to reduce the army to twenty thousand men? Should we not rather have put it up to fifty thousand? I therefore say boldly, while I will do as much as he who will do most to secure the rights of labor against iniquitous laws and against the assaults of capital when used unjustly, yet against all comers I am for the reign of law in this republic and for an army large enough to make it sure.

I trust, Mr. Chairman, that the gentleman from New York—whose material stake in the stability and good order of the Union is much greater than mine—will consent to an amendment to fix the number of the army for the coming year at twenty-five thousand men, where it now is, and let the bill be recommitted, so that his committee may reconstruct it in harmony with the amendment. The details of organization might then be left to a commission, which can report to us at the beginning of our next session. I trust that in these remarks I have wounded the sensibility of no gentleman; for I have spoken no word in the spirit of partisanship.

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NOTE.—This speech, like many of Mr. Garfield's speeches delivered in 1877 and 1878, contained a discussion of the Macaulay letter of 1857. The discussion is omitted in all these speeches, because a fuller one is found in "The Future of the Republic," *ante*, pp. 53, 54.

## THE WOOD TARIFF BILL.

SPEECH DELIVERED IN THE HOUSE OF REPRESENTATIVES,

JUNE 4, 1878.

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MR. FERNANDO WOOD, of New York, Chairman of the House Committee of Ways and Means, reported from that committee, March 26, 1878, a bill to impose duties upon foreign imports, to promote trade and commerce, to reduce taxation, and for other purposes. The bill came up for discussion, April 9, and was discussed from time to time until June 5, when the House struck out the enacting clause. In Committee of the Whole, May 8, Mr. J. R. Tucker, of Virginia, made a speech in advocacy of the bill. Mr. Garfield replied, June 4, in the following speech, also delivered in committee. The bill was a so-called "Free-Trade" measure.

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MR. CHAIRMAN, — The time which is left for general debate upon this bill will not permit anything like an elaborate discussion of its merits. The subject is so full of details, and involves so many important questions, that in the hour assigned to me to close the debate I can do no more than present a few general considerations which will guide my own action.

A few days ago, the distinguished gentleman from Virginia who now occupies the chair<sup>1</sup> made a speech of rare ability and power, in which he placed in the front of his line of discussion a question that was never raised in American legislation until our present form of government was forty years old, — the question of the constitutionality of a tariff for the encouragement and protection of manufactures. The first page of the printed speech of the gentleman, as it appears in the Congressional

<sup>1</sup> Mr. Tucker.

Record, is devoted to an elaborate and very able discussion of that question.

He insists that the two powers conferred upon Congress, to levy duties and to regulate commerce, are entirely distinct from each other; that the one cannot by any fair construction be applied to the other; that the methods of the one are not the methods of the other; and that the capital mistake which has been made in the legislation of the country for many years is, that the power to tax has been applied to the regulation of commerce, and through that to the protection of manufactures. He holds that, if we were to adopt a proper construction of the Constitution, we should find that the regulation of commerce does not permit the protection of manufactures, and that the power to tax cannot be applied, directly or indirectly, to that object.

I will not enter into any elaborate discussion of that question, but I cannot refrain from expressing my admiration of the courage of the gentleman from Virginia, who in that part of his speech brought himself into point-blank range of the terrible artillery of James Madison, one of the fathers of the Constitution, and Virginia's great expounder of its provisions. More than a hundred pages of the collected works of Mr. Madison are devoted to an elaborate and exhaustive discussion of the very objections which the gentleman has urged.

In a letter addressed to Joseph C. Cabell, on the 18th of March,<sup>1</sup> 1827, will be found thirteen categorical reasons against the very constitutional theory now advanced by the gentleman from Virginia. It would almost seem that the distinguished author of the book which I hold in my hand had prophetically in his mind the very speech delivered in this House by the later Virginian, for he refutes its arguments, point by point, thoroughly and completely. I will quote a few paragraphs.

“It has been objected to the encouragement of domestic manufactures by a tariff on imported ones, that duties and imposts are in the clause specifying the sources of revenue, and therefore cannot be applied to the encouragement of manufactures when not a source of revenue.

“But, 1. It does not follow from the applicability of duties and imposts under one clause for one usual purpose, that they are excluded from an applicability under another clause to another purpose, also

<sup>1</sup> The letter to Cabell is dated the 18th, but the “reasons” are dated the 22d of March.

requiring them, and to which they have also been usually applied. 2. A history of that clause, as traced in the printed journal of the Federal Convention, will throw light on the subject.

“It appears that the clause, as it originally stood, simply expressed ‘a power to lay taxes, duties, imposts, and excises,’ without pointing out the objects; and, of course, leaving them applicable in carrying into effect the other specified powers. It appears, farther, that a solicitude to prevent any constructive danger to the validity of public debts contracted under the superseded form of government led to the addition of the words ‘to pay the debts.’ This phraseology having the appearance of an appropriation limited to the payment of debts, an express appropriation was added ‘for the expenses of the government,’ etc.

“But even this was considered as short of the objects for which taxes, duties, imposts, and excises might be required; and the more comprehensive provision was made by substituting [for the words] ‘for expenses of the government’ the terms of the old Confederation, viz. ‘and provide for the common defence and general welfare,’ making duties and imposts, as well as taxes and excises, applicable not only to payment of debts, but to the common defence and general welfare.

“The question then is, What is the import of that phrase, ‘common defence and general welfare,’ in its actual connection? The import which Virginia has always asserted, and still contends for, is, that they are explained and limited to the enumerated objects subjoined to them, among which objects is the regulation of foreign commerce; as far, therefore, as a tariff of duties is necessary and proper in regulating foreign commerce for any of the usual purposes of such regulations, it may be imposed by Congress, and consequently for the purpose of encouraging manufactures, which is a well-known purpose for which duties and imposts have been usually employed. This view of the clause providing for revenue, instead of interfering with or excluding the power of regulating foreign trade, corroborates the rightful exercise of power for the encouragement of domestic manufactures.”<sup>1</sup>

“1. The meaning of the power to regulate commerce is to be sought in the general use of the phrase; in other words, in the objects generally understood to be embraced by the power when it was inserted in the Constitution. 2. The power has been applied, in the form of a tariff, to the encouragement of particular domestic occupations by every existing commercial nation. 3. It has been so used and applied, particularly and systematically by Great Britain, whose commercial vocabulary is the parent of ours. 4. The inefficacy of the power in relation to manufactures, as well as to other objects, when exercised by the States separately, was among the arguments and inducements for revising the old Confederation, and transferring the power from the States to the

<sup>1</sup> Writings of James Madison, Vol. III. pp. 656, 657.

government of the United States. Nor can it be supposed that the States actually engaged in certain branches of manufactures, and foreseeing an increase of them, would have surrendered the whole power over commerce to the general government." <sup>1</sup>

"The proceedings and debates of the First Congress under the present Constitution will show that the power was generally, *perhaps* universally, regarded as indisputable.

"Throughout the succeeding Congresses, till a very late date, the power over commerce has been exercised or admitted so as to bear on internal objects of utility or policy, without a reference to revenue. . . .

"Every President, from General Washington to Mr. J. Q. Adams inclusive, has recognized the power of a tariff in favor of manufactures, without indicating a doubt, or that a doubt existed anywhere.

"Virginia appears to be the only State that now denies, or ever did deny, the power; nor are there, perhaps, more than a very few individuals, if a single one, in the State, who will not admit the power in favor of internal fabrics, or productions necessary for public defence on the water or the land. To bring the protecting duty in those cases within the war power would require a greater latitude of construction than to refer them to the power of regulating trade.

"A construction of the Constitution practised upon or acknowledged for a period of nearly forty years, has received a national sanction not to be reversed but by an evidence at least equivalent to the national will. If every new Congress were to disregard a meaning of the instrument uniformly sustained by their predecessors for such a period, there would be less stability in that fundamental law than is required for the public good in the ordinary expositions of law." <sup>2</sup>

I say that more than a hundred pages of Madison's works are devoted to discussing and exploding what was, in 1827, a new notion of constitutional construction. In one of these papers he calls to mind the fact, that sixteen of the men who framed the Constitution sat in the First Congress, and helped to frame a tariff expressly for the protection of domestic industries; and it is fair to presume that these men understood the meaning of the Constitution.

I will close this phase of the discussion by calling the attention of the committee to the language of the Constitution itself: "The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States." <sup>3</sup>

<sup>1</sup> Writings of James Madison, Vol. III. pp. 571, 572.

<sup>3</sup> Art. I, Sect. 8.

<sup>2</sup> *Ibid.*, pp. 572, 573.



Language declaring the great general objects to which the taxing power is to be applied could hardly be plainer.

It should be borne in mind that revenue is the life-blood of a government, circulating through every part of its organization, and giving force and vitality to every function. The power to tax is therefore the great motive power; and its regulation impels, retards, restrains, or limits all the functions of the government. What are these functions?

The Constitution authorizes Congress to regulate and control this great motive power, the power to levy and collect duties; and the objects for which duties are to be levied and collected are summarized in three great groups. First, to pay debts. By this, the arm of the government sweeps over all its past history, and protects its honor by discharging all obligations that have come down from former years. Second, to "provide for the common defence." By this, the mailed arm of the government sweeps the great circle of the Union to defend it against foes from without and insurrection within. And, third, to provide for the "general welfare." These are the three great objects to which the Constitution applies the power of taxation. They are all great, beneficent, national objects, and cannot be argued out of existence.

The fifteen specifications immediately following in the same section — such as the power to raise armies, to maintain a navy, to establish courts, to coin money, to regulate commerce with foreign nations and among the several States, to promote science and the useful arts by granting patents and copyrights — are all specifications and limitations of the methods by which this great central power of taxation is to be applied to the common defence and the general welfare. And it is left to the discretion of Congress to determine how these objects shall be secured by the use of the powers thus conferred upon it.

The men who created this Constitution also set it in operation, and developed their own idea of its character. That idea was unlike any other that then prevailed upon the earth. They made the general welfare of the people the great source and foundation of the common defence. In all the nations of the Old World the public defence was provided for by great standing armies, navies, and fortified posts, so that the nation might every moment be fully armed against danger from without or turbulence within. Our fathers said: "Though we will use the

taxing power to maintain a small army and navy, sufficient to keep alive the knowledge of war, yet the main reliance for our defence shall be the intelligence, culture, and skill of our people; a development of our own intellectual and material resources, which will enable us to do everything that may be necessary to equip, clothe, and feed ourselves in time of war, and make ourselves intelligent, happy, and prosperous in peace."

To lay the foundation for the realization of these objects was a leading motive which led to the formation of the Constitution, and was the earliest and greatest object of solicitude in the first Congress.

Two days after the votes for President were counted, and long before Washington was inaugurated, James Madison rose in the first House of Representatives and made the first motion to go into the Committee of the Whole on the state of the Union, for the express purpose of carrying out the theory of the Constitution to provide for the common defence and the general welfare, both by regulating commerce and protecting American manufactures. Thus, on the 8th of April, 1789, he opened a debate which lasted several weeks, in which was substantially developed every idea that has since appeared save one, the idea that it is unconstitutional to protect American industry. All other phases of the subject were fully and thoroughly handled in that first great debate.

Our fathers had been disciplined in the severe school of experience during the long period of Colonial dependence. The heavy hand of British repression was laid upon all their attempts to become a self-supporting people. The navigation laws and commercial regulations of the mother country were based upon the theory that the Colonies were founded for the sole purpose of raising up customers for her trade. They were allowed to purchase in British markets alone any manufactured article which England had to sell. In short, they were compelled to trade with England on her own terms; and whether buying or selling, the product must be carried in British bottoms at the carrier's own price. In addition to this, a revenue tax of five per cent was imposed on all Colonial exports and imports.

The Colonists were doomed to the servitude of furnishing, by the simplest forms of labor, raw materials for the mother country, who arrogated to herself the sole right to supply the Col-

onies with the finished product. To our fathers, independence was emancipation from this servitude. They knew that civilization advanced from the hunting to the pastoral state, from the pastoral to the agricultural, which has such charms for the distinguished gentleman from Virginia. But they knew also that no merely agricultural people had ever been able to rise to a high civilization and to self-supporting independence. They determined, therefore, to make their emancipation complete by adding to agriculture the mechanic arts, which in their turn would carry agriculture and all other industries to a still higher development, and place our people in the front rank of civilized and self-supporting nations. This idea inspired the legislation of all the earlier Congresses. It found expression in the first tariff act, that of 1789; in the higher rates of the act of 1790; and in the still larger schedule and increased rates of the acts of 1797 and 1800.

In 1806 the Non-Importation Act forbade the importation of British manufactures of silk, cloth, nails, spikes, brass, tin, and many other articles; and the eight years of embargo witnessed a great growth in American manufactures. When the Non-Importation Act was repealed, in 1814, John C. Calhoun assured the country that Congress would not fail to provide other adequate means of promoting the development of our industries; and, under his lead, the protective tariff of 1816 was enacted.

I have given this brief historical sketch for the purpose of exhibiting the ideas out of which the tariff legislation of this country has sprung. It received the support of the most renowned names in our early history; and, though the principle of protection has sometimes been carried to an unreasonable extreme, thus bringing reproach upon the system, it has nevertheless borne many of the fruits which were anticipated by those who planted the germ.

Gentlemen who oppose this view of public policy tell us that they favor a tariff for revenue only. I therefore invite their attention to the revenue phase of the question.

The estimated expenditures for the next fiscal year are \$280,500,000, including interest on the public debt and the appropriations required by law for the sinking fund. The Secretary of the Treasury estimates the revenues which our present laws will furnish to be \$269,000,000; — from customs,

\$133,000,000; from internal revenue, \$120,000,000; and from miscellaneous sources, \$16,000,000. He tells us that it will be necessary to cut down the expenditures \$11,000,000 below the estimates in order to prevent a deficit of that amount. The revenues of the last fiscal year failed by \$3,250,000 to meet the expenditures required by law.

In the face of these facts, can we safely diminish our revenues? If we mean to preserve the public faith and meet all the necessities of the government, we cannot reduce the present revenues a single dollar. Yet the majority of this House not only propose to reduce the internal tax on spirits and tobacco, but they propose in this bill to reduce the revenues on customs by at least \$6,000,000. To avoid the disgrace of a deficit, they propose to suspend the operations of the sinking fund, and thereby shake the foundation of the public credit. But they tell us that some of the reductions made in this bill will increase rather than diminish the revenue. Perhaps on a few articles this will be true; but as a whole it is undeniable that this bill will effect a considerable reduction in the revenues from customs.

Gentlemen on the other side have been in the habit of denouncing our present tariff laws as destructive to revenue rather than productive of it. Let me invite their attention to a few plain facts.

During the fifteen years that preceded our late war — a period of so-called revenue tariffs — we raised from customs an average annual revenue of \$47,500,000, but never in any year received more than \$64,000,000. That system brought us a heavy deficit in 1860, so that Congress was compelled to borrow money to meet the ordinary expenses of the government.

Do these gentlemen tell us that our present law fails to produce an adequate revenue? They denounce it as not a revenue tariff. Let them wrestle with the following fact: during the eleven years that have passed since the close of the war we have averaged \$170,500,000 of revenue per annum from customs alone. Can they say that is not a revenue tariff which produces more than three times as much revenue per annum as the law did which they delight to call "the revenue tariff"? In one year, 1872, the revenues from customs amounted to \$212,000,000. Can they say that the present law does not produce revenue? It produces from textile fabrics alone more

revenue than we ever raised from all sources under any tariff before the war. From this it follows that the assault upon the present law fails if made on the score of revenue alone.

I freely admit that revenue is the primary object of taxation. That object is attained by existing law. But it is an incidental and vitally important object of the law to keep in healthy growth those industries which are necessary to the well-being of the whole country. If gentlemen can show me that this is, as they allege, class legislation, which benefits the few at the expense of the many, I will abandon it, and join them in opposing it. This is the legislature of the nation, and it should make laws which will bless the whole nation. I do not affirm that all the provisions of the existing tariff law are wise and just. In many respects they are badly adjusted, and need amendment. But I insist that, in their main features, they are national, not partial; that they promote the general welfare, and not the welfare of the few at the expense of the many.

Let us glance at the leading industries which, under the provisions of the existing law, are enabled to maintain themselves in the sharp struggle of competition with other countries. I will name them in five groups.

In the first, I place the textile fabrics, — manufactures of cotton, wool, flax, hemp, jute, and silk. From these we received during the last fiscal year \$50,000,000, which is more than one third of all our customs revenue.

It is said that a tax should not be levied upon the clothing of the people. This would be a valid objection were it not for the fact that objects of the highest national importance are secured by its imposition. That forty-five millions of people should be able to clothe themselves without helpless dependence upon other nations, is a matter of transcendent importance to every citizen. What American can be indifferent to the fact, that in the year 1875 the State of Massachusetts alone produced 992,000,000 yards of textile fabrics, and in doing so consumed seventy-five million dollars' worth of the products of field and flock, and gave employment to 120,000 artisans? There is a touch of pathos in the apologetic reply of Governor Spotswood, an early Colonial Governor of Virginia, when he wrote to his British superiors: "The people, more of necessity than of inclination, attempt to clothe themselves with their own manufactures. It is certainly necessary to divert their application to some

commodity less prejudicial to the trade of Great Britain.”<sup>1</sup> Thanks to our independence, such apologies are no longer needed. Some of the rates on textile fabrics are exorbitant, and ought to be reduced; but the general principle which pervades the group is wise and beneficent, not only as a means of raising revenue, but as a measure of national economy.

In the second group I place the metals, including glass and chemicals. Though the tariff upon this group has been severely denounced in this debate, the rate does not average more than thirty-six per cent *ad valorem*, and the group produced about \$14,000,000 of revenue last year. Besides serving as a source of public revenue, what intelligent man fails to see that the metals are the basis of all the machinery, tools, and implements of every industry? More than any other in the world's history, this is the age when inventive genius is bending all its energies to devise means to increase the effectiveness of human labor. The mechanical wonders displayed at our Centennial Exposition are a sufficient illustration. The people that cannot make their own implements of industry must be content to take a very humble and subordinate place in the family of nations. The people that cannot, at any time, by their own previous training, arm and equip themselves for war, must be content to exist by the sufferance of others.

I do not say that no rates in this group are too high. Some of them can safely be reduced. But I do say that these industries could not have attained their present success without the national care; and to abandon them now will prevent their continued prosperity.

In the third group I place wines, spirits, and tobacco in its various forms. On these the duties range from eighty-five to ninety-five per cent *ad valorem*; and from them we collected last year \$10,000,000 of revenue. The wisdom of this tax will hardly be disputed by any one.

In the fourth group I place imported provisions which come in competition with the products of our own fields and herds, including breadstuffs, salt, rice, sugar, molasses, and spices. On such imports we collected last year a revenue of \$42,000,000, \$37,000,000 of which was collected on sugar. Of the duty on the principal article of this group, I shall speak further on in my discussion.

<sup>1</sup> Bancroft's History of the United States, Vol. III. p. 107.

On the fifth group, comprising leather and manufactures of leather, we receive about \$3,000,000 of revenue.

On the imports included in the five groups, which comprise the great manufacturing industries of the country, we collect \$119,000,000, — more than ninety per cent of all our customs revenue. I ask if it be not an object of the highest national importance to keep alive, and in vigorous health and growth, the industries included in these groups? What sort of people should we be if we did not keep them alive? Suppose we were to follow the advice of the distinguished gentleman from Virginia, when he said: —

“ Why should we make pig-iron when with Berkshire pigs raised upon our farms we can buy more iron pigs from England than we can get by trying to make them ourselves? We can get more iron pigs from England for Berkshire pigs, than we can from the Pennsylvania manufacturers. Why, then, should I not be permitted to send there for them? . . . What a market for our raw material, for our products, if we only would take the hand which Great Britain extends to us for free trade between us !”<sup>1</sup>

For a single season, perhaps, his plan might be profitable to the consumers of iron; but if his policy were adopted as a permanent one, it would reduce us to a merely agricultural people, whose chief business would be to produce the simplest raw materials by the least skill and culture, and let the men of brains of other countries do our thinking for us, and provide for us all products requiring the cunning hand of the artisan, while we should be compelled to do the drudgery for ourselves and for them.

The gentleman from Virginia is too good a logician not to see that the theory he advocates can only be realized in a state of universal peace and brotherhood among the nations; and, in developing his plan, he says: —

“ Commerce, Mr. Chairman, links all mankind in one common brotherhood of mutual dependence and interests, and thus creates that unity of our race which makes the resources of all the property of each and every member. We cannot if we would, and should not if we could, remain isolated and alone. Men, under the benign influence of Christianity, yearn for intercourse, for the interchange of thought and the products of thought as a means of a common progress toward a nobler civilization. . . .

<sup>1</sup> Appendix to Congressional Globe, 2d Session, 45th Congress, p. 141.  
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"Mr. Chairman, I cannot believe this is according to the Divine plan. Christianity bids us seek in communion with our brethren of every race and clime the blessings they can afford us, and to bestow in return upon them those with which our new continent is destined to fill the world."<sup>1</sup>

This, I admit, is a grand conception, a beautiful vision of the time when all the nations shall dwell together in unity, — when all will be, as it were, one nation, each furnishing to the others what they cannot profitably produce, and all working harmoniously together in the millennium of peace. If all the kingdoms of the world should become the kingdom of the Prince of Peace, then I admit that universal free trade ought to prevail. But that blessed era is yet too remote to be made the basis of the practical legislation of to-day. We are not yet members of "the parliament of man, the federation of the world." For the present, the world is divided into separate nationalities; and that other Divine command still applies to our situation: "If any provide not for his own, and specially for those of his own house, he hath denied the faith, and is worse than an infidel"; and, until that better era arrives, patriotism must supply the place of universal brotherhood. For the present Gortschakoff can do most good to the world by taking care of Russia. The great Bismarck can accomplish most for his era by being, as he is, German to the core, and promoting the welfare of the German Empire. Let Beaconsfield take care of England, and McMahon of France, and let Americans devote themselves to the welfare of America. When each does his best for his own nation to promote prosperity, justice, and peace, all will have done more for the world than if all had attempted to be cosmopolitans rather than patriots.

But I wish to say, Mr. Chairman, that I have no sympathy with those who approach this question only from the standpoint of their own local, selfish interest. When a man comes to me and says, "Put a prohibitory duty on the foreign article which competes with my product, that I may get rich more rapidly," he does not excite my sympathy, but repels me; and when another says, "Give no protection to the manufacturing industries, for I am not a manufacturer and do not care to have them sustained," I say that he too is equally mercenary and unpatriotic. If we were to legislate in that spirit, I might turn to the gentleman from Chicago and say, "Do not ask me to vote

<sup>1</sup> Appendix to Congressional Globe, 2d Session, 45th Congress, p. 141.



for an appropriation to build a court-house or a post-office in your city; I never expect to get any letters from that office, and the people of my district never expect to be in your courts." If we were to act in this spirit of narrow isolation, we should be unfit for the national positions we occupy.

Too much of our tariff discussion has been warped by narrow and sectional considerations. But when we base our action upon the conceded national importance of our great industries, when we recognize the fact that artisans and their products are essential to the well-being of our country, it follows that there is no dweller in the humblest cottage on our remotest frontier who has not a deep personal interest in the legislation that shall promote these great national industries. Those arts that enable our nation to rise in the scale of civilization bring their blessings to all, and patriotic citizens will cheerfully bear a fair share of the burden necessary to make their country great and self-sustaining. I will defend a tariff that is national in its aims, that protects and sustains those interests without which the nation cannot become such.

So important, in my view, is the ability of the nation to manufacture all those articles necessary to arm, equip, and clothe our people, that if it could not be secured in any other way I would vote to pay money out of the Federal Treasury to maintain government iron and steel, woollen and cotton mills, at whatever cost. Were we to neglect these great interests and depend upon other nations, in what a condition of helplessness should we find ourselves when we were again involved in war with the very nations on whom we were depending to furnish us these supplies! The system adopted by our fathers is wiser, for it so encourages the great national industries as to make it possible at all times for our people to equip themselves for war, and at the same time so increases their intelligence and skill as to make them better fitted for all the duties of citizenship both in war and in peace. We provide for the common defence by a system which promotes the general welfare.

I have tried thus summarily to state the grounds on which a tariff which produces the necessary revenue, and at the same time promotes American manufactures, can be sustained by large-minded men for national reasons. How high the rates of such a tariff ought to be, is a question on which opinions may fairly differ.

Fortunately or unfortunately, on this question I have long occupied a position between two extremes of opinion. I have long believed, and I still believe, that the worst evil which has afflicted the interests of American artisans and manufacturers has been the tendency to extremes in our tariff legislation. Our history for the last fifty years has been a repetition of the same mistake. One party comes into power, and, believing that a protective tariff is a good thing, establishes a fair rate of duty. Not content with that, they say, "This works well, let us have more of it." And they raise the rates still higher, and perhaps go beyond the limits of national interest. Every additional step in that direction increases the opposition, and threatens the stability of the whole system. When the policy of increase is pushed beyond a certain point, the popular reaction sets in; the opposite party gets into power, and cuts down the high rates. Not content with reducing the rates that are unreasonable, they attack and destroy the whole protective system. Then follows a deficit in the Treasury, the destruction of manufacturing interests, until the reaction again sets in, the free-traders are overthrown, and a protective system is again established. In not less than four distinct periods during the last fifty years has this sort of revolution in our industrial system taken place. Our great national industries have thus been tossed up and down between two extremes of opinion.

Throughout my term of service in this House I have resisted the effort to increase the rates of duty whenever I thought an increase would be dangerous to the stability of our manufacturing interests; and by doing so I have sometimes been thought unfriendly to the policy of protecting American industry. When the necessity of the revenues, and the safety of our manufactures warranted, I have favored a reduction of rates; and these reductions have aided to preserve the stability of the system. In one year, soon after the close of the war, we raised \$212,000,000 of revenue from customs. In 1870 we reduced the customs duties by the sum of \$29,500,000. In 1872 they were again reduced by the sum of \$44,500,000. Those reductions were in the main wise and judicious; and although I did not vote for them all, yet they have put the fair-minded men of this country in a position where they can justly resist any considerable reduction below the present rates.

My view of the danger of extreme positions on the questions of tariff rates may be illustrated by a remark made by Horace Greeley in the last conversation I ever had with that distinguished man. Said he, "My criticism of you is, that you are not sufficiently high protective in your views." I replied, "What would you advise?" He said, "If I had my way, if I were king of this country, I would put a duty of \$100 a ton on pig-iron, and a proportionate duty on everything else that can be produced in America. The result would be that our people would be obliged to supply their own wants, manufactures would spring up, competition would finally reduce prices, and we should live wholly within ourselves." I replied, that the fatal objection to his theory was that no man is king of this country, with power to make his policy permanent. But as all our policies depend upon popular support, the extreme measure proposed would beget an opposite extreme, and our industries would suffer from violent reactions. For this reason, I believe that we ought to seek that point of stable equilibrium somewhere between a prohibitory tariff, on the one hand, and a tariff that gives no protection, on the other. What is that point of stable equilibrium? In my judgment it is this: a rate so high that foreign producers cannot flood our markets and break down our home manufacturers, but not so high as to keep them altogether out, enabling our manufacturers to combine and raise the prices, nor so high as to stimulate an unnatural and unhealthy growth of manufactures.

In other words, I would have the duty so adjusted that every great American industry can live and make fair profits; and yet so low that, if our manufacturers attempted to put up prices unreasonably, the competition from abroad would come in and bring down prices to a fair rate. Such a tariff, I believe, will be supported by the great majority of Americans. We are not far from having such a tariff in our present law. In some respects, it departs from that standard. Wherever it does, we should amend it, and by so doing we shall secure stability and prosperity.

This brings me to the consideration of the pending bill. It was my hope, at the beginning of the present session, that the Committee of Ways and Means would enter upon a revision of the tariff in the spirit I have indicated. The Secretary of the Treasury suggested, in his annual report, that a considerable

number of articles which produce but a small amount of revenue, and are not essential to the prosperity of our manufactures, could be placed upon the free list, thus simplifying the law and making it more consistent in its details. I was ready to assist in such a work of revision; but the committee had not gone far before it was evident that they intended to attack the whole system, and, as far as possible, destroy it. The results of their long and arduous labors are embodied in the pending bill.

Some of the existing rates can be slightly reduced without serious harm; but many of the reductions proposed in this bill will be fatal. It is related that a surgeon, who was probing an emperor's wound to find the ball, said, "Can your Majesty allow me to go deeper?" His Majesty replied, "Probe a little deeper and you will find the emperor." It is that little deeper probing by this bill that will touch the vital interests of this country and destroy them. Some of its provisions are wise, and ought to be adopted. One particularly, which establishes a new test of the value of sugar, should, if possible, become a law before this session ends. But, in my judgment, the bill as a whole is a most unwise and dangerous measure, — dangerous to the great national industries of this country, — so dangerous that, if we should pass it, it would greatly increase the prevailing distress, and would make the condition of our artisans deplorable to the last degree. The chief charge I make against it is that it seeks to cripple the protective features of the law. It increases rates where an increase is not necessary, and it cuts them down where cutting will kill.

One of the wisest provisions of our present law is the establishment of a definite free list. From year to year, when it has been found that any article could safely be liberated from duty, it has been put upon that list. A large number of raw materials have thus been made free of duty. This has lightened the burdens of taxation, and at the same time aided the industries of the country. To show the progress that has been made in this direction, it should be remembered that in 1867 the value of all articles imported free of duty was but \$39,000,000, while in 1877 the free imports amounted to \$181,000,000. As I have already said, the Secretary of the Treasury recommends a still further increase of the free list. But this bill abolishes the free list altogether, and imposes duties upon a large number of articles now free. And this is done in order to make still

greater reductions upon articles that must be protected if their manufacture is maintained in this country.

Let me notice a few of the great industries at which this bill strikes.

In the group of textile fabrics of which I have spoken, reductions upon cotton manufactures are made which will stop three quarters of the cotton mills of the country and hopelessly prostrate the business. Still greater violence is done to the wool and woollen interests. The attempt has been made to show that the business of wool-growing has declined in consequence of our present law, and the fact has been pointed out that the number of sheep has been steadily falling off in the Eastern States. The truth is, that sheep culture in the United States was never in so healthy a condition as it is to-day. In 1860 our total wool product was sixty millions of pounds. In 1877 we produced two hundred and eight millions of pounds. It is true that there are not now so large a number of sheep in the Eastern States as there were a few years since; but the centre of that industry has been shifted. Of the thirty-five and a half millions of sheep now in the United States, fourteen and a half millions are in Texas and the States and Territories west of the Rocky Mountains. California alone has six and a half millions. Not the least important feature of this interest is the facility it offers for cheap animal food. A great French statesman has said, "It is more important to provide food than clothing," and the growth of sheep accomplishes both objects. Ninety-five per cent of all the woollen fabrics manufactured in this country are now made of native wool.

The tariff on wool and woollens was adopted in 1867, after a most careful and thorough examination of both the producing and the manufacturing interests. It was the result of an adjustment between the farmers and manufacturers, and has been advantageous to both. A small reduction of the rates could be made without injury. Both of these interests consented to a reduction, and submitted their plan to the Committee of Ways and Means. But instead of adopting it, the committee have struck those interests down, and put a dead level *ad valorem* duty upon all wools. The chairman tells us that the committee sought to do away with the *ad valorem* system, because it gives rise to fraudulent invoices and undervaluation. Yet, on an interest that yields twenty millions of revenue, he proposes

to strike down the specific duties, and put it upon one uniform level of *ad valorem* duty without regard to quality.

I would not introduce sectional topics into this discussion, but I must notice one curious feature of this bill. In the great group of provisions, on which nearly fifty millions of revenue are paid into the Treasury, I find that thirty-seven millions of the amount comes from imported sugar. No one would defend the levying of so heavy a tax upon a necessary article of food, were it not that a great agricultural interest is thereby protected. That interest is mainly confined to the State of Louisiana. I am glad that the government has given its aid to the State, for not a pound of sugar could be manufactured there if the tariff law did not protect it. As the law now stands, the average *ad valorem* duty on sugar is  $62\frac{1}{2}$  per cent. But what has this bill done? The complaint is made by its advocates, that the rates are now too high. The rates on all dutiable articles average about 42 per cent; yet on sugar the average is  $62\frac{1}{2}$  per cent. This bill puts up the average duty on sugar to about 70 per cent. This one interest, which is already protected by a duty much higher than the average, is here granted a still higher rate, while other interests, now far below the average rate, are put still lower. Metals, that now average but 36 per cent *ad valorem*, — far less than the general average, — but little more than half of the rate on sugar, — are cut down still more, while the protection of the sugar interest is made still higher.

If the planters of Louisiana were to get the benefit, there would be some excuse for the increase; but what is the fact? 1,415,000,000 pounds of sugar were imported into this country last year, but not one pound of refined sugar; every pound was imported in the crude form, going into the hands of about twenty-five gentlemen, mostly in the city of New York, who refine every pound of this enormous quantity of imported sugar that is refined. This bill increases the rates on the high grades of sugar far more than on the low grades, and makes the importation of any finished sugar impossible. It strengthens and makes absolute the monopoly already given to the refining interest; yet we are told that this is a revenue-reform tariff!

Before closing, I wish to notice one thing that I believe has not been mentioned in this debate. A few years ago we had a considerable premium on gold, and as our tariff duties were paid

in coin there was thus created an increase in the tariff rates. In 1875, for instance, the average currency value of coin was one hundred and fourteen cents; in 1876, one hundred and eleven cents; in 1877, one hundred and four cents. Now, thanks to the resumption law and the rate of our exchanges and credit, the premium on gold is almost down to zero. But this fall in the premium has operated as a steady reduction of the tariff rates, because the duties are paid in gold, while the goods are sold for currency. Now, when gentlemen say that the rates were high a few years ago, it should be remembered that they have been falling year by year, as the price of gold has been coming down. When, therefore, gentlemen criticise the rates as fixed in the law of 1872, they should remember that the fall in the premium on gold has wrought a virtual reduction of fourteen per cent in the tariff rates.

Mr. Chairman, the Committee of Ways and Means have done a large amount of work on this bill. The chairman has labored in season and out of season, and he deserves credit for the energy and earnestness with which he has addressed himself to this task. But the views which have found expression in his bill must be criticised without regard to personal considerations. A bill so radical in its character, so dangerous to our business prosperity, would work infinite mischief at this time, when the country is just recovering itself from a long period of depression, and is getting again upon solid ground, just coming up out of the wild sea of panic and distress which has tossed us so long.

Let it be remembered that twenty-two per cent of all the laboring people of this country are artisans engaged in manufactures. Their culture has been fostered by our tariff laws. It is their pursuits and the skill which they have developed that produced the glory of our Centennial Exposition. To them the country owes the splendor of the position it holds before the world more than to any other equal number of our citizens. If this bill becomes a law, it strikes down their occupations, and throws into the keenest distress the brightest and best elements of our population. I implore this House not to permit us to be thrown into greater confusion, either by letting this bill become a law, or by letting it hang over the country as a menace. And in all kindness to the chairman of the committee and the gentlemen who think with him, I hope we shall sit here to-night until

the second reading of the bill is commenced. When the first paragraph has been read, I shall propose to strike out the enacting clause. If the committee will do that, we can kill the bill to-day. It is not simply a stalking-horse upon which gentlemen can leap to show their horsemanship in debate; it is not an innocent lay-figure upon which gentlemen may spread the gaudy wares of their rhetoric without harm; but it is a great, dangerous monster, a very Polyphemus, which stalks through the land.

“*Monstrum horrendum, informe, ingens, cui lumen ademptum.*”

Let us cut off its head, and end the agony!



## THE HALIFAX AWARD.

REMARKS MADE IN THE HOUSE OF REPRESENTATIVES,

JUNE 19, 1878.

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THE Treaty of Washington, July 4, 1871, contained provisions for submitting certain disputes concerning the fisheries to a board of three commissioners, one to be named by the President of the United States, one by her Britannic Majesty, and one by the two conjointly, or, in case they could not agree, by the Spanish Minister at Washington. This board found by a vote of two to one that the government of the United States should pay to the government of Great Britain \$5,500,000 in gold, in return for certain privileges accorded to the citizens of the United States under Article XVIII. of said treaty. This is known as the "Halifax Award," made at Halifax, November 23, 1877. The proposition to pay the award came before the House of Representatives in the form of an amendment to the Sundry Civil Appropriation Bill. Payment was resisted on various grounds. Pending this proposition, Mr. Garfield made the following remarks. The proposition finally prevailed in both houses, and payment was duly made.

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MR. SPEAKER, — I hope the members of this House will put out of their minds for a moment the question of technicality and of money, and think of this tremendous fact, that here, to-night, within the next twenty minutes, by our votes, we are to close the diplomacy of the late war. Our war covered three great fields, — battles, legislation, diplomacy. It is not often that any company of men is permitted by a single act to close a seventeen-year series of great historical events. The events we shall conclude to-night almost equal in importance the battles of our war, and fully equal the importance of our war legislation. This act concludes the history of our war diplomacy.

No one who has carefully studied that history can fail to admire the remarkable success of our republic in its war diplomacy. Remember that in the outset the monarchical nations of Europe looked upon our great conflict with satisfaction, and said: "The republic goes down in blood and darkness. It is as we told you, — the government of the people, by the people, and for the people, is a failure, and dies by its own hand." England folded her arms, and said proudly: "We will not lend you a dollar to aid you in a war upon a sister republic." In the midst of our agony, France seized Mexico, our sister republic, and said, "We will plant imperialism upon the Western continent." We were girdled by the unfriendly powers of Europe. But the republic entered the field of diplomacy, — and history has recorded its triumphs. Napoleon was outgeneralled; and the coalition that was to plant an Austrian monarchy in Mexico was broken. When I was in France, soon after our war, I was frequently told that, as Frenchmen looked across the ocean, the foremost American in their estimation, after Lincoln, was William H. Seward. And why? I asked. Because he shattered a great coalition, and defeated Napoleon's scheme of conquest in Mexico. Maximilian was abandoned to his tragic fate, and the shadow of monarchy vanished as he fell.

Still more serious were our difficulties with England, commencing with that exciting affair of the Trent, which for a time threatened us with a foreign war, added to our home war. With a skill and foresight of the highest order, this and similar dangers were tided over, and at last the complicated difficulties in which we were involved with England were submitted to arbitration. All our troubles, — those that grew out of the war and those which grew out of the Vancouver Island controversy, the fisheries question, and the Alabama claims, — all were submitted to peaceable arbitration. This was itself a triumph that marked an era of civilization. The great congress now in session at Berlin is in the line of the great Geneva precedent.

In one of our controversies his Majesty the venerable Emperor of Germany was made the arbitrator, and decided the Vancouver case in our favor. Then came the great tribunal at Geneva, which was managed on our side with a skill and wisdom of which all Americans should be proud. We won the case, and England paid us \$15,500,000 promptly and without a word of protest. In view of the fact that national claims

were rejected, and only claims of private citizens were allowed, we received far more than was really due to our citizens. It is a fair question whether as a matter of honor we ought not to pay back to England the surplus.

We have carried every point in this war of diplomacy except the last, and now as the last act in the long series we have the award of the Fishery Commission. As a matter of personal opinion, I think, with the gentleman from Massachusetts,<sup>1</sup> that we got the worst of it; that the award made against us is exorbitant and unreasonable. I do not think that any just estimate could have shown that five and a half millions of dollars was fairly due. But what shall I say, what shall any American say, when we remember that in our career of successful diplomacy during these seventeen years we have suffered only this one comparatively small reverse? Shall we demand payment when the award is in our favor, and refuse it when the award is against us? Even gamblers pay their gambling debts, I am told. Fair men everywhere pay when they agree to pay. Much more should a great nation pay. It would be infinitely disgraceful for the United States to higggle about the amount, or to stand a single moment on any mere technicality.

The gentleman from Massachusetts has stated the whole strength of the case against the validity of the award, both as to the excessive amount and the fact that the award is not the unanimous act of the Commission. I am glad he has made these points. He has been furnishing our Executive with arguments to be used as contemplated in the provisions of this very amendment before us. What are those provisions? We are not now appropriating money to pay the award. We are appropriating money, in the language of the amendment, to be placed at the disposal of the President. For what purpose? In order that, "if, after correspondence with the British government on the subject of the conformity of the award to the requirements of the treaty and to the terms of the question thereby submitted to the Commission, the President shall deem it his duty to make the payment without further communication with Congress," he may make the payment. We place at the President's disposal a sufficient amount of money, and empower him to pay the award, if, after a full examination of the case and an interchange of opinion with the equal sovereign with

<sup>1</sup> Mr. Butler.

whom we are treating, he finds it to be due. We give him the means to close and crown our war diplomacy, and we have no doubt that he will do whatever the honor of the nation demands.

That is what we propose. I should be ashamed of my associates in this House if they should refuse to put this money in the hands of the Executive. I am sure this republic will not higggle when she gets the worst in one part of the mighty transaction in which she got the best in every other part. Let us close the war, so far as diplomacy is concerned, by the vote we shall now give.

## THE PRESS.

ADDRESS DELIVERED BEFORE THE OHIO EDITORIAL  
ASSOCIATION, CLEVELAND, OHIO,

JULY 11, 1878.

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MR. PRESIDENT AND GENTLEMEN, — I count it a special honor to have been invited to address this association of editors. But I have been not a little puzzled to know what is expected of me on this occasion, and am still more at a loss to determine what can be fitly said by a layman, who is wholly ignorant of the art and mystery of your profession. In resolving my doubts, I have taken a hint from an incident of our late war.

In one of the battles of the Army of the Cumberland, in Middle Tennessee, one of our brigades was armed with a new and very efficient weapon, — the Spencer rifle, a seven-shooter. At the close of the engagement the troops expressed their great satisfaction with the new arm. Their commander said: "I think it is the best gun in the world; but, after all, I would like to know what those fellows think of it who stood in front of us, and I'll go and ask the prisoners." For the purposes of this address, I shall assume that you have invited me to speak of journalism, as it appears to those who stand in front of your guns.

The printing-press is, without doubt, the most powerful weapon with which man has ever armed himself for the fight against ignorance and oppression. But it was not free-born. It was invented at a period when all the functions of government were most widely separated from the people; when secrecy, diplomacy, and intrigue were the chief elements of statesmanship. To such a system publicity was fatal, and from its birth Gutenberg's great invention was taken charge of in

all countries by the authorities. It was assumed from the first that nothing should be printed without permission of the Church or State. The censorship of the press was not regarded by governments as an interference with the rights of individuals. It was an act of gracious beneficence to allow any man to print his opinions. In France, and indeed in nearly all the states of the Continent, during the first two centuries after the invention of printing, a private printing-press would have been as unlawful and anomalous as a private mint would be now. At a very early date the censorship of the press became a part of the law of England and of her Colonies. For a long time it was controlled by the Church; but after the conflict of Henry VIII. with the Pope, the law was administered by the civil authorities.

The English newspaper was born in London in 1622, a few months after the Pilgrims had landed at Plymouth. At that date there was no place on the earth where a printed book or paper could be lawfully published until it had received the *imprimatur* of the Church or of the sovereign; and, of course, nothing was allowed to be published but what was entirely agreeable to the authorities. In the long, fierce struggle for freedom of opinion, the press, like the Church, counted its martyrs by thousands. The prison, the pillory, the rack, the gibbet, all find their places in the bloody chapter that records the history of its emancipation.

The Anglo-Saxon race have become so accustomed to enjoy liberty of opinion, that they have almost forgotten what it cost to achieve it. They indorse the declaration of Erskine, that "Other liberties are *under* government; but the liberty of opinion keeps governments themselves under subjection to their duties." But they do not always remember that "this has produced the martyrdom of truth in every age, and that the world has only been purged from ignorance with the blood of those that have enlightened it." During many centuries mankind did not seem to believe that truth was more powerful than falsehood. They did not dare to let her enter the lists in equal combat. Cromwell had a glimpse of the better view when he ordered the release of Harrington's "Oceana," which had been seized as libellous. He said: "Let him take his book. If my government is made to stand, it has nothing to fear from *paper* shot." Milton saw it in its full glory, when, in his noble but

unsuccessful defence of the press, he said: "Though all the winds of doctrine were let loose to play upon the earth, so Truth be in the field, we do injuriously by licensing and prohibiting to misdoubt her strength. Let her and Falsehood grapple; who ever knew Truth put to the worse in a free and open encounter? Her confuting is the best and surest suppressing."<sup>1</sup> The Commonwealth did something for liberty of opinion, but that little was lost at the Restoration.

The opinion was almost universal, that to publish any of the proceedings of the government was an act of treason. In 1641, Sir Edward Dering was expelled from the House of Commons, and imprisoned in the Tower, for publishing a speech which he had delivered in Parliament, and all the copies were seized and burned by the common hangman. Before the Revolution of 1688, it was unlawful to publish any reflection upon the government, or upon the character of any one employed by it.

In 1729 the Commons resolved that "It is an indignity and a breach of privilege of the House of Commons for any person to presume to give in written or printed newspapers any account or minutes of the debates or other proceedings of this House, or any committee thereof." In 1764, Mores, the editor of the *Evening Post*, was fined £100 by the House of Lords for mentioning the name of Lord Hereford in his paper. In 1771, after a long and fierce struggle, which brought England almost to a bloody revolution, custom tolerated, though the law did not authorize, the publication of the debates in Parliament. But criticism of the government was still forbidden. As late as 1792 Sampson Perry, the editor of the *Argus*, was tried and convicted of libel for saying in his paper that "the House of Commons were not the real representatives of the people."

We are accustomed to say that liberty was brought to America on board the *Mayflower*. But it was only after a long struggle that the germ was planted. In view of the European examples, it is remarkable that the persecution of free opinion in New England was not fiercer, and of longer duration. It required a century for the doctrines of the illustrious exile of Rhode Island to take firm root in our soil. It was two hundred years after the discovery of the continent, and seventy years after the landing of the Pilgrims, that the first newspaper was published in America, and that paper, entitled "Publick Occur-

<sup>1</sup> Milton's *Areopagitica*, Prose Works, Vol. I. p. 189 (Philadelphia, 1856).

rences," published in Boston in 1690, lived but one day. It was suppressed by the Colonial authorities.

I have referred to Roger Williams as the founder of liberty of opinion in America. It has long been a matter of surprise to me that journalists have not taken more notice of him as our earliest apostle of the freedom of the press. Until his time *toleration* was the strongest expression that liberty had found. But Williams denounced toleration as a baleful word; for it implied the right of a government to refuse to tolerate dissenting opinions. Exiled into the wilderness of Rhode Island by the religious zealots of Massachusetts, in 1636 he announced the doctrine of "soul liberty," — the right to utter his own convictions, — as the inalienable right of every freeman. But Williams had lain a century in his grave before his great thought was crystallized into the enduring form of constitutional law.

But little attention has been directed to a feature of our national Constitution which seems to me by far its most important provision. Our fathers sought so to distribute the functions of government that absolute power should be lodged nowhere. They divided all authority into three great groups. Certain definitely prescribed powers were delegated to the national government, certain others to the State governments; but the most important, the most sacred rights, were strictly forbidden to be exercised either by the national government or by the States. They were reserved to the people themselves. In every government that then existed, religion was the chief object of the state. Indeed, the Old World theory was that the state was organized for the defence and maintenance of religion. But our fathers considered the rights of conscience, the freedom of thought, too sacred to be delegated; hence, they provided that the care of religion, the freedom of speech, and the freedom of the press, should never depend upon legislation, but should be left to the voluntary action of the people themselves. With a sublime faith in the omnipotence of truth, they left her free-handed, to fight her own way against all comers. Under the inspiration of this perfect liberty, the American press has been working out its destiny, developing its strength, its virtues, and its evils. If we were now to establish a new constitution, no thoughtful citizen would wish the press less free. If it has sometimes been weak, venal, and vicious under the reign of liberty, it would be more so under the trammels of authority.



Just now, Republican France is seeking to enfranchise her press. A committee of her legislature has recently made a report which ought to be published by every Anglo-Saxon journal. The report shows that there were six thousand prosecutions of publishers during the reign of the second Napoleon. It exhibits a long list of proscribed books, at the head of which stands a noble volume by a distinguished American. Then follow the works of Macaulay, Lamartine, Guizot, Cousin, Victor Hugo, George Sand, and indeed of all the foremost writers of the world. I give a single specimen of the official record of the Commission of Censure, out of hundreds equally striking: — “‘Essay upon the Reform of Legal Formalities regarding Mortgages.’ The examiner pronounces a favorable opinion of this work, but it contains new theories not in accordance with the established order of things. Its circulation is not permitted.”

Without a free press “the established order of things” can nowhere be improved. Government control has always made the press servile. I know of no better illustration than a few brief extracts from the French *Moniteur*. When Napoleon I. escaped from Elba in 1815, the *Moniteur*, then the organ of Louis XVIII., thus chronicled the progress of the returning exile from day to day: —

“The Anthropophagist has escaped.” “The Corsican ogre has landed.” “The Tiger is coming.” “The Monster has slept at Grenoble.” “The Tyrant has arrived at Lyons.” “The Usurper has been seen in the environs of Paris.” “Bonaparte advances toward, but will never reach the capital.” “Napoleon will be under our ramparts tomorrow.” “His Imperial Majesty entered the Tuileries on the 21st of March, in the midst of his faithful subjects.”

Not for its own sake alone, but for the sake of society and good government, the press should be free. Publicity is the strong bond which unites the people and their government. Authority should do no act that will not bear the light. But freedom brings with it increased responsibility, and I turn from this imperfect historical sketch to inquire what the community demands of the press.

I may not express the opinion of the majority, but certainly it is my own, that the first and greatest demand which the public makes of its editors is that they shall obtain and publish the news, — that they shall print a veritable and intelligible

record of important current events. Rather than to weaken, neglect, or falsify this, it were better that every other feature of the newspaper should be abandoned.

No intelligent American of our day leads an isolated life. We are connected with society by a thousand ties of interest, opinion, and sympathy. To know what others are thinking and doing, to know what events are occurring that affect the interests and character of the community, makes each citizen, not only a vital part of society, but a living and intelligent force to guide and direct it. To supply this knowledge, to furnish the fresh stimulant of thought, is the greatest work of the journalist. His paper should be like the mirror in Tennyson's "Lady of Shalott," where,

" Moving through a mirror clear  
That hangs before her all the year,  
Shadows of the world appear."

Thus the lights and shadows of the daily life of the world will become the possession of all who read.

I have said that the first and most important duty of the journalist is to furnish the news. But not every occurrence is worthy of the name. I know that the seller of news, like other merchants, must try to furnish the wares which his customers want; but if he wishes to be an educator of society, he must seek to furnish a record of such events as will instruct the community, provoke thought, and awaken the better aspirations of men. If an editor insists that he is merely furnishing wares to suit customers, and that his readers are responsible for the character of his paper, I reply that he should observe that commercial law which requires a shopkeeper not only to give his customers full weight, but that his goods shall be what he says they are. If he sells chicory under the name of pure coffee, he is a swindler. The dairyman who waters his milk, and the grocer who adulterates provisions, are guilty of fraud under the law. And commercial honesty requires that the news furnished by the journalist shall at least represent his best efforts to obtain the truth. It is one of the most hopeful signs of our journalism, that the papers which have achieved the most permanent success are those that have established a reputation for trustworthiness and accuracy in their statements of fact. I can name a few papers that are taken by men of both political parties solely on account of the great variety and accuracy of

their news. I venture the assertion that, if a record could be kept of those portions of our papers which are most sought for by readers, it would be found that the telegraphic despatches and the items of neighborhood news are read by twice the number who read the editorial comments. If half the intelligence and culture which is now expended upon the editorial page were applied to the careful observation of current events, it would add immensely to the value of our newspapers.

Something more is needed than the mere recital of news; for the majority of readers do not grasp the full significance of events. Brief comments pointing out their significance are of the greatest value. For many years I was a careful reader of "The Nation"; and while I admire the brilliancy of its editorial articles, and the learning and culture displayed in its discussions, I do not hesitate to say that its paragraphs entitled "The Week," in which current events are briefly commented upon, are of more popular value than all its other columns. An American essayist, of rare intelligence, has said:—

"Which, indeed, are the most popular papers of to-day? Is it the journals that are filled with long and ponderous disquisitions that smell of the lamp,—articles crammed with statistics and useful knowledge of the penny-magazine stamp, which it is more painful to read than it was to write them? No; they are almost without exception those whose merit lies in condensation; which, with full reports of news, and a limited number of elaborate discussions, give . . . the cream and quintessence of things; whose pithy paragraphs, squeezed into the smallest possible space, may be taken in by the eye while the reader is occupied in discussing a cup of coffee, or devoured like a sandwich between two mouthfuls of bread and butter. These are the papers which are sought for with avidity and devoured with keen relish, which are passed from hand to hand and read till they are worn out; and to serve up the spicy report they furnish is a Sisyphean task, which requires ceaseless industry and a peculiar combination of talents which not one educated man in a thousand possesses."

Next to its importance as a vehicle of and commentator upon news, the journal should have opinions of its own, and should advocate them. I have no sympathy with the Utopian idea of "independent journalism." It smacks too much of the millennium, and a millennium that comes before its time would be a very profitless and stupid affair. All free governments are party governments; and until the real millennium comes

there will be parties in religion, in politics, and in every realm of thought. If independent journalism means freedom from the domination of patronage, wealth, or corruption,—freedom from party dictation,—all good men would applaud it; but the independent journalism of which we heard so much a few years since was well characterized by Horace Greeley, when he said:—

“That what styles itself an ‘independent’ journal is inevitably a fraud, we have long felt and known. The essence of its profession is an assumption of indifference to the ascendancy of this or the opposite party, which does not exist. In a free State, whereof the people are intelligent, no journal is or can be indifferent, and an affectation of impartiality necessarily cloaks some selfish and sinister designs.”

It is fair to presume that every intelligent man has convictions upon leading public questions. If there be a journalist without convictions, he might perhaps be a successful compiler of news; possibly he might fairly represent the current phases of public opinion; but he could be in no sense a leader of public thought. Let the journalist defend the doctrines of the party which he approves; let him criticise and condemn the party which he does not approve, reserving always his right to applaud his opponents or censure his friends, as the truth may require, and he will be independent enough for a free country.

The journalist who will cultivate the habit of representing fairly the opinion of his antagonists, will make a noble advance in his profession. I take this occasion to say that during the political campaign in Ohio last year the Cincinnati Enquirer gave almost, if not quite, as much space to reports of Republican as of Democratic meetings; and I take pleasure in saying that, in some instances which came under my observation, its editorial notices of Republican speakers were marked with a candor and fairness as unusual as they were honorable to the profession of journalism. The few flowers that grow over the wall of party are among the most graceful and beautiful that bloom in the gardens of the world.

The anonymous element in journalism is a source both of strength and of weakness. If editorial writers should append their signatures to the articles they write, the public would be better able to estimate the value of their authority; and, in controversies, antagonists would contend on more equal terms. When we see the Tribune, the Times, or the World, entering

the Senate chamber and taking part in a Senatorial debate, — on the currency question, for example, — and grappling with Conkling or Thurman, Edmunds or Bayard, we do not see the editorial combatants themselves, but the embodied anonymous power of a great journal, — an unknown knight with visor down, whose resources of strength may be as boundless as they are unknown. If the readers of these journals were assembled in Cooper Institute with the same Senators and editorial writers before them on the platform, they would be better able to measure and estimate the authority of each. It is not probable that the profession will abandon the advantage which impersonality gives them; but I should be glad to see the experiment tried.

The chief danger which threatens the influence and honor of the press is the tendency of its liberty to degenerate into license. How far into private life it may justly carry its criticism, what influence it ought to prescribe to personal controversy, may be questions for an honest difference of opinion. I have said that the purity of government and the safety of society depend upon the publicity of all the official acts and opinions of those in authority.

Believing, as I do, in parties and in a party press, I hold it equally necessary to liberty and good government that the press shall comment with the utmost freedom upon the public acts and opinions of all men who hold positions of public trust. Here again, as in the department of news, the only just limitation is that it shall adhere to the truth. No worthy man fears the truth. Unjust criticism and false accusations are, in the long run, more injurious to the press than to its victims. Still, wrongs are sometimes committed in a month that years cannot wholly set right. Let me illustrate this by a conspicuous example.

During our late war, General McDowell, one of the noblest and most accomplished soldiers of the Union, was most unjustly assaulted by a group of war correspondents, who represented him to the country as incompetent, drunken, and perhaps disloyal. It was circumstantially stated that on one occasion he was so drunk that he nearly fell from his horse. As a consequence, he rested for a long time under this cloud of cruel and unjust suspicion. He is almost the only adult man I ever knew, of whom it can be said with truth that he never tasted

spirituous liquors, tea, coffee, or tobacco; and yet several millions of his countrymen were made to believe, and perhaps many of them still believe, that he lost the battle of Bull Run in consequence of intoxication. The fame of a worthy public man ought to be cherished as a part of the nation's possessions; yet the noblest and best citizens who have served the country in the highest capacities have won their honors and performed their duties amidst showers of obloquy.

Though there is still much room for improvement, I believe the character of the press has greatly improved during the last half-century. Possibly we now have newspapers which are worse than any in former times; certainly we have many which are far superior to any of their predecessors. I doubt if any respectable journal in our day would refuse to publish any letter which an ex-President might write on public questions. But in 1815, the venerable John Adams wrote to James Lloyd:—

“‘The avenue to the public ear is shut’ in Massachusetts, — as Mr. Randolph says it is in Virginia. With us, the press is under a virtual *imprimatur* to such a degree that I do not believe I could get these letters to you printed in a newspaper in Boston. Each party is deliberately and studiously kept in ignorance of the other. Have naked truth and honest candor a fair hearing or impartial reading in this or any other country? Have not narrow bigotry, the most envious malignity, the most base, vulgar, sordid, fish-woman scurrility, and the most palpable lies, a plenary indulgence, and unbounded licentiousness?”<sup>1</sup>

Now that could not occur to-day.

I have spoken rather frankly upon what seem to me some of the faults and benefits of the newspapers. I have omitted one thing that I will notice before I close. It is due to the press to say that it has developed within the past few years as gallant a body of men, of as broad intelligence, as the world knows in any profession, — men who have illustrated what danger means by bringing from every quarter where danger lurks those streams of intelligence which do so much to enlighten the world. The career of Stanley, the explorer, the career of that Ohio man<sup>2</sup> who died only a few days ago, and who had rendered himself so famous in English journalism, the careers of many noble men who had made that profession grander than ever before, have increased the respect of all men for it, and

<sup>1</sup> The Life and Works of John Adams, Vol. X. p. 117.

<sup>2</sup> See note at the end of this Address.

have given hopes that journalism is increasing in the appreciation of all that is necessary to making it noble and generous and charitable. The duty of enlarging the sphere of journalism rests with us who are outside of it. If, with all the means in our power, we can make the people so intelligent that they will patronize only the best journals, we shall have done our part; and if, on your part, you do so enlarge the sphere of your work in increasing its intelligence, justice, and force, that ignorant and weak men will not want your journal, and only the worthy and noble will desire it, then, between you and us, the profession of journalism will go on improving with the growth of civilization and with the increasing security of liberty.

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J. A. MACGAHAN, the "Ohio man" referred to above, was born in Ohio, in 1844; was a correspondent in Europe as early as 1868, and for some years did duty in Europe and Asia as correspondent of the New York Herald; was with the army of General Bourbaki in France in 1870; was in Paris during the Commune, and was saved from death at the hands of the Communists by the United States Minister; went to Khiva with the Russian army in 1873, contrary to General Kauffman's orders; reported the Carlist outbreak in Spain in 1874; went to the Arctic world in 1875; exposed, as correspondent of the London Daily News, the Turkish atrocities in Bulgaria, in 1876, thereby causing a great sensation in England; was with the Russian army in Turkey in 1877, where he was for a time an associate of the famous correspondent, Archibald Forbes; died in Constantinople, of fever, in 1878.

## H O N E S T M O N E Y .

SPEECH DELIVERED IN FANEUIL HALL, BOSTON,

SEPTEMBER 10, 1878.

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FELLOW-CITIZENS, — Your chairman has said that I will speak to you upon the political issues of the day. Real political issues cannot be manufactured by the leaders of political parties, and real ones cannot be evaded by political parties. The real political issues of the day declare themselves, and come out of the depths of that deep which we call public opinion. The nation has a life of its own, as distinctly defined as the life of an individual. The signs of its growth and the periods of its development make the issues declare themselves; and the man or the political party that does not discover them has not learned the character of the nation's life. Now, as heretofore, attempts are being made to create political issues. They will all fail. One group of politicians are seeking to find in the reminiscences of the Presidential election of 1876 the political issues of this year. They cannot raise the dead. Others believe they can make State issues the chief topic of this year. But you are about to create the Forty-sixth Congress, and give it the impulse of your aspirations and opinions. The issues are too large for the boundaries of any State. They declare themselves and challenge you to meet them. The issue of this fall — for in my judgment there is but one issue — is the necessary development of the greatest fact of our century, — the war for the Union. That great fact unfolded itself before the American people in four acts: —

First, the war of arms. When that was upon us, it absorbed all other issues and silenced all other controversies. It did not end till the last rebel flag went down in surrender; then the war ended, and men who afterward sought to keep it alive were trying to raise the dead.



Then followed the war of reconstruction, or rather the reconstruction made necessary by the war; and however well it may have been done, or however ill it may have been done, it was done. When the last of the rebel States came back to its allegiance, and had found its place in the national government under the amended Constitution, the war was ended, for better or for worse. That issue cannot be revived.

There was another act of our war which commenced with and continued longer than the war of armies, than the war of reconstruction,—it was our war of diplomacy. The entanglements with foreign nations which grew out of the war, and the long and perilous troubles with England, conducted so honorably and so wisely, we saw ended, on the last night of the late session of the House of Representatives, when Congress made the last appropriation to pay the final award due from America.<sup>1</sup> With that act, and the payment it orders, the history of our war of diplomacy is closed forever.

The fourth act of the war was the creation and management of its finances. That began when the first ration was bought for the first soldier; it continued through all the turbulent days of battle; it continues to-day, and will continue until the last pensioner is paid, and the last obligation is honorably and completely satisfied.

The patriotic citizens of this republic enlisted for the whole war,—enlisted to serve till all its acts should end; they enlisted for the war of arms, for the war of reconstruction, for the war of diplomacy; and they will not desert, or be mustered out, until the war of finance is fully settled in harmony with the honor of the nation and the highest and best interests of the American people.

Three great chapters are closed; the fourth, the final chapter, is still open and unfinished. Our finances—the heritage of the war, the need of the hour—are now first in the public thought, and from them no party can divert public attention. Their adjustment is the issue of all issues. Other questions of importance may be discussed, but this cannot be evaded. The reconciliation of the South, the pacification of the country so much talked of, is, in large measure, effected. The Republican party has said, and says to-day, that, forgetting all the animosities of the war, forgetting all its fierceness, it reaches out both hands to

<sup>1</sup> See remarks on the Halifax Award, *ante*, p. 571.

the gallant men who fought us, and pledges all fellowship and brotherhood on this sole condition, — and that condition it will insist upon forever, — that in the war for the Union we were right, forever right, and that in the war against the Union they were wrong, forever wrong. We never made terms, we will never make terms, with the man who denies the everlasting rightfulness of our cause. To do that would be treason to the dead and dishonor to the living. On this basis only can pacification be complete. We ask that it be realized; and we shall consider that it is realized when it is just as safe and just as honorable for a good citizen of South Carolina to be a Republican as it is for a good citizen of Massachusetts to be a Democrat.

Other questions will be reached in the order of their development. But to-day, in the foreground of all, is the financial question. To this I invite your consideration.

This great question has two faces. One of them looks back to the war out of which it sprung; the other looks forward to the future of the people and their interests; and the system of finance that settles the issue rightly will respect the past and provide for the future. The finances of the war, fellow-citizens, can be summed up in a sentence. While the nation went into all our homes, and, laying its strong hand upon our bravest and best, took them into the field to die, if need be, it laid the heavy hand of taxation upon us to support and maintain the war. It went to all, rich and poor alike, and asked for contributions to carry on the war. At that time the man who helped the government with his money was regarded almost equal in honor to the man who helped with his life. If you will read the records of that legislation, if you will read the messages of our President, you will find them everywhere praising the patriotism of the citizens who came forward with their money and helped the government. In 1864, President Lincoln said it was a most gratifying fact, that, of eighteen hundred millions loaned to the government of the United States, almost every dollar had been loaned by citizens. He congratulated himself that so many comparatively poor people had put their mites into the loan to help the government; and he went so far as to suggest, in his message for that year, that Congress should pass a law exempting a limited amount of some future issue of public securities from taxation and from seizure for debt, as a means

of encouraging a more nearly equal distribution of the debt, and of enabling every prudent person to set aside a small annuity.

I recall these facts, because we are so apt to forget the events of fourteen years ago.

But taxes and loans, great as they were, were insufficient to supply the enormous demands of war. When the government found they could not borrow money fast enough, in their extremity and distress they took a step that the American nation had never taken before since the Constitution was formed. They took the step of forcing a loan upon the people, to meet the immediate emergencies of the war.

I call your attention to the remarkable fact, that when they took that step, in 1862, there are not now known to have been ten men on this continent who did not believe that paper money should be redeemable in coin at the will of the holder. That was a nation of thirty-one millions of Americans. Whatever has occurred since to change the minds of men has occurred within sixteen years. Now let us take that as the basis of the discussion to-night. No man ever understood better than the men of that day thought they understood the danger of that step. The President of the United States — that glorious man, so filled with love for all that is good, and true, and patriotic — deplored this issue of paper money. Every Senator and Representative in Congress deplored the necessity that compelled them to abandon, for the time being, the ground of acknowledged safety, and issue paper that could not be at all times exchangeable for coin. Both President and Congress sought earnestly to avoid the known dangers of such a step. In the first act that authorized the issue of greenbacks, they limited the amount, and provided for funding them in a coin bond. Later, when an additional issue was unavoidable, they made it a fundamental condition that the volume should never exceed four hundred millions, and fifty millions additional for redeeming a temporary loan. That pledge stands in our law to-day, — as yet unbroken, — and covers, with its high sanctions, every outstanding greenback. That was not all. They firmly anchored themselves to coin by providing, in the same bill that created the greenbacks, that all our revenues from customs should be paid in coin, and be held for paying the interest on our debt, for paying the bonds issued in connection with the

debt, and for redeeming the greenback currency as soon as possible. Let it not be forgotten that this was the basis on which the men of 1862 started out.

But another element was added. The men of 1862 saw that the two thousand State banks were bound by no tie of immediate interest to aid the nation; and they sought to bring them to the help of the government, and at the same time to preserve those instrumentalities by which the supply of currency should be determined by the law of supply and demand. To meet both these objects, President Lincoln, in his message of December 1, 1862, recommended the organization of national banks. He declared that such banks would greatly aid the public credit, and "would at once protect labor against the evils of a vicious currency, and facilitate commerce by cheap and safe exchanges." These were Lincoln's words in recommending the national banking system. Great as were the tasks undertaken by him and his associates, they did not claim wisdom enough to regulate the inexorable laws of value and of trade.

And here, fellow-citizens, let me pause long enough to consider a phrase much used in the political discussions of the day, — the statement that we want a currency large enough to meet the wants of trade. We do. I concur in that statement. But will any man here tell me what the wants of trade are? Is there any man in America wise enough to measure the wants of trade and tell just how much currency is needed? Who forgets the infinite difficulty of finding a man with brain enough and resource enough to feed and clothe and house an army? Its house is of the rudest, — only a piece of cloth, — its clothing is of the simplest, and its food is a definitely prescribed ration. But it is considered worthy of the glory of one glorious life to be able to feed and clothe and house an army of a hundred thousand men. Now, fellow-citizens, suppose somebody should offer to take the contract of feeding, clothing, and housing Boston and its suburbs, including half a million of people. Remember that all nations are placed under contribution to supply the city of Boston: every clime sends its supplies; every part of our own land, all our lines of transportation, are looked to to supply the tables, houses, and clothing of this community. Do you suppose any man in the world is wise enough, is skilful enough, to supply the wants of the population in a circle of twenty miles around Boston? Now multiply

this by a hundred, and get the population of the United States. Is there any man in this world wise enough, is there any Congress in the world wise enough, to measure the wants of forty-five millions of people and tell just what is needed for their supplies? No, fellow-citizens; but there is something behind legislation that does measure them,—does all so quietly and so perfectly, every man seeking his own interest, millions of men acting for themselves, acting under the great law of supply and demand, the laws of trade,—there is something that does feed Boston, feed the United States, clothe, house, and transport the nation, and carry on all its mighty works in perfect harmony and with greatest ease. The higher law above legislation,—the law of demand and supply,—pervading and covering all, settles that great question far better than the wisdom of one man, or of a thousand men, can settle it.

Now, one of the great means by which all these mighty transactions are carried on is the currency that circulates and exchanges values among all these people. Every transaction, abroad or at home, of the \$1,100,000,000 of trade that we have with Europe and Asia, of the ten times greater value of our home trade, is carried on and regulated by that great pervading law, higher than legislation and wiser than the wisdom of men. To that law we must conform our currency system, or it will perish. Any Congress or any party that tell you they are going to vote a sufficient supply of currency for the wants of trade, tell you they are going to do an impossibility. It cannot be. And it was for this reason that the men of 1862 and 1864 established a system of banking for the republic, which held banks to the strictest accountability for the character of their securities to their depositors and bill-holders; and the volume of whose circulation was to depend, not upon the uncertain will and more uncertain wisdom of Congress, but upon the law of demand and supply. Bound always to redeem their notes in greenbacks or coin, their own interests and safety would lead them to enlarge or contract that volume, as the tide of business should ebb or flow.

Such was the origin and such the character of the financial system established by the men who guided the war for the Union. That system is to-day attacked with a vehemence and fury hardly paralleled in the annals of political warfare. The wisdom of Lincoln and Chase is denounced as folly. Their

patriotism is branded as crime. We are told that the system they established and the obligations they incurred are intolerable oppression, and must be overthrown. Especially we are told that all our subsequent efforts to honor these pledges, and maintain the system thus established, are unpatriotic and unjust.

Let us go deeper into the heart of this question. Let us consider the relation of the national government to the great commercial and financial distress from which our people have been suffering during the last five years.

Doubtless this distress is in great part due to the vast economic disturbance caused by the war; though it must be remembered that once in about twenty years such periods have occurred, not here alone, but throughout the civilized world, and have often sprung from causes wholly beyond the reach of human legislation.

What can the government do to help a people in distress? That question you have a right to ask; and whatever legislation can do, it ought to do. What it cannot do, we are unwise to demand of it, and it is futile to demand it. Now, let me tell you some of the things that government can do; and first of all, the best thing government can do, the first great thing that government can do, is to get out of the way, and not be an obstruction to the return of prosperity.

No one will deny that the heavy burden imposed by the war has been and is a hindrance to the business prosperity of our people. Let us try to measure the vastness of that burden. In 1865, the debt imposed upon us by the war amounted to \$2,757,000,000. Upon that debt we were compelled to pay interest to the sum of \$151,000,000 in coin, a dreadful annual burden. During the year after the war, we paid over the national counter \$520,000,000 to meet current demands upon the treasury, including interest on the public debt. These tremendous burdens it seemed for a time we could not carry; there were wicked men, who said we ought not to try to carry them, and despairing men, who said we could not; but the brave nation said, this burden is the price of our country's life, the price of blood, and the price of liberty, and therefore we will bow ourselves and take up the load. We will carry it upon the stalwart shoulders of the republic.

What has your government done to relieve you of that load? On the first day of this month the principal of that mighty

public debt had been reduced by honest payment \$722,000,000. More than one fourth of the whole volume of it had been paid in honor, and laid away as a part of the glory of the republic. In 1866 you were paying more than \$150,000,000 a year in coin as interest on your burden. What are you paying to-day? Ninety-six millions of dollars. You have reduced by \$56,000,000 a year the load that you carried as interest on the cost of the war. The third year after the war the total burden of national expenditure was \$377,000,000. You have reduced that till it is now but \$236,000,000. Since the war closed, our national taxes have been reduced by the sum of \$250,000,000, — more than half of all the taxation of 1866. Nothing is now left but the tax on imports, which incidentally protects the interests and business of the country, and the internal taxes upon banks, and upon drinking, smoking, and chewing. These last are voluntary taxes, which no citizen is obliged to pay, but is honored for altogether evading, by refusing to smoke or drink.

In addition to the direct burden of tax which the war imposed upon the people, it compelled the government to stand in the way of business prosperity by being the chief borrower of money. In the days of danger, when the risk was great, the treasury was compelled to pay a high rate of interest, and this made the rate still higher for all private loans. The high government rate was a serious obstacle in the way of private prosperity. But the pledged faith of the nation has been so faithfully kept, and its credit so enhanced, that, year by year, the debt has been refunded at a lower rate of interest, from seven and three tenths to six per cent, to five, to four and a half, to four; and to-day, while I address you, the American people are taking the four per cent bonds of the government at the rate of \$2,500,000 a day, thus saving the two per cent of difference between that and the six per cent of interest. These are the methods by which good faith helps to lighten the burden of the people. By every act making the credit of your government better, you make the load of the people lighter.

Thus far, fellow-citizens, we have gone on in honor; but we remember one unfulfilled pledge. We remember that every note of the United States that circulates as money is a promise to pay in the coin of the Constitution. We remember that every note carries on its face the pledge of the nation's honor. We seek to keep the pledge and redeem the promise. All the

finance of the period is summed up in the present overmastering duty to resume specie payments and keep the promise. And here, fellow-citizens, I meet the chief debate on the issues of this year. This proposition is met throughout America by indignant opposition, and we stand to-day in the very teeth of a storm that threatens to sweep all before it. On that ground we meet our antagonists, and challenge them to the combat. In order that we may understand precisely what the field of battle is, that we may know just what the contest is, let us get from our antagonists the statement of their grounds. They are not all agreed: There is conflict of opinion among them, and yet they all agree in fighting against the resumption of specie payments. But let us get their ground.

There has arisen among us within the last few years a body of men who claim to have made a discovery of the greatest possible importance; and I want to say for them, if their discovery is what they claim, it is the most important discovery on the subject of finance ever announced to man. I wish to treat them with the fairness of getting their problem, their proposition, from themselves. They claim to have discovered that there is no longer any room for the old notion which the United States has believed in for a hundred years,—that everybody believed in in 1862 and in 1865,—the notion that there ought to be value behind paper money. They claim that, money being itself a creature of law, law alone can create it, and can create it out of whatever it pleases, and make that money which it declares to be money. Let us give them the full benefit of this proposition. They declare that as the Creator said, "Let there be light, and there was light," so a sovereign government may say, "Let this piece of paper be money," and it will be money. Let the republic pronounce its fiat over a piece of paper, and it becomes money, and hence they call it "fiat money." Now, as to what they will do with the fiat money, as to how much they will have of it, they are not agreed. Let it be remembered that the remains of the old Greenback party of 1876 made Pomeroy their chief and manager, and they have now in the United States four thousand five hundred organized clubs,—Greenback clubs,—which hold the doctrine I have just described; they also declare that all the interest-bearing debt of the United States is a crime against the people, and ought instantly to be paid in this fiat money, and if the holders of the



bonds will not take the fiat money for them, then every bond of the United States ought to be burned, and the obligation settled by fire. Now that, fellow-citizens, is the doctrine advocated to-day by the four thousand five hundred Greenback clubs in the United States.

Other opponents of resumption are unwilling to go so far. They do not adopt the theory of fiat money; but they do say: "We will overturn the system established by Lincoln, by which the machinery for supplying the country with currency was geared on to the business of the country, so that the supply was governed by the automatic operations of the laws of trade; we will break that all down; we will abolish the national banks; we will issue in the place of their notes \$324,000,000 more of the greenbacks, such as we now have." This, I say to you, is the demand of the Democratic party of the State of Ohio. It is the demand of the Democratic party in almost, if not every State, west of New York. That, I say, is the proposition of the great mass of the Democracy west of New York and south of the Potomac.

Another scheme, with some new features, combines many of the elements already mentioned, and is a centre around which many opponents of resumption revolve. That I may not misrepresent an antagonist, I read, from a speech made in the House of Representatives on the 26th of February last, what is perhaps the clearest and most intelligible statement that has been made of the new "American System of Finance."

"I demand that that dollar shall be issued by the government alone, in the exercise of its high prerogative and constitutional power. . . . I want that dollar stamped upon some convenient and cheap material of the least possible intrinsic value, so that neither its wear nor its destruction will be any loss to the government issuing it. I also desire the dollar to be made of such material for the purpose that it shall never be exported or desirable to carry out of the country. Framing an American system of finance, I do not propose to adapt it to the wants of any other nation, and especially the Chinese, who are nearly one quarter of the world. I desire that the dollar so issued shall never be redeemed. I see no more reason why the unit of measure of value should be redeemed or redeemable, than that the yardstick with which I measure my cloth, or the quart with which I measure my milk, should be redeemed."<sup>1</sup>

<sup>1</sup> Congressional Record, February 26, 1878, p. 1356.

The new scheme is completed by making this non-exportable and intrinsically valueless dollar interconvertible into three-sixty-five bonds.

That, fellow-citizens, is perhaps the most succinct statement of the new system of American finance which now steps into the arena to confront the ideas I have been expressing, and it is put forward by Benjamin F. Butler, of Massachusetts.

Now, let us give the subject a fair consideration. As I said a little while ago, if the doctrines laid down in what I have read be true, if they are based on sound principles, they constitute the most important discovery in finance that the centuries have known; and I want to adopt them, you ought to adopt them, every man in the world ought to adopt them. Let us meet them with the fairness of seekers after truth.

Now the first question I put as to these propositions is this: Can the government of the United States, by a mere act of law, create real money? There were three things that our fathers put into the Constitution which they evidently believed Congress could do. They said Congress should have the power to fix the standard of weights and measures, to coin money, and to declare the value of coins. Let us try to get down to these fundamental ideas.

What can Congress do about a standard of measures? Can it create measures? What is a standard of measure? It is something that measures what we call extension, length, breadth, or height. Who made extension? Did Congress create it? Did human law invent it? Extension is a quality of the elements which pervade the universe, and is as independent of human laws as the stars above the earth are independent of the earth. Can you conceive of such a thing as a legislature creating length, — unless, indeed, length of session? This is what the law can do. It can take something that has length, and name it a yard; it can separate that yard into three equal parts, and call each part a foot; it can separate the foot into twelve equal parts, and call each part an inch; but it can no more create length than it could create the universe. It can subdivide and name the standard; but it can create none of the elements which go to make up extension. Try to conceive of a standard of length which in itself has no length. The thing is inconceivable. I challenge the intelligence of any man who hears me to think of such a thing as a measure of length which has no

length in itself. Suppose you were to say that the light which gleams from this burner shall be called a foot, — suppose a lady to say, “I will call the fragrance of a moss-rose a foot,” — does that mean anything? It is inconceivable. No; by laws higher than human legislation length, depth, height, were created; men can only name and declare a definite length as the standard.

And so with weight. When Congress came to fix a standard of weight, it could not create weight, but it could take a piece of metal that has weight in itself and name it a pound; could subdivide it into sixteen parts, and call each one an ounce; but it could not create a standard of weight unless the weight was there.

Now let us consider the idea of value. It is more complicated and abstract than the notion of length or weight, but it is no less real. What you and I call value, what the business world calls value, is real and tangible. Your merchandise has value for the qualities which are in it; your grain, your products, all that go to make up wealth, have value for the exchangeable qualities in them. And I ask any man who hears me to-night, if it be conceivable that you can measure value by that which has no value in itself, any more than you can measure length by that which has no length, or weight by that which has no weight. I defy any man to describe that operation of mind by which you can conceive a measure of value that in itself has no value. I recollect once to have read a singular sentence from Horace Greeley's *Political Economy*, in which he said he did not know but it was possible to get a standard of value that was not so costly as coin. “For instance,” said he, “I suppose a gold yardstick would be a very nice thing to have, but it would be a costly yardstick. I think we might have one of paper, or of wood, or of iron, that would answer just as well, if it would measure just as exactly.” Certainly we could; but can you have a yardstick that has no length? If not, can you find a measure of values that has no value? It is inconceivable, and the fiat of law cannot create it.

When our fathers established the measure of value, they took a fixed quantity of precious metal, and coined it by stamping upon it the certificate of the government that the weight and fineness of the coin was precisely what it professed to be. They sought, not to create, but to ascertain and declare the value of their coins as determined in the markets of the world.

The supreme test of real money is this: cast a hundred dollars of it into the smelting-pot, and the blackened, melted mass will sell in the market for just one hundred dollars less the waste of melting. But at this point some one says: "That is all very well as a matter of philosophy; but, Mr. Garfield, you probably have a dollar-bill in your pocket, and with it you can go out and buy a shovel, can you not? Do you say that you buy it with something that has no value? Does not every dollar-bill refute the theory that you have offered?" Not in the least, if you will follow me a moment further.

What is paper money, so called? Is it money? It is a title to money, a deed for money, but it is not money. A farmer has a deed for his hundred acres of land; is that the land? It is paper, but it is his evidence that he owns the farm. Suppose you want to buy his farm; you look at his deed; the first question you raise is, Is it genuine or counterfeit? If you find that it is genuine, that it has been issued by the requisite authority, you still have another question. You see it calls for one hundred acres of land; but you send a surveyor out, he traces the line, he takes the angles, he makes the measurements; and when he has come back and declared that there is in the within described boundaries one hundred acres of land, then the deed is the evidence of all that it pretends to be. If he finds no land at all behind the deed, he must be content with a "fiat" farm. Again, suppose the surveyor finds land behind the deed, but declares that there is only ninety-nine acres, what do the figures or the deed amount to in the face of the fact? Suppose the farmers in your agricultural districts should say, "We are in distress; our great need is more land; if we had more land, we should get on better with our affairs; now let us get a law through the General Court that every man may surrender his deed, and have a new one written with two acres in place of one!"

When you can enlarge your farm by changing the figures in your deeds; when your dairy-maid can make more butter and cheese by watering the milk; when you can have more cloth by decreasing your yardstick one half; when you can sell more tons of merchandise by shortening your pound one half,—then, and not until then, you can increase the value of your property or labor by decreasing your standard of values.

But some one meets me with this: "After all, whatever you may say, your paper dollar will pay a debt, no matter how

much depreciation may have smitten it; and what we want is a money that will pay debts." There is an element of truth in this suggestion, and it touches the very core of the evil of a depreciated paper currency.

A currency that is not at par, and is a legal tender, has these two qualities in it,—one its debt-paying power, the other its purchasing power; and wherever these two values disagree, you notice the utmost confusion and injustice in the business of life, from the highest to the lowest. If the debt-paying power and the purchasing power of your money are not equal, you are in a confusion which can never be healed except by making them equal. They have been made unequal by the operations of the law. By the law alone can their equality be restored. I suppose, by the brute force of Congressional votes and Presidential approval, if we should be wicked enough to do it, we might wipe out all debts by a universal law of bankruptcy, which declared that on a certain day all debts should be counted as cancelled. But the man who would counsel that, or would counsel the making of a paper dollar that would accomplish the same thing, would be denounced by every fair-minded man in the world as a villain; and if that is what the Greenback movement means, we dare our enemies to face it.

Now, fellow-citizens, we go back to the primary question in this fight. I affirm against all opposers, that the highest and foremost present duty of the American people is to complete the resumption of specie payments, first of all, because the sacred faith of this republic is pledged to resumption; and if it were never so hard to do it, if the burdens were ten times greater than they are, this nation dare not look in the face of men and God and break its plighted word. It is a fearful thing for one man to stand up in the face of his brother man and refuse to keep his pledge; but it is a forty-five million times worse thing for a nation to do it. It breaks the main-spring of faith; it unsettles all security, it disturbs all values, and it puts the life of the nation in peril for all time to come. If we should break our faith now, who would trust the republic again in the hour of danger? If we break our faith now, we should not deserve to be saved when we are again in peril.

I am almost ashamed to give any other reason for resumption than the one I have given. It is so complete that no other

is needed; but there is another almost as strong. If there were no moral obligations resting upon the nation, if there were no public faith pledged to it, I affirm that the resumption of specie payments is demanded by every interest of business in this country. It is so imperatively demanded, that it can be demonstrated that every honest interest in America will be strengthened and bettered thereby.

Fellow-citizens, those who oppose it undertake to divert us by saying that the resumption of specie payments will help the rich, but hurt the poor. I deny the allegation. Resumption will help all; but I affirm that it will especially, and in far greater measure than any other, help the laboring people of the United States. How? Let us see how.

In departing from the old coin standard as we did, until our dollars fell to thirty-eight cents, all prices were increased, but they were not all increased alike. First, the commodities of quick trade went up in price one by one; then articles of necessity went up in price; and, according to the universal law, the price of labor went up last. It was the last to rise, [A voice, "It was the first to fall!"] and when it did rise, it did not rise so high as the cost of living rose; and in the wildest days of inflation, when the increase of wages was fifty per cent, the increase in the cost of living was seventy-five per cent, so that, while inflation increased the laborer's wages, it increased the cost of living still more. It nominally gave him more, but in fact gave him less. That was what inflation did. And now some one in the audience anticipated me wisely. When prices fall, labor comes down first. That is true. An uncertain currency that goes up and down hits the laborer, and hits him hard. It helps him last, and hurts him first. Therefore, of all men in America, the man who should demand the resumption of specie payments and the fixing and making certain the standard of value, is the laboring man, who can only suffer when that standard is departed from. The capitalist can take advantage of the market; if he has anything to buy, he is probably not compelled to buy it to-day, but can wait until the market price is low. If he has anything to sell, he is not compelled to sell it to-day, but can wait until the price is up, and sell it at the best. Not so with the laboring man who goes to market with just one thing to sell, and that is his day's work. He must sell it to-day, at the price to-day, or

it will be wholly lost. What he needs to buy he must buy now, when necessity compels him. He cannot, like the capitalist, dodge the call of inflation or contraction, but pays in the day's standard of value; and so it strikes him both ways, and strikes him hard. What, therefore, the laboring man needs, is this,—that when he has earned his money, he shall get it in a currency that will keep over night.

In the present stage of the controversy, resumption does not mean the destruction, but the betterment, of our greenback currency. It means that the laboring man's dollar shall be made better and better and better, until it is as good as the best dollar in the world, and there we stop. We fought the great war of arms to make all men equal before the law; we fight this battle of finance to make all our dollars equal before the law, whether they be silver, or gold, or paper. We believe in a foot that measures just twelve inches,—no less, no more; in a pound that weighs just sixteen ounces *avoirdupois*,—no less, no more; and in a dollar, of whatever it is made, that is worth, either as an evidence of debt or as a reality, just one hundred cents,—no less, no more. We have \$1,100,000,000 of trade with the Old World, and every dollar of that trade is measured by the standard of coin. We want a dollar so good that it will measure all that trade, and will be as good as the dollar across the water.

[Here Mr. Garfield discussed the non-exportability of the greenback currency. See speech on "Currency and the Banks," delivered June 15, 1870.<sup>1</sup> He concluded this branch of the discussion by saying, "We want a currency that can walk like an American all over the world."]

A little while ago somebody asked about the national banks, — a more difficult question. Senator Thurman and many leading Democrats in the West have confined themselves chiefly to the abolition of the national banks, and the issue of \$324,000,000 of greenbacks to take the place of their notes. Now, that is a debatable question, and as you are reasonable men, let us debate it. If that plan were just as good, I would be in favor of it; if it were better, I would be still more strongly in favor of it. What are the objections?

My first objection is, that the proposition is a flat violation of the pledge, promise, and faith of this nation that it would never increase the greenbacks above \$400,000,000. If you make this change, you will exceed that volume.

<sup>1</sup> Vol. I. p. 580.

Suppose that trouble be got over; suppose there were no obstacle in the way of the public faith; I have another objection to it. If you issue \$324,000,000 more of greenbacks on top of the \$346,000,000 now out, you make redemption impossible; and all who believe in the resumption of specie payments ought to oppose it for that reason. Why do I say that? The United States treasury can now resume specie payments on the promised day. It could do it sooner. In 1875 we were told we could not resume; that we could not get the gold to resume; that the moment we tried to accumulate the coin, it would increase the value of the coin, and decrease the value of the currency; but in the face of all such Cassandra prophecies, we have accumulated and have to-day in the treasury, unappropriated for any other purpose, \$135,000,000 of coin waiting. [A voice, "We lose the interest of it."] Certainly we lose the interest, but it costs something to be honest.

In the next place, while that coin has been accumulating, the value of our greenback has been going up constantly, from thirteen per cent discount when the law was passed, until to-day, in the markets of America, our greenback is worth ninety-nine and three-fourths cents on the dollar. What coin we have will certainly be enough to complete that work; but if it were not, we can readily accumulate, under the law, \$5,000,000 a month more on top of that, until the day of resumption comes; so that we are perfectly able to resume, under the law as it now stands. There are the national banks, with \$324,000,000 of notes out. They are compelled to march abreast of us in the work of resuming specie payments. The two thousand national banks are all harnessed to the car of resumption, and when we resume they must resume. If you abolish them, you take away their help; you put the whole weight of the \$670,000,000 on the treasury, and break it down.

There is another objection that I have to abolishing the banks and substituting greenbacks for their notes. Now the national banks pay a good round share of the taxes, and I am glad of it; they ought to pay it. Since their organization they have paid over \$200,000,000 of taxes to the States and the nation. Last year they paid \$16,000,000 of tax. \$9,000,000 to the States and \$7,000,000 to the nation. Their stock is taxed by the States, their circulation and their deposits are taxed by the nation, and a man who holds their notes on the day of assess-



ment is taxed upon them. How about the greenbacks? There are \$346,000,000 of greenbacks that escape taxation. A rich man can gather them in on the day of assessment and escape taxation. The substitution you talk of would lose \$16,000,000 of taxes a year to the States and the nation, and put \$324,000,000 out of the reach of taxation; a thing fairly to be complained of, and I object to it for that reason.

I object to the substitution for still another reason. The national bank notes, as they now stand, are the only part of our financial machinery that gears the supply of currency to the laws of supply and demand. Abolish them, and put out \$324,000,000 of greenbacks, and the volume of your currency depends upon the votes of Congress. You might as well hope to regulate the movements of the solar system by acts of Congress, as to regulate the necessary volume of currency in the same way. No men are wise enough to do it, and if they were, dare you trust so delicate a thing as that to partisan votes in the Senate and House? If you have so much faith as that in Congress, your faith exceeds mine.

There is another thing about it, fellow-citizens. If you abolish the national banking system, you leave us a mere group of brokers' shops,—nothing more than that. The banking business of America, besides the circulation of notes, is as necessary to the trade of the United States as the railroads to transportation. Do you know, fellow-citizens, that the modern device for avoiding the use of large amounts of money is the bank? What proportion of business is carried on in actual money? In England, they tell us, only five per cent of the trade is carried on by the actual use of money; ninety-five per cent by drafts, checks, and commercial bills, and these are handled by the banks. In this country, not less than ninety per cent of our business is done in that way. Would you have shaving-shops, irresponsible and independent, or the present system, that holds them all in the grip and control of the law?

I do not hesitate to affirm that, while it may not be perfect, the present national banking system is the most perfect this country ever knew; and to abolish it is to go back to the wretched old system that prevailed before the war. How was it then? No man dared take paper money without studying the Bank Reporter by the hour. No merchant in the West dared start East until he had culled his currency, and picked out the best bills

to carry to New York or Boston. Money was not good out of the limits of the State in half the States of the Union. How many men here have in the last six months taken out their pocket-books to see what banks their money was on? You do not care whether it is on a bank in Maine or California, Ohio or Massachusetts; for the bank-note has the stamp and symbol of the government upon it, and is as national as the flag. And you know that behind every dollar-bill is one hundred and ten cents locked up in the Treasury of the United States to secure you against loss. You do not care if the bank is broken, wound up, gone; you do not care if one hundred pounds of nitro-glycerine has blown bank and officers to atoms, — your dollar is secure. We do not propose to fight this battle in fear of the cry against the banks on the one hand, or in the fear of the banks on the other, for either would be cowardice; but we propose to fight it on the square issue of justice and good sense. If we cannot win your votes by that plan, then we must be content to be right and alone.

The third point I want to make is, that resumption has now so nearly come that it would be a crime to stop it. Whatever evils anybody has prophesied as coming from resumption, whatever hardships resumption was expected to bring, have been endured already; the agony is, in fact, over. We are almost in reach of shore. We have been tossed these many long years upon the stormy and uncertain sea of irredeemable paper money. It has crippled our industries, shaken our confidence, robbed our poor men, blasted our hopes; it has made it possible for \$1,000,000,000 to be invested for years in the miserable, wretched business of gambling in gold. Now resumption ends the business of gold gambling forever, for it existed only in the difference in value between paper and gold. After all we have suffered, we are now like a bold and sturdy swimmer almost ashore. Out of the tempest, out of the night, out of the storm and danger of the deep, the republic is just within a stroke of the land. One more stroke, and her feet will stand upon the rock. And the enemies of resumption would come now and plunge her back into the uncertainty of night, upon a shoreless, bottomless sea, wretched and forlorn! In the name of sweet peace, in the name of returning prosperity, in the name of the sufferings we have endured, I demand, the Republican party demands, all lovers of honest money demand, that the

progress of resumption shall not be hindered. Nothing can now hinder it but the brute force of hostile legislation.

Fellow-citizens, we have passed through a long period of darkness, but in the darkness there have been some compensations. Men are telling us that there were good times from 1865 to 1873. Were there? What was happening in those years? From 1865 to 1873 this country was running in debt at a rate almost never known before. I do not mean the nation as a nation, but the nation as a people. Do you know that even in our trade with Europe we bought \$1,000,000,000, — yes, \$1,047,000,000 more of merchandise than we sent back in exchange for it? Our people as individuals incurred a foreign debt in that short time of more than \$1,000,000,000. And while we were running in debt by our purchases abroad, we were also running in debt at home. It was the speculative fever that inflation always brings. We were building railroads on credit; State, county, and municipal debts were increasing. The debts of this country, the individual and corporate debts, far outweighed the national debt. Since the calamity of 1873 struck us, we have been quietly and steadily paying our debts. In those five years we have sold abroad over \$500,000,000 more of property than we have bought from there. The year just closed brought us \$257,000,000 for what we sold more than we paid for what we bought. We are paying debts, we are clearing away incumbrances. All that this country needs is that the black shadow of Congress shall not fall upon it and blast it. Old Diogenes was right when he asked Alexander to ride out of his sunshine.

They say we have made the hard times by contraction. I deny that. It is false in fact and it is false in theory. [A voice, "Prove it."] Well, sir, I will prove it. On the first day of September, 1873, there was more paper currency afloat in this country than there had been any day for six years, and the panic struck us when we were at the highest flood-tide of paper currency.

And now, fellow-citizens, allow me to call your attention, in conclusion, to another phase of this question. I have been speaking thus far on the hard, dry facts of financial science. I have been trying to get at the truth as well as I might. We have now reached a period when all these questions have struck the public mind with new force, and we should go down to the

bottom of them and discuss them before the people. No discussion of the Presidential policy of pacification, or civil service reform, or of anything, however bad or however good, will meet this issue. We must lay aside all embarrassments, and meet this question face to face with the people who are willing to be taught. If the people will hear the truth, and I know they will, you can fearlessly appeal to their intelligence and their conscience.

But, in the mean time, there are other elements in this case,—not the mere elements of intellectual antagonisms, but worse elements behind. If some man should stand on this historic platform and propose to prove to this great audience beyond controversy that this republic of ours has failed, and must go to ruin, he would prove the most awful fact that could be conceived by an American mind. The next calamity to overturning the universe of God would be the fall of this republic; and yet,—not in this country I hope,—but if a vote were taken to-day by the intelligent people of Europe, millions would vote that the American republic must fall.

Let us contemplate that for a moment. One of the ablest writers that England ever produced, one whose name is honored in America, has given his reasons for believing that the republic must fall.<sup>1</sup> This is Macaulay's indictment and prophecy. I ask the men of Boston to carry it home and reflect upon it. How shall we answer it? For myself, with all my soul I repel the prophecy as false. But why? I will detain you only a moment to give you my reason.

A few years ago I sought to answer this indictment. My first answer was this: no man who has not lived among us can understand one thing about our institutions; no man born and reared under a monarchical government can understand the vast difference between such governments and ours. How is it in monarchical governments? Their society is one series of caste upon caste. Down at the bottom, like the granite rocks in the crust of the earth, lie the great body of laboring men. Above them are the gentry, the hereditary capitalists; above them, the nobility; above them, royalty; and, crowning all, the sovereign; — all impassable barriers of caste.

No man born under such institutions can understand the mighty difference between such a society and ours. Thank

<sup>1</sup> See Macaulay's letter, in the Address entitled "The Future of the Republic," *ante*, pp. 51-53.

God, and thank the fathers of the republic who made, and the men who carried out, the promises of the Declaration, that in this country there are no classes with barriers fixed and impassable. Here, in our society, permeated with the light of American freedom, there is no American boy, however poor, however humble, orphan though he may be, who, if he have a clear head, a true heart, a strong arm, may not rise through all the grades of society, and become the crown, the glory, the pillar of the state.

Here, there is no need for the Old World war between capital and labor. Here is no need of the explosion of social order predicted by Macaulay. All we need is the protection of just and equal laws,—just alike to labor and to capital. Every poor man hopes to lay by something for a rainy day,—hopes to become a capitalist, for capital is only accumulated labor. Whenever a laborer has earned one hundred dollars more than he needs for daily expenses, he becomes to that extent a capitalist, and needs to be safe in its enjoyment.

There is another answer to Macaulay. He could not understand—no man can understand it until he has seen it—the almost omnipotent power of our system of education, which teaches our people how to be free by teaching them to be intelligent. But, fellow-citizens, who has read Macaulay's letter that did not remember it a year ago last July, when in ten great States of the Union millions of American citizens and millions of American property were in peril of destruction,—when the mob spirit ran riot,—when Pittsburg flamed in ruin and smoked in blood, and many of our great cities were in peril of destruction?—who did not remember the prediction of Macaulay then, and did not anew resolve that the bloody track of the Commune should have no pathway on our shore?

I have introduced all this for the purpose of saying that behind the element that now attacks the public faith,—behind the misguided honest men who have adopted the greenback theory,—behind them, and preparing the movement, is Communism, coming from its dens in Europe and this country. If anybody thinks I am an alarmist, let me read a sentence to you which will help to unfold the lesson of the Maine election which has just taken place. What I am about to read was printed as standing matter for weeks before the election in a public journal published in that State.

“You see two men walking along the street : one is a rich bondholder, and the other a ragged tramp ; the rich man enters the front door of his fine dwelling, the tramp goes in at the back door, demands food or clothing, and if it is not given to him he steals it ; and I tell you that tramp is more entitled to honor than the rich man who sits in his luxurious parlor.”

The man who uttered those words had just accepted the Greenback nomination in one of the districts of Maine. And yesterday he was elected to Congress. Now I say this, to show the men of Massachusetts what this contest means. We do not measure swords with our adversaries without knowing what they are and what they mean. They are making war upon the civil and industrial order of our country. We accept their challenge. We invite all honest men to the fair and earnest and brotherly discussion of this question. We believe the hearts of true Americans everywhere will respond to the right, when they know the right. But to the disturbers of law, to those who would break the peace of this republic, to those who would convert it into a huge anarchy, we say the true men of this Union, who put down rebellion in one place, will put rebellion down in every place. To the men who are misguided and who have left the ranks of our party, or of any party that is in favor of honest money, we say, in the graphic language of Cox of New York, in his curious telegram to Hewitt, “Reverse yourself and resume your judgment.”

And now, fellow-citizens, standing in this old hall consecrated to Liberty and to Justice, let us enter this contest for honest money, for the public faith, for the nation's honor, not doubting that here, as everywhere, the voice of Massachusetts will be heard pleading for the right.

Thanking you for the attention with which you have honored me, I bid you good night.

# SUSPENSION AND RESUMPTION OF SPECIE PAYMENTS.

ADDRESS DELIVERED IN CHICAGO,

JANUARY 2, 1879.

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IN the long struggle against inflation, and for a return to specie payments, an important and honorable part was borne by the Honest Money League, a confederation of financial societies scattered over the country, and especially the West. As the day fixed by the law of 1875 for resumption drew near, the officers of the League of the Northwest thought it fitting to mark the day and the fact by a public meeting, to be addressed by some man of national reputation, who had been a consistent and intelligent advocate of the resumption policy from the close of the war. This thought led to the following correspondence.

“OFFICE OF THE HONEST MONEY LEAGUE OF THE NORTHWEST,  
CHICAGO, ILL., December 20, 1878.

“TO THE HON. JAMES A. GARFIELD:—

“DEAR SIR,—Having been appointed at a recent meeting of the Executive Committee of the Honest Money League of the Northwest to make arrangements to celebrate the event of the resumption of specie payments by a public meeting in the city of Chicago, we beg to invite you to address the gentlemen of the Honest Money League, whom we represent, and other citizens of Chicago and the Northwest, at such time after January 1, 1879, as may be most agreeable to yourself.

“We remain, very truly and respectfully, yours,

“M. L. SCUDDER, JR.,  
THOMAS A. BONES,  
THOMAS M. NICHOL, } *Committee.*”

“WASHINGTON, D. C., December 23, 1878.

“M. L. SCUDDER, THOMAS A. BONES, and THOMAS M. NICHOL,  
*Committee Honest Money League:—*

“GENTLEMEN,—I am in receipt of your favor of the 20th instant, inviting me to address a meeting of the Honest Money League of the

Northwest, to be called for the celebration of the 'resumption of specie payments.' I take pleasure in accepting your invitation, and will suggest the evening of January 2, 1879, if agreeable to you.

"Very respectfully, your obedient servant,

"J. A. GARFIELD."

In pursuance of this correspondence, the following address was delivered in Farwell Hall, on the evening of January 2, 1879. Notwithstanding the night was the coldest known in Chicago for ten years, the hall was filled. Judge D. L. Shorey presided, and the address was received with great enthusiasm.

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MR. CHAIRMAN AND FELLOW-CITIZENS,—The resumption of specie payments closes the most memorable epoch of our history since the birth of the Union. The years 1861 and 1879 are the opposite shores of that turbulent sea, whose storms so seriously threatened with shipwreck the prosperity, the honor, and the life of the nation. But the horrors and dangers of the middle passage have at last been mastered, and out of the night and tempest the republic has landed on the shore of this new year, bringing with it union and liberty, honor and peace.

We have met to-night to celebrate the close of the war. Battles are never the end of war; for the dead must be buried, and the cost of the conflict must be paid.

The Union men of 1861 enlisted for the *whole* war. They served on the field of battle until the last rebel flag went down in surrender; they served in the field of legislation, and at the ballot-box, until the last slave was free, and the last of the seceding States re-entered the circle of the Union; they served in the public councils until the perils of our foreign relations were ended by honorable arbitration; they have served during the fierce trials of the public faith; and they will not be mustered out until the equal rights of all citizens are acknowledged and secured,—until the pension of the last disabled soldier of the Union is faithfully paid, and the last war obligation of the government is honorably redeemed.

If the resumption now declared by law be maintained against all assaults, then indeed, so far as our finances are concerned, the war for the Union is ended, the victory is complete. Will our great sovereign, the people of all these States, make the



decree irreversible? Will resumption be maintained? Believing that, in the long run, the matured and deliberate judgment of this nation is honest and intelligent, I answer, Yes, it will be maintained; and for two reasons. First, because national honesty, good government, and the prosperity of all our people demand it; and second, because we are able to maintain it. The defence of these positions will be the theme of this address.

To the thoughtful business-men assembled here to-night, whose genius and industry have made this city the great commercial centre of the Northwest, I need not argue the proposition that the sanctity of contracts is the foundation of all industrial prosperity. In the complex and delicately adjusted relations of modern society, confidence in promises lawfully made is the life-blood of trade and commerce. It is the vital air which labor breathes. It is the light which shines on the pathway of prosperity. The betrayal of one great business trust by a single private citizen may beggar a thousand families, and paralyze the industry of half a city. An act of bad faith on the part of a State or municipal corporation, like poison in the blood, will transmit its curse to succeeding generations. Examples of this are not wanting. An eminent citizen of Mississippi, a gentleman of national reputation, recently declined an important and honorable business mission to Europe, in behalf of the Southern Board of Trade, on the ground that his usefulness would be seriously impaired by the fact that Europeans still charge Mississippi with financial bad faith in her legislation of 1851. Thus, a single act of repudiation has cast its blighting shadow across a quarter of a century, still clouds the prosperity of a great State, and cripples the influence of its worthiest citizens.

But bad faith on the part of an individual, a city, or even a State, is a small evil in comparison with the calamities which follow bad faith on the part of a sovereign government. The United States is still a debtor nation, mainly, it is true, a debtor to our own people, but also, to a great extent, a debtor to the people of other nations. We are still in the market, soliciting loans with which to refund our great debt at a lower rate of interest. Every dollar thus refunded reduces the annual burden of interest; and, to that extent, the government ceases to be a competitor of private citizens in securing loans. Any act of bad faith, therefore, tends to prevent refunding, tends to

prevent the reduction of the public burdens, and keeps up the rate of interest, both public and private. Our bonds have become the basis of private interests, involving hundreds of millions of dollars. The vast aggregate of investments by people of small means in savings banks, in fire, marine, and life insurance, and the estates of thousands of widows and orphans, depend largely for their value upon the security and steady value of government obligations; and any law or policy which tends to depreciate these obligations is communicated through all the channels of private business, carrying loss and disaster to millions of citizens.

At the risk of repeating what may be familiar to every one, let us consider the relation of the greenback to the public faith. Whatever new theories of currency may have sprung up since 1862, it will not be denied, as a fact of history and law, that the greenback was a loan without interest, forced upon the people by the overmastering necessities of the war. Its issue as a legal tender for private debts was acknowledged at the time to be an act of doubtful constitutionality, and justified only on the plea of inexorable necessity. The measure was adopted with great hesitation by a small majority, and against the protest and warning of many able and patriotic Senators and Representatives. The law was acknowledged by its supporters to be a radical departure from the traditions, the theory, and the practice of our government. Its strongest supporters acknowledged the great danger of the experiment, and threw around it every safeguard against the evils it would inflict. They embodied in the law, and stamped upon the face of every greenback, this solemn promise, "The United States will pay." They provided a method by which the notes should be funded and ultimately redeemed. They did not propose to create a permanent system of paper money. They declared that the measure was to be a temporary one, — "the medicine of the Constitution, and not its daily bread." They asserted, again and again, that the money of the Constitution was *coin*, not paper. The greenback itself was a promise to pay coin; but the date of payment was not fixed. It was a government due-bill; and the only excuse in morals or in law for not paying it on demand was inability to pay. The moment the government was able to pay, refusal became dishonor, and reproduced its injustice in every business interest, public and private.

But the unredeemed greenback produced evils far greater than those which resulted from the ordinary refusal to pay a debt. Besides being a debt, it was a legal-tender currency, and its excessive volume expelled real money from all the channels of internal trade, destroyed the old measure of value, and substituted in its place a standard whose value fluctuated every day and every hour during the seventeen years of suspension. On account of its twofold character as debt and currency, the value of the greenback was changed by every military and political event which affected the fortunes of the war. The march of a hostile army to the near neighborhood of the national Capitol, in 1864, reduced the market value of the greenback forty per cent in a single week. The same year a futile attempt of Congress to abolish the premium on gold, by a penal law, caused an equally violent fluctuation. At first the greenback was received at par with coin; but later every increase of issue reduced its market value. In 1864 the volume was increased one hundred and ninety millions, and the coin value of the whole mass became one hundred and seventy-five millions less than before the increase. Through a series of innumerable and fitful fluctuations, it fell from par to thirty-eight cents on the dollar, reaching its lowest point on the 5th of July, 1864. By a series of changes equally irregular, it has returned, through an ascending scale of fifteen years, to par.

No arithmetic can compute the injustice and loss which these fluctuations have inflicted upon the people and business of this country. The chief mischief resulted from two unequal and varying qualities of the greenback as a currency,—its debt-paying and its purchasing power. The first was arbitrarily fixed by Congress at one hundred cents on the dollar; but the second was controlled by laws which no human legislation can set aside,—the laws of value; and the value of the greenback as a purchasing power suffered all the changes of the market. In July, 1864, a citizen who had loaned his neighbor a hundred dollars in coin three years before was compelled by law to accept as a discharge of the debt a handful of paper notes which he could purchase for thirty-eight dollars in coin. That is, the same note which paid a debt of one hundred cents would buy in the market only thirty-eight cents' worth of merchandise valued in real money. This difference between its debt-paying power and its purchasing power carried confusion

and injustice into every department of business. During the whole period of depreciation, the creditor was wronged by under-payment; and during the whole period of appreciation, the debtor was wronged by being compelled to make over-payment. During the seventeen years of suspension the payment of every debt inflicted a wrong, either upon the creditor or the debtor; and thus the whole machinery of credit was converted into an engine of injustice. This will always happen when the two functions of currency are of unequal value.

The first great opportunity for putting an end to these evils occurred soon after the close of the war. Probably at no other time in our history was the *per capita* average of private indebtedness so small as in 1865. Private debts had been paid — in depreciated paper; the government had become the great borrower, and had borrowed nearly all the surplus capital of the country. Two millions of hardy, enterprising men had just been mustered out of the lately hostile armies, and were ready again to become producers of wealth. It was a matter of the utmost importance that the fruits of their labor should be safe when earned, and that ventures in business should be made as free as possible from violent artificial fluctuations. The volume of currency then outstanding was nearly four times as great as it had ever been at any one time before the war. It amounted to nearly eight hundred millions of dollars of paper obligations, in various forms, endowed with the quality of legal tender. Even in the midst of the war, this volume was known to be far too great for financial safety. But on the return of peace, when the government ceased to be a great consumer and payments from the treasury were reduced sixty per cent in a single year, it was almost universally admitted that the volume of currency was greatly in excess of the legitimate wants of business.

Under the combined influence of this expanded volume of depreciated currency and the enormous expenditures of the government, prices had risen to an average of ninety per cent above those of 1859-61. They could not continue to rise without great danger to trade, and still greater danger to the interests of labor. We had a surplus revenue of a hundred millions per annum, and were abundantly able to retire, gradually, the excess of legal-tender notes, and thus bring the business of the country safely down from the dangerous height to which war

and inflation had carried it. Congress should not have compelled the new and aspiring industries of peace to put to sea in a crazy craft, which was all sail and no anchor. The government had itself produced the conditions in which business was placed; and to withdraw from its interference, to undo the mischief it had caused, by allowing business to be governed by the natural laws of trade, was the immediate and imperative duty of Congress. This situation was clearly and ably portrayed by Secretary McCulloch, in his annual report of December, 1865. He demonstrated the fact that we then stood at the parting of the ways; that one path, if followed with wisdom and courage, would lead down from the dangerous heights of war prices to the safe level of solid values and steady business; that the other would lead through increased speculation and still greater expansion of credits to inevitable and measureless disaster.

Studied by the light of subsequent experience, the Secretary's warnings now read like prophecy. At first, his policy was generally approved. In December, 1865, the House of Representatives, with but six dissenting votes, pledged itself to early resumption by reducing the surplus volume of currency. Early in 1866, a bill was prepared which armed the Secretary with the requisite authority. But before the debate closed, many began to shrink from the responsibility of applying so heroic a remedy. Though approving resumption, and admitting the necessity of reducing the volume of currency, they hesitated to adopt any measure which would reduce prices, and for the time being check the activity of trade. The dangers of inaction and delay were clearly pointed out in debate. The citizens of Chicago are not likely to forget the clearness and boldness with which the Hon. John Wentworth, then a member of the House, predicted the evils which inaction in timid and half-way measures would involve. Late in the session, the bill was passed by a close vote; but the powers conferred upon the Secretary were so restricted that, before the remedy could be fairly applied, the era of wild speculation had begun, and the current was soon too strong to be restricted. In less than two years, Congress, overriding the President, prohibited the further retirement of United States notes; and all attempts to resume specie payments and return to solid values were, for the time, virtually abandoned.

The high prices of all home products, measured as they were by the standard of depreciated currency, made it impossible for

our manufacturers to sell their wares in any foreign market. Our exports fell off beyond all precedent. Besides the bread-stuffs, which Europe could not buy elsewhere, and the bullion dug from our mines, which was virtually banished by our laws, hardly a product of American industry crossed the ocean. At the same time, ours was the most tempting market in the world for the sale of foreign merchandise. We were paying the highest prices known in modern times. A flood of foreign fabrics poured in upon us, and the great balance against us was paid in bonds of the nation, of the States, and of municipal and private corporations, — bonds bearing the highest rate of coin interest. It is estimated that during the seven years which preceded the panic of 1873 not less than one thousand millions of American bonds were sold abroad. Pay-day was pushed out of sight. The present possession of this vast inflow of borrowed capital led its holders to seek everywhere for investment. The surplus revenues of the National Treasury were applied to extensive and extravagant public works. National, State, municipal, and private credit was devoted to the building of railroads, and to magnificent enterprises which fired the imagination of our people and filled them with crazy enthusiasm.

The saddest and most curious phenomenon of that period, and one which the historian will some day record, was the delusion that we were then in the midst of great prosperity. Visions of wealth danced before the imaginations of enterprising men, and they ventured everything in the wild and exhilarating chase. They revelled in the light of a conflagration which was consuming their wealth, and called it the sunshine of prosperity. They lost sight of the only safe road, the old, hard, rough road upon whose finger-post is written, "In the sweat of thy face shalt thou eat bread." The delusion calls to mind the remark of Secretary Chase, that "an irredeemable legal-tender note was the Devil made manifest in paper."

The fluctuations between the debt-paying and the purchasing power of our currency created the new trade of gold gambling. The Gold Exchange and the Gold Clearing-House of New York will be remembered in history as the Germans remember the robber castles of the Rhine, whose brigand chiefs levied blackmail upon every passer-by. It was a business that never added a farthing to the national wealth, but in which everything gained by one was lost by another. It was simply betting on what the

difference between coin and paper would be, and then employing every device to win the bet by increasing the fluctuation. In New York alone, for many years, a daily average of sixty millions of capital was withdrawn from industry and invested in this reckless business. Its fascination spread to all parts of the country. Each day some lucky gambler grew suddenly rich by the ruin of another. If these losses had been confined to the gamblers alone, the evils of the gold-room would have been less serious. But all our people who were engaged in honest industry, all producers and consumers of wealth, were made its victims. The great conspiracy of 1869, which culminated in "Black Friday," involved in ruin thousands of firms who were following legitimate business. As all our foreign trade was measured by the coin standard, the business of every importer and exporter of merchandise was at the mercy of the "bulls" and "bears" of the gold-room, — whose chief effort was, by fair means or foul, to create sudden changes in the price of gold. To insure himself against this additional risk, the importer was compelled to increase his prices. The increase was charged over to the jobber, and again to the retail dealer, until at last its dead weight fell upon the consumer. The exporter could protect himself against loss only by paying lower prices for products to be sent abroad, and so the whole enormous cost of seventeen years of gold gambling has been paid out of the earnings of the American people. But gambling was not confined to gold. The habit engendered by fluctuating currency, which led men to sell what they did not own, and to borrow what they sold, was carried into every department of trade. Bright, ambitious young men, lured from the farm and workshop, sought their fortunes in the seductive chances of the stock board, or in the mysteries of "options," sales, and "corners" in wheat. The population of many agricultural districts actually decreased. The cities and manufacturing centres were overcrowded. Some leading industries, notably railroad-building and iron-making, were greatly overdone. As speculation increased and credits expanded, the cry was raised that there was not currency enough, — that the small measure of contraction effected by Secretary McCulloch had destroyed the people's money and crippled their business. It was the drunkard's cry for more rum to steady his nerves, already shattered by drink. Nothing could resist the downward tendency; and

the wild dance went on, until at last, when no more could be borrowed, the inevitable pay-day came, and with it the deluge of 1873. The vast fabric of municipal and private debt tottered and fell, involving in general ruin the industries of our people. We have no means of knowing the aggregate of that enormous indebtedness; but we may judge something of its magnitude by a simple example. If the statistics can be trusted, the municipal debts of a hundred and twenty-six chief cities of the Union increased two hundred per cent. in ten years, and amounted, in 1876, to six hundred and forty-four million dollars; and private debts had increased in proportion. While the catastrophe might have been prevented in 1865, it was now too late to avert the blow or mitigate its severity.

With such conditions, the crash was inevitable. Its details of loss and suffering need not be recounted. It brought innumerable bankruptcies and losses to capitalists on every hand; but in the whole sad chapter of calamities the laborers of our country have been the greatest sufferers. If the employer grew suddenly rich by speculation in the period of expansion, his workmen did not share his riches; but when he suffered the destruction of his business by the crash, they shared the disaster by losing employment.

In the period of expansion, the wages of labor were somewhat increased, but the cost of living increased still more. When prices declined, wages were the first to fall. The capitalist can take advantage of the market. If he has anything to buy, he is not compelled to buy it to-day; he can wait for lower prices. If he has anything to sell, he is not compelled to sell at once, but can wait on the market and sell at the best advantage. Not so with the laboring man. He goes into the market with just one thing to sell, — his day's work. He must sell it to-day, at to-day's prices, or it will be wholly lost. What he needs to buy, he must buy when necessity compels him. Fluctuation in the standard of values is his worst enemy. It strikes him both ways, and strikes him hard. Therefore, of all men in the world, the laboring man most needs a steady market and an unvarying standard of value. When he has earned his wages, he wants to be paid in currency that will keep over night,—that will be worth as much when he uses it as it was when he received it. I make this plea for the laboring man, not on his account alone, but on account of our national prosperity as well.



The hand of labor has built this great metropolis, has created its wealth, and to-day supports its half-million of people. Within the memory of men who have hardly passed the meridian of life, Chicago was an Indian trading-post, which sheltered only a dozen white families. In less than half a lifetime, the magical power of labor has made this city what we see it to-day. In our country there is no need of a conflict between capital and labor; for capital is only another name for accumulated labor. Every industrious and intelligent workingman looks forward to the day when his earnings will make him a capitalist. There is no barrier of caste to prevent his rising to the highest place of honor and wealth. He asks no special privilege from the government; but he does ask that the law shall not rob him of employment, nor destroy his earnings by making them the sport of the gold-room, the football of speculation.

If the foregoing analysis is correct, it must be seen that depreciated and fluctuating currency has been the chief cause of our recent disasters; and this view accords with all experience, at home and abroad. The same story has been reported in every language and in every nation. Recovery from such disasters has come in only one way, by economy, reduction of credits, and a return to the basis of real money. By these means, and in the midst of great suffering, our people have been slowly making their way out of the ruins. The illusions of the seven years which preceded the crash have been rudely dispelled, and we have been brought face to face with realities. It has been a period of adjustment and payment. Prices have settled back to the old peace level; the wrecks have been gradually cleared away; the revival has begun. The products of our labor are again finding their way to the markets of the world. Within the last three years, in our foreign trade, we have sold six hundred millions more than we have bought; and the balance in our favor is increasing. Less than two hundred millions of our national bonds are now held in Europe, and more than two thirds of them are long bonds at low interest. The favorable balance of trade has made resumption comparatively easy.

Four years ago Congress saw another opportunity to place the business of the country again on a stable foundation. The law of 1875<sup>1</sup> fixed the date when the promise of the war should

<sup>1</sup> The Resumption Act, January 14, 1875.

be redeemed. It was a great act of national faith, too long delayed, but made doubly necessary by the sufferings of our people. The effort to keep this promise has been fiercely resisted at every stage. Orators in Congress and out of Congress have demonstrated, to their own satisfaction, that resumption was impossible, and the demonstration was repeated even as late as two months ago. Cobbett, the great English pamphleteer, declared in 1816 that resumption in England was impossible; and he publicly offered himself to be broiled on a gridiron on the day when cash payments should be resumed. For years he kept the picture of a gridiron at the head of his paper, to remind his readers of his prophecy. We, too, have had our gridiron prophets; but all their predictions have failed. Against determined opposition and repeated prophecies of evil, resumption has come; and it has come to stay. As I said in the outset, it will stay, because it ought to stay, and because we are able to maintain it. In anticipation of its coming, the business of the country has gradually adjusted itself to the coin standard. Every legitimate enterprise will be benefited by resumption, and all classes of the community will rejoice in it except the gold gamblers and their associates whose craft it has destroyed, and except also those political prophets, whose occupation is gone by the explosion of their theories and the failure of their predictions.

That resumption can now be maintained, intelligent men no longer doubt.

There are locked up in the vaults of the Treasury, to-day, one hundred and forty millions of coin, with no other demand upon it than the maintenance of the greenback at par. All experience declares that this reserve is amply sufficient to maintain resumption. Should it prove insufficient, the Secretary of the Treasury has both the authority and the ability to increase it. The people will have no motive to demand any great amount of coin; for paper at par is more convenient than gold or silver. The banks are bound, both by law and their own interests, to aid in maintaining resumption. The amount of national bonds now held abroad is too small to enable foreign creditors to drain us of our coin. If necessary, we can sell to Europe more of our four per cent bonds than she can send home of our six per cents.

But we must not assume that all danger is past. Resumption can be defeated in one of two ways: first, by great and unex-

pected calamity, like war, or the general failure of our crops, which should turn the balance of trade against us; or, second, by the hostile legislation of Congress. The probability of the former is too remote to be seriously considered; the danger of the latter must be prevented by the intelligence and vigilance of our people.

Though the opposition to resumption has shown great strength in Congress, even down to a very recent date, yet, now that par has been reached, I do not believe it will be longer assailed by direct legislation. The instinct of self-preservation will probably lead politicians to abandon such efforts. The real danger lies in indirect assaults, which may be made in several ways. If the expenditures of the government should be increased by large appropriations for the various schemes which are urged upon Congress, so as to produce a deficit in the revenues, rather than levy additional taxes, Congress will be tempted to issue more greenbacks, and carry expansion to a point at which resumption will break down. Rigorous economy, and a persistent maintenance of revenue sufficient for necessary current expenses, and for the sinking fund, will be our safeguard in this direction.

The most dangerous indirect assault upon resumption is the attempt to abolish the national banks and substitute additional greenbacks in place of bank-notes. This effort will call to its support the sentiment which, to some extent, prevails against moneyed corporations. Should the attempt succeed, it will inevitably result in suspension of specie payments. While the Treasury aided by the banks can now easily maintain at par the outstanding volume of greenbacks, resumption would unquestionably break down if the volume were increased three hundred and twenty millions. We must debate the bank question with our eyes open to the certainty of this result. And this ought to be decisive against the measure. But besides destroying resumption, it would be a most radical and dangerous revolution in our system of government. During the period of war and reconstruction, many good people were alarmed at the tendency to centralize power at Washington; but the proposition we are now considering would result in a centralization of power without a parallel in our history. Before the war, except for the purpose of furnishing small change in the form of subsidiary and token coinage, it was never so much as suggested

that the government had any right to become the proprietary manufacturer of money. It was the acknowledged duty of Congress to declare the value of coins, and to coin the bullion of private citizens which might be brought to the mint for that purpose; but it had no authority to determine the volume of currency or to regulate its distribution.

The substitution of greenbacks for national bank notes is proposed on the theory that the Treasury should be converted into a workshop for the manufacture and sale of money; that not only its quality, but also its quantity and distribution, shall depend solely upon the will of Congress. To force a citizen into the army, and put him in the front of battle without his consent, was thought by many a violent invasion of private rights; but for Congress to assume the power to raise or depress all prices, to change the value of every purchase and of every private contract, would be a usurpation of power the most despotic and dangerous ever proposed to Americans.

We are told that the people demand a volume of currency sufficient for the wants of trade. So they do. But what man or set of men is wise enough to measure these wants, and declare the exact volume of currency that will meet them. Suppose a hundred wise men of New York should take the contract of housing, clothing, feeding, and supplying the wants of the million people who live on Manhattan Island. Remember that all nations are placed under contribution to supply that city. The ships of every sea are landing at her docks the products of every clime. Railway trains from every quarter of the Union are pouring in their contributions. Millions of people in various parts of the world are at work creating the merchandise which the city needs. Hundreds of thousands of her own people are busy preparing these products for her use. Is it possible to conceive that the wit of man is able to devise any artificial system by which the infinite daily wants of New York shall be accurately measured and constantly and promptly supplied? Extend the scheme till it shall embrace the whole Union, with its forty-five millions of people. Is any Congress wise enough to measure all this vast business, and to determine in advance just how much currency is needed to transact it? To propose it is to ask impossibilities; and yet, by the operation of laws higher and more potent than human legislation, all this is silently and perfectly accomplished. Millions of men,

acting without concert, each working for his own interest in obedience to the great law of demand and supply, house, clothe, feed, and transport the people of the United States, and carry on their manifold enterprises with perfect harmony and regularity. Any attempt of Congress to adjust the volume of currency to the wants of trade by arbitrary legislation is doomed to certain and disastrous failure.

The national banking system is that part of our financial machinery by which the volume of paper currency may increase or diminish in obedience to the laws of trade. If the volume becomes excessive, their notes are returned to the banks to be issued again, when increasing business requires them. The abolition of the national banks means the destruction of this indispensable self-adjusting principle of our currency system. Surely, intelligent men do not suppose we can get on without a banking system of some kind. The bank is the chief instrument of modern exchange. It is as necessary to trade as the railroad is to transportation. It brings the borrower and lender together, and renders available for the uses of industry the loanable capital of the community. Ninety per cent of all our trade is carried on by means of credits, in the form of drafts, checks, and commercial bills, and only ten per cent by the actual use of money, which has become the small change of commerce. The vast mass of deposits and bank credits is now subjected to searching national inspection. If the power to issue notes be taken from the banks, they will have no inducement to remain under such scrutiny. We shall go back to the wretched system of State banks and private broker-shops, and create three hundred and twenty millions more of paper currency which will escape all taxation. On every principle of public policy the attempt should be resisted. It ought not to succeed, and I do not believe it can succeed. To make resumption sure, we should insist that our present currency and coinage laws shall remain for the present unchanged. Whether we can safely allow the government to keep \$340,000,000 of currency in circulation, and to that extent make the Treasury a bank of issue, remains to be tested by experience. For myself, I doubt its wisdom as a permanent policy. But let the experiment be fairly tried.

Later, some modification may be needed in our coinage law. If other nations persist in their refusal to restore silver to its

old place of honor, as a part of the world's coinage; if the principle of bi-metallic currency should be practically abandoned by other nations who have long maintained it, — we may by and by encounter serious difficulties, as our coinage of silver increases. I do not believe that our people will allow either metal to drive the other out of circulation. In some wise and just way they will meet and avert the danger when it comes.

Successful resumption will greatly aid in bringing into the murky sky of our politics what the signal service people call "clearing weather." It puts an end to a score of controversies which have long vexed the public mind, and wrought mischief to business. It ends the angry contention over the difference between the money of the bondholder and the money of the plough-holder. It relieves enterprising Congressmen of the necessity of introducing twenty-five or thirty bills a session to furnish the people with cheap money, to prevent gold-gambling, and to make customs duties payable in greenbacks. It will dismiss to the limbo of things forgotten such Utopian schemes as a currency based upon the magic circle of the interconvertibility of two different forms of irredeemable paper, and a currency "based on the public faith," and secured by "all the resources of the nation" in general, but by no particular part of them. We shall still hear echoes of the old conflict, such as "the barbarism and cowardice of gold and silver," and the virtues of "fiat money"; but the theories which gave them birth will linger among us like belated ghosts, and soon find rest in the political grave of dead issues. All these will take their places in history alongside of the resolution of Vansittart, in 1811, that "British paper had not fallen, but gold had risen in value"; of the declaration of Castlereagh, in the House of Commons, that "the money standard is a sense of value in reference to currency as compared with commodities"; and the opinion of another member, who declared that "the standard is neither gold nor silver, but *something set up in the imagination to be regulated by public opinion.*" When we have fully awakened from these vague dreams, public opinion will resume its old channels, and the wisdom and experience of the fathers of our Constitution will again be acknowledged and followed.

We shall agree, as our fathers did, that the yardstick shall have length; that the pound must have weight; that the dollar

must have value in itself; and that neither length, nor weight, nor value, can be created by the fiat of law. Congress, relieved of the arduous task of regulating and managing all the business of our people, will address itself to the humbler but more important work of preserving the public peace, and managing wisely the revenues and expenditures of the government. Industry will no longer wait for the Legislature to discover easy roads to sudden wealth, but will begin again to rely upon labor and frugality as the only certain road to riches. Prosperity, which has long been waiting, is now ready to come; if we do not rudely repulse her, she will soon revisit our people, and will stay until another periodical craze shall drive her away.

During the whole period which resumption closes, our Constitution has been on trial for its life. When the greatest rebellion that the world has ever known assailed it, the believers in governments founded on hereditary right, or on sheer force, told us that the bubble of republican government was about to burst. They did not understand the resources of a government based on the national will. They did not understand that in our Constitution the greatest powers — rights too precious to be delegated to the Congress or to the States — are reserved to the people themselves. In the supreme moment of our peril, these voluntary powers were displayed in unsurpassed majesty and strength on a thousand battle-fields, and they preserved the republic from overthrow. Many feared that, in the great struggle to save the Union, personal liberty, freedom of opinion, and respect for law would be lost. But outside of the actual theatre of military operations the orderly course of justice was undisturbed. The rights of persons and property were almost everywhere sacredly preserved.

In the great conflict between Great Britain and the first Napoleon, though no hostile army landed on her territory, yet in England, as we are told by one of her eminent historians, the ordinary course of law was suspended, opinion was gagged, the right of public meeting was curtailed, government indictments for libel and trials for constructive treason were numerous, and other measures were adopted far more repressive than any which prevailed here during the great war on our own soil and among our own citizens. Professor Goldwin Smith has thus noted with admiration the behavior of our people during the crisis: —

“History can scarcely supply a parallel to this perfect reliance of a government on its moral strength, and the unconstrained loyalty of its people. The second election of Lincoln took place at the acme of excitement, when every other family had a member in the field for the Union, or in a soldier's grave. Yet there was not only perfect order maintained, without any intervention of the police, but perfect respect for every right, not only of voting, speaking, and writing, but of public demonstration. What government in Europe could safely have allowed sympathy with a great rebellion to hang out its banner in all the streets? Never to be forgotten, either, are those predictions of military usurpation and sabre rule as the sure result of civil war, uttered with exultation by enemies, with sorrow by friends, warranted by the experience of history, but belied by the republican loyalty of the generals and the immediate return of the armies to civil life.”

This testimony from an eminent foreigner is as important as it is just. The people passed cheerfully and joyfully from the ambition and glory of war to the humbler walks of peace. And finally, notwithstanding the confusion of public opinion, caused by great suffering, the public faith has been preserved, and the national character greatly strengthened. Reviewing the whole period, we have a right to say that the wisdom of our institutions has been vindicated, and our confidence in their stability been strengthened. Legislation has been directed more and more to the enlargement of private rights and the promotion of the interests of labor. It has been devoted, not to the glory of a dynasty, but to the welfare of a people. Slavery, with the aristocracy of caste which it engendered, and the degradation of labor which it produced, has disappeared. Without undue exultation, we may declare that the bells of the new year

“Ring out a slowly dying cause,  
And ancient forms of party strife;  
Ring in the nobler modes of life,  
With sweeter manners, purer laws.”

We have learned the great lesson, applicable alike to nations and to men, —

“Self-reverence, self-knowledge, self-control, —  
These three alone lead life to sovereign power.”



## JOSEPH HENRY.

REMARKS MADE AT THE MEMORIAL MEETING HELD IN THE  
HALL OF THE HOUSE OF REPRESENTATIVES,

JANUARY 16, 1879.

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"And who hath trod Olympus, from his eye  
Fades not the broader outlook of the gods."

MR. PRESIDENT,—In the presence of these fathers of science, who have honored this occasion with their wisdom and eloquence, I can do but little more than express my gratitude for the noble contribution they have made to this national expression of love and reverence. So completely have they covered the ground, so fully have they sketched the great life which we celebrate, that nothing is left but to linger a moment over the tributes they have offered, and select here and there a special excellence to carry away as a lasting memorial.

No page of human history is so instructive and significant as the record of those early influences which develop the character and direct the lives of eminent men. To every man of great original power there comes in early youth a moment of sudden discovery, of self-recognition, when his own nature is revealed to himself, when he catches, for the first time, a strain of that immortal song to which his own spirit answers, and which becomes thenceforth and forever the inspiration of his life,—

"Like perfect music unto noble words."

More than a hundred years ago, in Strasburg on the Rhine, in obedience to the commands of his father, a German lad was reluctantly studying the mysteries of the civil law, but feeding his spirit as best he could upon the formal and artificial poetry of his native land, when a page of William Shakespeare met his eye, and changed the whole current of his life. Abandoning the law, he created and crowned with an immortal name the grandest epoch of German literature. Recording his own ex-

perience, he says: "At the first touch of Shakespeare's genius, I made the glad confession that something inspiring hovered above me. . . . The first page of his that I read made me his for life; and when I had finished a single play, I stood like one born blind, on whom a miraculous hand bestows sight in a moment. I saw, I felt, in the most vivid manner, that my existence was infinitely expanded."

This old-world experience of Goethe was strikingly reproduced, though under different conditions, and with different results, in the early life of Joseph Henry. You have just heard the incident worthily recounted; but let us linger over it a moment.

An orphan boy of sixteen, of tough Scotch fibre, laboring for his own support at the handicraft of the jeweller, unconscious of his great powers, delighted with romance and the drama, dreaming of a possible career on the stage, his attention was suddenly arrested by a single page of a humble book of science which chanced to fall into his hands. It was not the flash of poetic vision which aroused him: it was the voice of great Nature calling her child. With quick recognition and glad reverence his spirit responded; and from that moment to the end of his long and honored life, Joseph Henry was the devoted student of science, the faithful interpreter of nature. To those who knew his gentle spirit, it is not surprising that ever afterward he kept this little volume near him, and cherished it as the source of his first inspiration. In the maturity of his fame, he recorded on its fly-leaf his gratitude in these words: "This book, under Providence, has exerted a remarkable influence on my life. . . . It opened to me a new world of thought and enjoyment, invested things before almost unnoticed with the highest interest, fixed my mind on the study of nature, and caused me to resolve, at the time of reading it, that I would devote my life to the acquisition of knowledge."

We have heard from his venerable associates with what resolute perseverance he trained his mind and marshalled his powers for the higher realms of science. He was the first American after Franklin who made a series of successful original experiments in electricity and magnetism. He entered the mighty line of Volta, Galvani, Oersted, Davy, and Ampère, the great exploring philosophers of the world, and added to their work a final great discovery, which made the electro-magnetic tele-

graph possible. It remained for the inventor only to construct an instrument and an alphabet. Professor Henry refused to reap any pecuniary rewards from his great discovery, but gave freely to mankind what nature and science had given to him.

I observe that these venerable gentlemen who have spoken express some regret that Professor Henry left their higher circle of scientific discovery to come down to us laymen in the walks of science; and to some extent I share their regret. Doubtless it was a great loss to science. I remember that Agassiz once said he had made it the rule of his life to abandon any scientific investigation so soon as it became useful. I fancied I saw him and his brethren going beyond the region of perpetual frost, up among the wild elements of nature and the hidden mysteries of science, and when they had made a discovery, and brought it down to the line of commercial values, leaving it there, knowing that the world would make it useful and profitable, while they went back to resume their original research. I do not wonder that these men regretted the loss of such a comrade as Joseph Henry. But something is due to the millions of Americans outside the circle of science; and the republic has the right to call on all her children for service. It was needful that the government should have here at its capital a great, luminous-minded, pure-hearted man to serve as its counsellor and friend in matters of science. Such an adviser was never more needed than at the date of Professor Henry's arrival at the capital.

The venerable gentleman of almost eighty years, who has just addressed us so eloquently, has portrayed the difficulties which beset the government in its attempt to determine how it should wisely and worthily execute the trust of Smithson. It was a perilous moment for the credit of America when that bequest was made. In his large catholicity of mind, Smithson did not trammel the bequest with conditions. In nine words he set forth its object: "For the increase and diffusion of knowledge among men." He asked and believed that America would interpret his wish aright, and with the liberal wisdom of science.

A town-meeting is not a good place to determine scientific truths; and the yeas and nays that are called from this desk from day to day are not the supreme test of science, as the country finds when we attempt to settle any scientific question, whether it relates to the polariscope or to finance.

For ten years Congress wrestled with those nine words of Smithson, and could not handle them. Some political philosophers of that period held that we had no constitutional authority to accept the gift at all, and proposed to send it back to England. Every conceivable proposition was made. The colleges clutched at it; the libraries wanted it; the publication societies desired to scatter it. The fortunate settlement of the question was this: that, after ten years of wrangling, Congress was wise enough to acknowledge its own ignorance, and authorized a body of competent men to find some one who knew how to settle the question. And these men were wise enough to choose your great comrade to undertake the task. Sacrificing his brilliant prospects as a discoverer, he undertook the difficult work. He draughted a paper, in which he offered an interpretation of the will of Smithson, mapped out a plan which would meet the demands of science, and submitted it to the suffrage of the republic of scientific scholars. After due deliberation it received the almost unanimous approval of the scientific world. With faith and sturdy perseverance, he adhered to the plan, and steadily resisted all attempts to overthrow it.

In the thirty-two years during which he administered the great trust, he never swerved from his first purpose; and he succeeded at last in realizing the ideas with which he started. But it has taken all that time to get rid of the incumbrance with which Congress had overloaded the Institution. In this work Professor Henry taught the valuable lesson to all founders and supporters of colleges, that they should pay less for brick and mortar, and more for brains. Under the first orders imposed upon him by Congress, he was required to expend twenty-five thousand dollars a year in purchasing books. By wise resistance he managed to lengthen out the period for that expenditure ten years; and a few years ago he had the satisfaction of seeing Congress remove from the Institution the heavy load, by transferring the Smithsonian library to the library of Congress. The fifty-eight thousand volumes and forty thousand pamphlets, of rare scientific value, which came from this source, have added greatly to the value of the national library; but their care and preservation would soon have absorbed the resources of the Smithsonian. When Congress shall have taken the other incumbrance, the National Museum, off the hands of the Institution, by making fit provision for the care of the great

collection, they will have done still more to realize the ideas of Professor Henry.

He has stood by our side in all these years, meeting every great question of science with that calm spirit which knew no haste and no rest. At the call of the government he discovered new truths, and mustered them into its service. The twelve hundred lighthouses that shine on our shores, the three thousand buoys along our rivers and coasts, testify to his faithfulness and efficiency. When it became evident that we could no longer depend upon the whale-fisheries to supply our beacon-lights, he began to search for a substitute for sperm oil; and, after a thousand patient experiments, he made the discovery that, of all the oils of the world, the common, cheap lard-oil of America, when heated to 250° Fahrenheit, became the best illuminant. That discovery gave us at once an unfailing supply, and for many years saved the treasury a hundred thousand dollars a year. He had no such pride of authorship as to cling to his own methods when a better could be found. He has recently tested the qualities of petroleum, and recommended its use for the smaller lights.

In instances far too numerous to be recounted, we have long had this man as our counsellor, our guide, and our friend. During all the years of his sojourn among us, there has been one spot in this city across which the shadow of partisan politics has never fallen; and that was the ground of the Smithsonian Institution. We have seen in this city at least one great, high trust so faithfully discharged for a third of a century that no breath of suspicion has ever dimmed its record. The Board of Regents have seen Professor Henry's accounts all closed; and, after the most rigid examination, the unanimous declaration is made, that, to the last cent, during the whole of that period, his financial administration was as faultless and complete as his discoveries in science. The blessing of such an example in this city ought at least to do something to reconcile these men of science to the loss they suffered when their friend was called to serve the government at its capital.

Remembering his great career as a man of science, as a man who served his government with singular ability and faithfulness, who was loved and venerated by every circle, who blessed with the light of his friendship the worthiest and the best, whose life added new lustre to the glory of the human race, we shall be most fortunate if ever in the future we see his like again.

# GUSTAVE SCHLEICHER.

REMARKS MADE IN THE HOUSE OF REPRESENTATIVES.

FEBRUARY 17, 1879.

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MR. GARFIELD delivered this eulogy pending the following resolutions, offered by Mr. Giddings, of Texas :—

*“Resolved,* That this House has heard with profound sorrow the announcement of the death of Hon. Gustave Schleicher, late a Representative from the State of Texas.

*“Resolved,* That in token of regard for the memory of the lamented deceased, the members of this House do wear the usual badge of mourning for thirty days.

*“Resolved,* That the Clerk of this House do communicate these resolutions to the Senate of the United States.

*“Resolved,* That, as a further mark of respect to the memory of the deceased, this House do now adjourn.”

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MR. SPEAKER,—I stand with reverence in the presence of such a life and such a career as that of Gustave Schleicher. It illustrates more strikingly than almost any life I know the mystery that envelops that product which we call character, and which is the result of two great forces: the initial force which the Creator gave it when he called the man into being, and the force of all the external influence and culture that mould and modify the development of a life.

In contemplating the first of these elements, no power of analysis can exhibit all the latent forces enfolded in the spirit of a new-born child, which derive their origin from the thoughts and deeds of remote ancestors, and, enveloped in the awful mystery of life, have been transmitted from generation to generation across forgotten centuries. Each new life is thus “the heir of all the ages.”

Applying this reflection to the character of Gustave Schleicher, it may be justly said that we have known few men in whose lives were concentrated so many of the deeply interesting elements that made him what he was. We are accustomed to say, and we have heard to-night, that he was born on foreign soil. In one sense that is true; and yet in a very proper historic sense he was born in our fatherland. One of the ablest of recent historians begins his opening volume with the declaration that England is not the fatherland of the English-speaking people, but that the ancient home, the real fatherland of our race, is the ancient forests of Germany. The same thought was suggested by Montesquieu long ago, when he declared in his "Spirit of Laws" that the British Constitution came out of the woods of Germany.

To this day the Teutonic races maintain the same noble traits that Tacitus describes in his admirable history of the manners and character of the Germans. We may, therefore, say that the friend whose memory we honor to-night is one of the elder brethren of our race. He came to America direct from our fatherland, and not, like our own fathers, by the way of England.

We who were born and have passed all our lives in this wide New World can hardly appreciate the influences that surrounded his early life. Born on the borders of that great forest of Germany, the Odenwald, filled as it is with the memories and traditions of centuries, in which are mingled Scandinavian mythology, legends of the Middle Ages, romances of feudalism and chivalry, histories of barons and kings, and the struggles of a brave people for a better civilization; reared under the institutions of a strong, semi-despotic government; devoting his early life to personal culture; entering at an early age the University of Giessen, venerable with its two and a half centuries of existence, with a library of four hundred thousand volumes at his hand, with a great museum of the curiosities and mysteries of nature to study, — he fed his eager spirit upon the rich culture which that Old World could give him, and at twenty-four years of age, in company with a band of thirty-seven young students, like himself, cultivated, earnest, liberty-loving almost to the verge of Communism, — and who of us would not be Communists in a despotism? — he came to this country, attracted by one of the most wild and romantic pictures of American history, the pic-

ture of Texas as it existed near forty years ago; the country discovered by La Salle at the end of his long and perilous voyages from Quebec to the Northern Lakes and from the Lakes to the Gulf of Mexico; the country possessed alternately by the Spanish and the French, and then by Mexico; the country made memorable by such names as Blair and Houston, Albert Sidney Johnston and Mirabeau Lamar, perhaps as adventurous and daring spirits as ever assembled on any spot of the earth; a country that achieved its freedom by heroism never surpassed, and which maintained its perilous independence for ten years in spite of border enemies and European intrigues.

It is said that a society was formed in Europe embracing in its membership men of high rank, even members of royal families, for the purpose of colonizing the new republic of the Lone Star, and making it a dependency of Europe under their patronage; but, without sharing in their designs, some twenty thousand Germans found their way to the new republic, and among these young Schleicher came.

The people of Texas had passed through a period as wild and exciting as the days of the Crusaders, and had just united their fortunes to this republic. How wide a world opened before these German students! They could hardly imagine how great was the nation of which they became citizens. Even the new State of their adoption was an empire in itself. I suppose few of us who have never visited that State can appreciate its imperial proportions. Vastly larger than the present republic of France; larger than all our Atlantic States from the northern line of Pennsylvania to the southern boundary of Georgia; as large as the six New England States, New York, New Jersey, Maryland, Pennsylvania, Ohio, and one half of Indiana, united. To such a State, with its measureless possibilities of development, young Schleicher came. It was a noble field for a bright, aspiring, liberty-loving scholar of the Old World, in which to find ample scope for the fullest development of all his powers.

The sketches we have already heard show with what zeal and success our friend made use of his advantages. His career as a member of this House has exhibited the best results of all these influences of nature and nurture. He has done justice to the scholarship which Germany gave him and the large and comprehensive ideas with which life in the New World inspired him.



To exhibit with a little more fulness the origin of those decided opinions which Mr. Schleicher held on the great questions of finance, I venture to refer briefly to an interesting chapter in the history of Texas. It may be doubted whether in any part of the world life has been more intense and experience more varied than among the people of Texas. In the short space of ten years they had tried the whole range of financial experiments as fully as France had done in two hundred years. Every possible form of monetary theory that is recorded in history Texas had tried; for with that brave, quick-thinking, and quick-acting people, to think was to resolve, and to resolve was to execute. They had tried a land bank scheme as wild and magnificent as the land bank of John Law. They had tried the direct issue of treasury notes, and had seen them go down from par to fifty cents, to ten cents, to five cents, to two cents, to nothing, on the dollar. They had tried "red-backs" of the republic, notes of corporate banks, scrip of private citizens, and worthless notes from banks of neighboring States, and had seen them all fail. Awakening from the dream of their experiments, under the leadership of clear-sighted men, they put into their Constitution, as they entered the Union, a provision that "in no case shall the Legislature have power to issue treasury warrants, treasury notes, or paper of any description to circulate as money." More radical still, they decreed that "no corporate body shall be created, renewed, or extended, with banking or discounting privileges," and "no person or persons within this State shall issue any bill, promissory note, or other paper, to circulate as money." They put an end to all paper-money systems, and since then the majority of the people of that State have never looked with favor upon any other currency than specie.

With such traditions and influences among the people of his adoption, and with a student life back of it, formed in the solid Old World ways of thinking, it is not wonderful that, in all our financial discussions here, we found Mr. Schleicher the sturdy supporter and able advocate of a currency based on coin of real value and full weight. I would say nothing that has even the appearance of controversy on this occasion. I mention these facts only to do justice to his memory.

Of his character as we knew it here, two things struck me as most notable.

First, he possessed that quality without which no man ever did, and I hope no man ever will, achieve success in this forum, — the habit of close, earnest, hard work. All his associates knew that, when he rose to speak in this hall, it was because he had something to say, something that was the result of work, and that he said it because it came from the depth of his convictions, as the result of his fullest investigation.

I stop to notice the fact that, although he spoke with an accent brought from the fatherland, he had that rare purity of language and style which I am inclined to believe that you and I, Mr. Speaker, will never achieve, and which few persons on our soil can rival. We learned our language in the street; he came at once into the parlors of English, and learned it from the masters. His printed English was as pure as the purest which can be found in the records of our debates.

Second, he possessed and exhibited a noteworthy independence of character. In this he taught a lesson which ought never to be forgotten here. His people trusted him, and by their approval enforced the lesson that the men who succeed best in public life are those who take the risk of standing by their own convictions. That principle never fails in the long run, for the people who send representatives here do not want a mere echo, but a man who sees with his own eyes and fearlessly utters his own thoughts, as our friend did, with a boldness and courage that made him a worthy example to all American statesmen.

## THE SUGAR TARIFF.

SPEECH DELIVERED IN THE HOUSE OF REPRESENTATIVES,

FEBRUARY 26, 1879.

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ON the 21st of January, 1879, Mr. Robbins, of North Carolina, reported from the Committee of Ways and Means this bill: "*Be it enacted, &c.*, That tank-bottoms, syrups of sugar-cane-juice, melada, concentrated melada, concentrated molasses, and all sugars not above No. 13 Dutch standard in color, shall pay a duty of two cents and forty hundredths of a cent per pound; above No. 13, and not above No. 16, Dutch standard in color, shall pay a duty of two cents and seventy-five hundredths of a cent per pound; all above No. 16 Dutch standard in color shall pay a duty of four cents per pound: *Provided*, That nothing herein shall be construed to alter or repeal the act entitled 'An Act to carry into effect a Convention between the United States of America and His Majesty the King of the Hawaiian Islands, signed on the 30th of January, 1875,' which act was approved August 15, 1876."

Upon this bill Mr. Garfield made the following speech. On the 1st of March the bill was withdrawn by Mr. Robbins, owing to the press of business in the House, and the near approach of the end of the session.

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MR. SPEAKER,—I regret that I am not feeling well enough to address the House on this subject to my own satisfaction. By the kindness of my colleague on the Committee of Ways and Means,<sup>1</sup> who paired with me, I left the House yesterday in consequence of illness, and I should not be here to-day were it not that I am charged with the duty of presenting the bill approved by the minority of the committee; but I will try to state the case, if I can have the forbearance and attention of the House.

It must be manifest to every one that any considerable change in our tariff laws at the present session is impossible; and no

<sup>1</sup> Mr. Tucker.

change whatever should be undertaken at this late day unless demanded by the most imperative necessity. That such a necessity exists for the modification of the tariff on sugar will appear further on. The pending bill, like all bills which relate to customs duties, should be considered in its relation to four great interests: the revenues, home industries, foreign trade, and the consumers.

First, as a source of revenue for the support of the government, we are receiving about \$37,000,000 in coin per annum from duties on sugar in its various forms. That is about one sixth of all our revenues from all sources. The effect of any measure upon so large a part of the revenue is vital to our finances and to the fiscal credit of the government.

Second, it affects two great producing industries of our people. The first of these is the growth of cane and the production of cane sugar, to foster which Congress has for a long time levied a discriminating duty, though only a single State is pursuing the industry. Notwithstanding the fact that sugar is one of the necessities of the daily life of our people, they have consented to pay a tax which, under existing laws, averages about 62½ per cent *ad valorem* upon all the sugar they consume. This burden is borne cheerfully for the purpose of protecting and promoting a great home industry in one of our Southern States.

A second important industry which has grown up in connection with the sugar trade, and has attained to great magnitude in recent years, is the business of refining. It is one of the interesting evidences of the progress of civilization, that people are using less and less of the raw sugars of commerce and more and more of refined sugars. And this change of habit is not merely a refinement of luxury, but is demanded by a better knowledge of the laws of health. In a recent investigation made by the Analytical Sanitary Commission of England, appointed to examine the various kinds of food, Dr. Hassell, the chairman, reported, among other things, the following: "We feel, however reluctantly, that we have come to the conclusion that the sugars of commerce are in general in a state wholly unfit for consumption." That is the latest voice of science in England on the subject of unrefined sugar. Now, if gentlemen will turn to the Popular Science Monthly, of New York, for February, 1879, they will find a very interesting scientific dis-

cussion of the various insects that infest food, in which occurs a passage relating to sugars, which I quote: —

“The sugar-mite, *T. sacchari* [a magnified wood-cut of which accompanies the passage] is most commonly found in brown sugars. It is large enough to be seen with the naked eye, and sometimes appears as white specks in the sugar. It may be detected by dissolving two or three spoonfuls of sugar in warm water and allowing the solution to stand for an hour or so; at the end of the time the acari will be found floating on the surface, adhering to the sides of the glass, and lying mixed with the grit and dirt that always accumulate at the bottom. In ten grains of sugar as many as five hundred mites have been found, which is at the rate of three hundred and fifty thousand to the pound. Those who are engaged in handling raw sugars are subject to an eruption known as ‘grocers’ itch,’ which is doubtless to be traced to the presence of these mites. They are almost invariably present in unrefined sugars, and may be seen in all stages of growth and in every condition, alive and dead, entire or broken in fragments. Refined sugars are free from them. This is in part due, perhaps, to the crystals being so hard as to resist their jaws, but principally to the absence of albumen, for without nitrogenous matter they cannot live. . . .

“These degraded and disgusting forms are not proper food-stuff; nor is their consumption unavoidable. Pure articles, in an undamaged condition, do not contain them; and their presence in numbers in any article of food is proof that it is unfit for human use and should be rejected.”<sup>1</sup>

This scientific testimony is corroborated by the experience of all persons who manipulate raw sugars, while no such effects result from the handling of refined sugars. For these reasons the consumption of raw sugars in this and in all other civilized countries has rapidly fallen off. And so, although in former years a large quantity of what is known as grocers’ sugars went directly into consumption without going through the process of refining, the amount of sugars of that class now used has been reduced to almost nothing.

To exhibit something of the magnitude of the refining industry, I state a few facts: omitting maple, sorghum, and beet sugar, we consumed last year in round numbers 1,700,000,000 pounds of cane sugar. Of this amount we produced in our own country 200,000,000 pounds; the remaining 1,500,000,000 pounds were imported. Reducing the whole to tons, the peo-

<sup>1</sup> Pages 508, 509.

ple of the United States consumed 740,000 tons of cane sugar last year, or an average of about forty-five pounds to each inhabitant. Of all this vast quantity not two per cent was consumed in the raw or unrefined state. Nearly all of it passed through some process of refining to fit it for the use of our people.

From this it will be seen that, in addition to the business of cane-planting and sugar-making, there has grown up in this country the industry of sugar-refining, the importance of which may be shown by a few additional facts. There are 25,000 laborers in the United States to-day employed in the business of refining sugar and fitting it for use, in addition to those employed by the sugar-producers. In this work are employed coopers, blacksmiths, mechanics, machinists, and other classes of laborers. They consume annually 30,000,000 pounds of bone-dust, 18,000 kegs of nails, 30,000 car-loads of staves, and 300,000 tons of coal. In this statement I do not take into account the refining done by Louisiana planters in preparing their products for market, though a large majority of the sugar-growers have connected with their mills some form of refining. I have stated these facts to show the extent of the two home industries which we should keep in view in any legislation on the subject.

The third interest is our foreign commerce, of which only a word needs to be said. We are compelled to buy abroad more than 85 per cent of all our sugar. We buy it from tropical countries with which, on every ground of public policy, we ought to maintain healthy and active relations of trade. If we are able, by our superior skill, to refine their low-grade sugars more cheaply than our neighbors, and send them back with the added value of American labor, it will strengthen us industrially and commercially; and the fact that our refining interest has grown to such perfection that we have been able to sell in a single year to tropical countries about 70,000,000 pounds of refined sugar, is a gratifying one on every account. No change should be made in the law which will injure our commercial prospects in this direction.

The fourth interest, one of vital importance, is that of the consumers of sugar. They are not a class, but the whole population of the United States; and there must be reasons of controlling power that will justify any considerable tax on an article of food of such universal consumption and of such prime

necessity as sugar. That reason has been found partly in the necessity for revenue, but chiefly in the purpose of enabling our people to become self-supporting, and as far as possible to produce their own sugars, that they may not be dependent upon foreign countries for so important an article of food. In short, the chief reason for the tax is that American labor may find employment in producing and preparing food for American tables.

The duty on sugar has been levied in various forms. Up to 1846 sugars were classified into raw and refined sugar, with a low rate on the raw and a higher rate on the refined. But as the processes of manufacture and refining have been improved, additional grades have been made by the law from time to time to meet the new conditions. It was found in 1870 that the lower grades embraced so wide a range of products that a uniform tax upon one whole class was neither equitable nor just; and hence the law was so amended as to increase the number of classes and make the tax *ad valorem* in principle, but specific in form. Sugar in all its forms was graded into seven classes, arranged in the order of their value, and a specific duty was levied upon each class, the lowest rate being imposed upon the lowest grade, and a higher rate upon each ascending grade. The tax thus adjusted has been an efficient means of raising revenue. I have already shown that it produces more than \$37,000,000 a year. That it has afforded sufficient protection to the producers and refiners of sugar will not be denied. The theory of protection may perhaps be thus summarized. On any imported article which comes in competition with an American product the rate of tax should be proportionate to the amount of human labor which has been expended upon it at the time of importation. That which represents the least labor should bear the least burden of tax; that which represents the most labor should bear the greatest tax. This principle has generally prevailed in all our tariff laws relating to sugar.

As the law now stands, the duty is adjusted by dividing all sugars into seven grades. First, the lowest, crudest, and cheapest product, which comes in liquid form and is known as melada. On that we levy a specific duty equal to about 40 per cent *ad valorem*. Until a recent period all sugar was manufactured by the simple process of boiling down the cane-juice and clarifying the product by means of clay. By that process the purity and

strength, and hence the value, of all crystallized sugar were exhibited by its color. Here, for example, [holding up a specimen,] is a specimen of the lowest and crudest forms of crystallized sugar. Gentlemen will notice its dark color. It is known and graded as Dutch standard No. 7, and forms the second class in our present law. Here [holding up another specimen] is a higher grade, embodying more human labor, having less impurity in it, and fit for use. It is known as Dutch standard No. 20. Ranging between these two specimens are several grades, the seven classes of the present law being,—first, melada; second, No. 7 and under; third, all above No. 7 and not above No. 10; fourth, all above No. 10 and not above No. 13; fifth, all above No. 13 and not above No. 16; sixth, all above No. 16 and not above No. 20; seventh, all above No. 20.

The theory of the law is, that these various grades of sugar represent a scale of increasing value, an increasing amount of labor; and therefore the higher the grade, the heavier the duty. For ease of comparison I reduce the specific rates to *ad valorem*, and show the status of the existing law. On the lowest form of sugar, melada, the rate is about 40 per cent *ad valorem*; on the next grade, which includes all not above the Dutch standard No. 7, it is about 45 per cent; on the next grade, including No. 10, it is about  $46\frac{1}{2}$  per cent; on sugars between Nos. 10 and 13 it is  $49\frac{1}{2}$  per cent; between 13 and 16,  $68\frac{1}{2}$  per cent; and so on, the rate increasing according to the value of the sugar and the amount of labor expended upon it. This method of taxation seems to be fair and just; for if the principle of protection be applied to sugar at all, it ought to be applied on some plan of graduation which imposes the heaviest burden upon those grades which involve the most labor, and which are the most valuable.

I believe the correctness of the principle of the present law is not called in question. Although the aggregate rate of duty is high, consumers are not complaining; for the sugar used by our people is cheaper to-day than it has been in any previous period of our history. In 1869 the average price in the United States of all grades of sugar was fifteen cents a pound. In 1878 the average price was nine cents a pound. A dollar will to-day buy more sweetening than it would have bought at any previous time in our history. A day's work, even, will buy more sweetening to-day than it would have bought ten years



ago. Therefore the consumers of sugar in this country are not complaining that the rate of tax is too high. The planters of Louisiana are not complaining that they are not sufficiently protected by the present law; for they get an average protection of 62½ per cent, far greater than we get on most of our Northern products.

Who, then, is complaining, if neither the producers nor the consumers of sugar complain? The Treasury alone is now making complaint. The Secretary tells us that new processes of manufacture have enabled foreign producers to produce sugar of as high a grade of sweetness and as pure as this specimen [showing a light-colored sugar], but which has a color as low as this [showing a dark sugar], and therefore, as the letter of the law fixes the rate of duty on the basis of color alone, high-grade sugars in sweetness and value, but low-grade in color, are brought in at a rate below the intent of the law, and so the revenue is defrauded. Two recent processes of manufacture, known as the centrifugal process and the vacuum-pan process, have so changed the character of the product, especially in Cuba, that high-priced sugar comes in graded at low rates; and of that the Secretary of the Treasury complains. He says, and so say his experts, that we are probably losing from four to five million dollars of revenue a year in consequence of this undervaluation of sugar.

To remedy this defect in the law should be the sole object of the present bill. To whom should we look for the suggestion of a practical and efficient remedy for the only evil complained of? First of all, we should look to the officer who is charged by law with the duty of collecting the revenue. And he, the Secretary of the Treasury, has proposed a remedy. He does not ask us to change the rate of duty. He does not ask us to raise or reduce the present rate. All he does ask is that we give him the power to prevent undervaluations which he cannot prevent as the law now stands. He does not complain that the color test has been proved altogether worthless. It is still as valuable as ever for all the higher grade sugars; but the two new processes of which I have spoken enable manufacturers to evade the spirit of the law in the lower grades, especially in grades below No. 10 Dutch standard; and he declares that, if we will authorize him to apply other tests which will correct the undervaluation in these lower grades, he can collect the

revenue fairly and fully, according to the original intent of the law, without any change of the rates or change of the grades already established. In a word, he asks us to give him the requisite authority and means for enforcing the present law according to its real intent and purpose.

Now, Mr. Speaker, I believe that I have stated all the trouble complained of in the present law. We are not asked to legislate either for the consumer or the producer, for Louisiana, for New York, or for the Great West. We are asked to legislate to protect the Treasury against loss of revenue by undervaluation. That is all. And what is the remedy proposed? The Secretary of the Treasury proposes what I now offer on behalf of the minority of the Committee of Ways and Means as a substitute for the pending bill:—

*“Be it enacted, &c., That from and after the — day of — 1879, in the classification of imported sugars for assessment of duty, any sugar which shall not be above No. 10 Dutch standard in color, which shall contain more than ninety-two per cent of crystallizable sugar shall pay the rate of duty now chargeable to sugar above No. 10, and not above No. 13, Dutch standard in color, and the per centum of crystallizable sugar shall be ascertained by the polariscope or such other means as may be prescribed by the Secretary of the Treasury.”*

The Secretary simply asks us so to amend the law as to give him power to superadd to the color test the polariscope or other tests which he may find effective in making crystallizable strength and color correspond. That is all. If there had been no virtual evasion of the color test, there would have been no need of any change in the law; and it is only to meet that evasion that he asks authority to do what he cannot now do, add to the color test the polariscope test, or any other scientific test he may choose. It is proposed to apply the polariscope test to all sugars below No. 10 wherever found necessary.

MR. ROBBINS. How will the officers of the government know the need of applying the test?

I will tell the gentleman. Whenever an imported sugar bears evidence on its face that the color and strength are in harmony, the color test will remain undisturbed; but when for any reason the inspectors of the revenue, or other officers of the government, have reason to believe that the sugar is of a higher grade than its color would indicate, they will apply

the polariscope and correct the valuation. The bill I offer is the simplest and plainest method that can be had to enable the Secretary of the Treasury to enforce existing law.

MR. ROBBINS. Who is to determine whether the sugar looks upon its face as sweet as it is represented to be?

The Secretary of the Treasury, by his regulations and orders to his officers appointed for that purpose. What the gentleman suggests would be equally applicable to his own bill. The gentleman himself in his own bill recognizes the Dutch standards of color, and how is he going to determine whether any given sugar is above or below No. 13 Dutch standard? How does he draw the line in his own bill, and who is to determine whether the sugar is above or below that standard?

MR. ROBBINS. Who is to determine whether the sugar imported is higher or lower than No. 7?

I answered the gentleman before; the executive officers of the government charged with the office of collecting these duties, under the direction of the Secretary of the Treasury, and under the rules and regulations which he may make.

Now, Mr. Speaker, whatever difficulties the gentleman from North Carolina may have, or you may have, or I may have, it must be taken for granted that the officers who will discharge this duty are intelligent and vigilant. The present Secretary of the Treasury tells us, that with the simple measure I have offered he can administer the law and collect the revenue. That being so, I do not think it quite becomes us to say that he cannot do it, and deny him the power that he asks for, and all that he asks for, to enable him to put five millions more revenue into the treasury without increasing the rate of taxation. For one, I am unwilling to take upon my shoulders the responsibility of refusing the Secretary the means he asks for to enable him to collect the revenue, and, instead, give him a remedy of my own invention. Suppose he fails; he can very well say that Congress refused the instrument he wanted, and gave him one of their own devising. In that case the responsibility will fall, not upon him, but upon Congress for forcing upon him a plan he did not ask for or recommend.

I say, therefore, on general principles, that when an executive officer, whom we have a right to trust for his intelligence, skill,

and character as a public man, comes to us and asks for a certain definite, plain provision of law, we ought to have very strong reasons of our own if we do not grant it; especially when he asks us not to change the rate of duty, not to tear down the structure of the law, but simply to give him the means to enforce it. This is the ground on which, in the first place, I plant my argument for the amendment I have offered as against the new and larger, and as I think very perilous scheme, proposed by the majority of the Committee of Ways and Means.

Let us next consider the scheme which they have offered. I want gentlemen to understand that of the seven lower grades of sugar as they now stand in the law, each paying a different rate of duty, and a rate increasing as the sugar advances in quality, it is proposed, by the bill of the gentleman from North Carolina, to consolidate into one the first four, — that is, melada, and the three lower grades of sugar, — and to provide that they shall be put on a dead level of equality, and shall pay a duty of 2.40 cents per pound. This is a radical and sweeping change in the present law, for it covers about ninety per cent of all sugars imported.

To show how important to the revenue those four lower grades are, I state a fact furnished by the Bureau of Statistics. It is this: that out of \$37,000,000 of revenue received last year from sugar, \$34,955,000, almost ninety per cent, was received from sugar of the three lower grades. I cannot emphasize this fact too strongly in considering the radical change proposed by the Robbins bill. On the grades under No. 10 Dutch standard, there were received \$35,000,000 out of \$37,000,000; and of the grades under No. 7, I think about \$14,000,000 or \$15,000,000. But from No. 10 down, we get \$35,000,000 of the \$37,000,000 collected on sugar. What effect this change will have on the revenues it is difficult to say; but I have no doubt it will wholly prevent the importation of the lower grades, will increase the price of sugar to the consumer, and probably decrease the revenue. At all events, it is a dangerous experiment to make in view of our present financial necessities.

But I desire to show how it will operate as a protective measure. I have already shown that, by our present law, sugar pays a duty of 40 per cent, 45 per cent, 46 per cent, 49 per cent, 68 per cent, &c., increasing in rate from the lower to the

higher grades. Now note the effect of consolidating the lower grades, as proposed in the Robbins bill, and fixing the single rate of 2.40 cents per pound. Melada, which now pays about 40 per cent, will then pay 80 per cent *ad valorem*; the second grade (that is, sugar not above No. 7), which now pays 45 per cent, will then pay 68½ per cent *ad valorem*; the next grade will pay 60 per cent, the next higher 53 per cent, the next higher 45 per cent, and the next, 42 per cent *ad valorem*.

In short, the Robbins bill is an inverted cone; the lowest grade of sugar must bear the highest rate of duty, and the highest grade the lowest rate. In other words, the less labor there is in the imported product, the heavier the rate of tax; and the more labor — foreign labor, remember — there is in it, the lighter the rate of tax. The fundamental doctrine of protection is completely overturned and reversed by this bill. Yet it is by no means a free-trade bill. It so happens that, on the grades upon which the extreme high rate of duty is imposed, our friends from Louisiana will receive a very considerably larger protective duty than the present law gives them. Hence the favor with which this proposition is received by gentlemen from that portion of the country.

Now, Mr. Speaker, I object to this bill, first, because it violates the fundamental principles of a just and equitable taxation; and I object to it, secondly, because it puts a prohibitory duty upon the low-grade sugars that are refined by American skill, and that become the cheap sugar in common use among our people. It injures some of our industrial interests, and gives an unreasonable protection to others. It violates the canons of free trade on the one hand, and of protection on the other. It destroys absolutely the business of refining the cheap low-grade sugars, and will increase the cost of sugars most in use. Let me illustrate still further.

How is it that this day, while I speak to you, sugar is cheaper in the United States than it has ever been before? Because we have built up in this country a great industry, in which we are eclipsing the world. When the French manufacturers were at Philadelphia, at our Centennial, they were amazed to see that our sugar products there rivalled the best products of the Old World. They did not understand how it had been done. But it was the result of the same skill that has enabled America to surpass so many other countries in the recent exposition at

Paris, and to carry off more medals, in proportion to the number of her exhibitors, than any other five countries of the globe.

We were so successful in the refining of sugar that, two years ago, we were exporting 70,000,000 pounds of our refined product. It will become, if we are allowed to carry on this industry, a great element in our export trade. We are trading with Cuba and South America; we are compelled to depend largely upon the tropics for our raw material. Is it not wise for us to be able to send back the refined product in exchange? Or shall we so legislate as to give an undue protection to our Louisiana planters, and drive the refining business out of the United States, allowing Cuba, England, and other countries to do our refining for us? Refined sugar we must have. The day is gone by when our people will eat the animals which abound in the raw, unmanufactured sugars of the world. I say, therefore, that this bill sins against the consumer, and against the refining interest, and unreasonably protects the producing interest of the country. Let me illustrate a little further.

In the Philippine Islands there is a class of people who have not enough intelligence and resource to take the first simple step toward clarifying sugar. They have no limestone on their islands; they cannot even furnish the lime to drop into the vats partially to clarify the sugar. But they take the juice of the cane and boil it down in the crudest, rudest, simplest way, by labor the cheapest and least skilful; and when they have reduced it to a black, cheap form of crystallized sugar,—the dirtiest yet known,—they put it up in sacks of one hundred and fifty pounds each, so that a man can carry it on his back down to the landing, to be shipped away. Our people are buying largely of that low grade of sugar from the Philippine Islands. We are also buying such sugar from other countries where the production is of a low grade. This we bring here, and by our skill and labor make it into a cheap, clean sugar for table use. Shall we now by law impose a prohibitory duty on all that trade and industry,—an 80 per cent rate, or a 65 per cent rate,—keeping it all out, and bring in only the sugar that has been refined by the higher and more intelligent processes of our nearer neighbors, thus cutting off the whole business of refining these low-grade sugars? I hope not.

I know there is some controversy among the refiners them-

selves. Some of them — indeed, quite a number of most estimable gentlemen — say, “ Let this bill pass and we can do a better refining business than is done now; we can refine the high-grade sugars.” Now, I am glad to have those gentlemen work the higher grades of sugar and make a success of them; but I see no reason why our refineries should not also take the lowest grade of sugar, that which has the least value, the least labor in it, and bring it up by our American labor to a cheap, useful, merchantable form; and therefore I am unwilling to destroy one class of refiners for the sake of helping another. I do not believe it is necessary to destroy either. I regret that the refiners do not unite on some common ground on which all could have a fair chance. But there seems to be an internecine war among them; and with such a war I have no sympathy.

Having now stated my objections in brief to the bill of the gentleman from North Carolina, I turn to answer his criticisms of the measure I have proposed, which is the bill of the Treasury Department.

The gentleman from North Carolina says that the polariscope is an unsatisfactory instrument, and that, however perfect it might be, there is serious difficulty in sampling the sugars to be tested. I admit that there is trouble about sampling. Suppose a hogshead of sugar is allowed to remain lying on its side for a month, and the sampler bores a hole in the hogshead and draws out a sample close to the bottom. He gets a wet, black, coarse sugar. On the other hand, if he draws his sample from the top, he gets a dry, lighter-colored, better grade of sugar. As a matter of course, if the sampler has been bought by some importer, he may take the samples out of the bottom of the cask only, which will not represent the character of the whole. But whether the system proposed by the gentleman from North Carolina or that of the Treasury Department prevails, we must leave the details of carrying it out to the Secretary of the Treasury. Under the regulations of the Treasury Department an official is not permitted to sample a hogshead of sugar in one spot only. He samples above, and below, and at the centre; the different samples, being mixed into one, make a pretty fair average sample of the cask; and then, taking every tenth cask of the cargo, a pretty fair set of samples of the whole cargo is obtained. But the trouble about sampling inheres in any graded system, and no one proposes to abolish all the grades.

But the gentleman thinks the polariscope test is good for nothing. I have some evidence on that subject.

In the first place, Mr. Speaker, the Secretary of the Treasury, about two years ago, sent to the National Academy of Sciences, of which Professor Henry was President, the polariscope, or polarimeter, which is a scientific instrument, with the request that it be examined, and a report made as to the advisability of its use by the government in determining the value of sugars for revenue purposes. After a thorough examination, and with the assistance of persons well qualified to judge, Professor Henry reported to the Secretary of the Treasury, on the 5th of February, 1878, as follows:—

“After due deliberation on the subject, the following are our final conclusions:—

“That the quantity of crystallizable sugar in imported raw sugars should be estimated by the polarimeter, which is an entirely trustworthy instrument, and one the use of which can readily be taught to any intelligent person of ordinary education.

“If the polarimeter should be adopted as the measure of the value of sugar, a supply of these instruments should be obtained from Germany, and their use taught to the appraisers by a person thoroughly acquainted with the theory and practice of the instrument. The accuracy of the instruments themselves should also be tested, and the appraisers from time to time be examined as to their skill in the use of the instrument.”

This is the opinion of one of our most eminent scientific men; and when he says that a layman, a man without special skill, can be taught to use this instrument accurately, and that it is “entirely trustworthy,” I have not quite the courage to say it is not so. But that is not all. I turn from the test of science to the test of practice. I have before me a memorial containing the resolutions adopted by the importers, refiners, and dealers in sugar in Boston, signed by sixty-six firms, representing, I am told, every refiner in that city. They speak for themselves.

“BOSTON, January 30, 1879.

“At an adjourned meeting of the importers, refiners, and dealers in sugar, held this day, the following resolutions were unanimously adopted:—

“Resolved, That the duties on sugar should be assessed by a graduated scale of specific rates, adjusted as nearly as possible to the *ad valorem* principle, and that this can be done by the use of the polariscope



better than in any other way. Its general use in buying and selling in all civilized countries proves that it is less complicated and more reliable than any other method of determining the actual value of sugar.

“*Resolved*, That duties ought to be so regulated and assessed as to encourage the largest possible supplies of sugar from all places of production, and not in any way made so as to favor one place more than another; and that the amount of revenue now derived from the lower grades of sugar cannot be increased without injustice and injury to the consumers, as it is now too high in proportion to high grades.

“JOHN W. CANDLER, *Chairman*.

WM. H. GREELEY, *Secretary*.

“We the undersigned importers, refiners, and dealers in sugar, approve of the above resolutions.

“[Signed by sixty-six firms.]”

The testimony of these gentlemen is that the grading of sugars can be better effected by the polariscope than in any other way. Its general use in buying and selling sugar strongly attests its practicability.

A prominent gentleman from Boston, who is one of the signers of this memorial, stated to the Committee of Ways and Means that during the last season he bought twenty-six large cargoes of sugar from Cuba on telegraphic orders and by the polariscope test. It was done in this way. He cabled to the manufacturer in Cuba, “Send me so many hogsheads of sugar testing 92° or 94° polariscope test,” and the sugars came. The Cuban seller applied the polariscope test when he shipped them, and the Boston buyer applied it when they were received. The record of those twenty-six cargoes shows that, if the duty had been assessed by the test of the polariscope, there would have been but one hundred and twenty-five dollars' difference in an aggregate of half a million dollars between the Cuban test and the Boston test. There were variations in the tests of single cargoes, but all the shipments showed that, if we had followed the Cuban test alone in levying the duties, the amount would have varied but one hundred and twenty-five dollars from the amount based on the Boston test, the parties having adverse interests, — one the buyer, the other the seller. Stronger proof of the practicability of the polariscope test of sugar can hardly be conceived.

MR. MILLS. I understand my friend from Ohio and the signers of that resolution to state that the polariscope is the full test of the value of sugar.

Yes, of the crystallizable strength, and therefore of the value of sugar.

MR. MILLS. Then why not lay the duty on the value of sugar, and let that be reached by the polariscope, or any other means the Secretary of the Treasury may adopt?

The Boston dealers asked the committee to adopt precisely the measure which my friend suggests, and that will be offered by the gentleman from Massachusetts.<sup>1</sup> They proposed that the duties on sugar should be laid on the percentage of saccharine strength; for instance, one per cent of saccharine strength should pay so much, and two per cent twice as much, and so on through all the grades, to be tested by the polariscope.

MR. MILLS. Then the polariscope tests the value of sugar?

Yes; and theoretically they are right. But, as a matter of practice, I think — and this was the opinion of most of the Committee of Ways and Means — that the Boston plan would make the sugar tariff too complicated, for there would be one cargo having a small per cent less strength than another, and a different rate of duty. The rates would be too numerous and complicated. We therefore preferred to retain the existing seven grades, and apply the polariscope to them.

MR. TUCKER. The gentleman from Ohio has spoken of the character of the polariscope as a test, and says it is a test of the quantity of saccharine matter. Is it not rather a test of the crystallizable quality of the sugar?

My colleague is right; I should have used the word crystallizable. That is the language of my amendment.

MR. TUCKER. Is it not true that we were told in the committee, so far from its being a test of the quantity of saccharine matter, that the sugar not crystallizable had so much saccharine matter that it was used by all the refiners?

I thank my colleague; for I was about to omit what, if left out, would have made my statement incomplete. The chief element of value in sugar is sugar crystals; but there is also another element, which is uncrystallizable, but still sweet, known as glucose, which will be found in the most perfect sugar of commerce. Glucose is not deleterious, is sweet, and is found in all sugar. The chief element, and that with which we are mainly concerned, is of course the crystal, the crystallized

<sup>1</sup> Mr. Banks.

sugar. Therefore, in our bill we apply our test to the crystallizable strength of sugar, and that the polariscope detects. That is what we are legislating about; not about glucose and other elements that enter into sugar. The main product is crystallized sugar, and that is perfectly tested by the polariscope. I do not say that the polariscope is a perfect test in every respect; but I say, in the present stage of scientific knowledge, it is the best test we know. It is approved by the highest science and by the practical experience of our foremost dealers in sugar.

MR. BUTLER. I ask the gentleman if the polariscope gives any correct test of melada, the lowest grade?

It does, — of its crystallizable strength.

MR. BUTLER. But if it is not crystallized?

The melada question is not important, for it pays a specific duty as the law now stands; but should crystallizable sugar be brought in mixed with melada, it would be tested by the polariscope. I believe I have now gone over the main points in this discussion.

MR. ROBBINS. There are no other means but the polariscope which can be applied as a percentage test, except chemical analysis, are there?

Not that I know of. I ought to have added that we do not confine the Secretary to the polariscope alone. We authorize him to employ the polariscope or such other test as he may find necessary to determine the real crystallizable strength of sugar. No doubt he will use the polariscope ordinarily; but if there is any doubt of its accuracy in any important case, he can employ a chemist, and make a chemical analysis.

MR. ROBBINS. One word more. The chemical analysis test is too costly for general use, is it not?

O, yes; it would be too cumbrous and costly to be used ordinarily; but it can always be used to verify the polariscope test in any important case.

MR. ROBBINS. But who is to know that any correction is needed?

My friend, in that question, has taken up the conflict of ages. Who shall do anything, except the men appointed to carry out the law? Who shall find out any blunder, or correct any wrong, unless you appoint somebody to do it? Congress, I take it, can hardly determine the sweetness or strength of sugar, or the

amount of glucose in it, unless we appoint an agent. The Treasury cannot do it, except by its agents. In any system there will be the trouble suggested by the gentleman from North Carolina.

In conclusion, Mr. Speaker, I do not want Congress to tinker with the tariff at this time. That was attempted last year; and in the remarks I made on that occasion I denounced the sugar clause of the bill then introduced, because, while there was a reduction of the rate on most Northern interests, the rate on sugar was increased considerably, even up to seventy per cent. I say, therefore, let us not undertake to change the tariff rates in this closing week of the session. But when the Administration tell us that four or five millions of revenue are being lost, let us provide the means they want to protect the government against undervaluation and loss.

# REVOLUTION IN CONGRESS.

SPEECHES DELIVERED IN THE HOUSE OF REPRESENTATIVES,

MARCH 29 AND APRIL 4, 1879.

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WITH the Forty-fourth Congress (1875) the Democratic party gained an ascendancy in the House of Representatives which it maintained until the close of the Forty-sixth (1881). With the Forty-fifth Congress, it also gained an ascendancy in the Senate, which it maintained four years. Taking advantage of their newly gained power, the party leaders attempted to force the repeal or the amendment of certain parts of the "Revised Statutes" which were obnoxious to them. Pending the Army Appropriation Bill, February 6, 1879, Mr. A. S. Hewitt, of New York, moved to add these two new sections:—

"That Section 2002 of the Revised Statutes be amended so as to read as follows: 'No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States.'

"And that Section 5528 of the Revised Statutes be amended so as to read as follows: 'Every officer of the army and navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control, any troops or armed men, at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than \$5,000, and suffer imprisonment at hard labor not less than three months nor more than five years.'"

The House adopted the new sections; the Senate (which was then Republican) threw them out; each house insisted, and the bill failed to pass, thus leaving the army unprovided for after June 30, 1879. There was also a difference between the two houses as to a proposed reorganization of the army.

Pending the Legislative, Executive, and Judicial Appropriation Bill of the same session, February 19, 1879, Mr. Herbert, of Alabama, moved

a new section, appropriating \$2,800,000 to meet the expenses of the United States courts, — a section so drawn as to omit all provision for executing the act of February 28, 1871, “to enforce the right of citizens of the United States to vote in the several States of the Union and for other purposes,” as well as for executing any and all acts amending or supplementing said act. The section also repealed Sections 820 and 821 of the Revised Statutes, relating to the qualifications of jurors in the United States courts.

Mr. Southard, of Ohio, moved this section to the same bill the same day: “That the several sections of the Revised Statutes of the United States from and including Section 2011 to and including Section 2031, and all other provisions of law authorizing the appointment of, or the performance of any duty by, any chief or other supervisor of elections, or any special deputy marshal, or other deputy marshal of elections, or the payment of any money to any such supervisor or deputy marshal of elections for any service performed as such, be, and the same are hereby, repealed.”

The House added both the Herbert and the Southard “riders” to the bill; the Senate refused to concur; conference committees failed to effect an adjustment, and this bill also fell.

On the 4th of March the Forty-fifth Congress expired by limitation. Two of the twelve great appropriation bills, together covering \$45,000,000, having failed to become laws, President Hayes at once issued his proclamation summoning the Forty-sixth Congress to meet in special session, March 19, 1879. In his message he informed the houses that the failure of the appropriations had made the extra session necessary. The struggle that began in the last session of the previous Congress was now renewed, and carried forward with great excitement and violence. The Democrats were now in a majority in both houses. To follow this struggle, point by point, through the session, is here impossible. Those who wish to do so are referred to the Congressional Record, or to McPherson’s Handbook of Politics for 1880 (Sections VI., XII., XIII., XIV.), where a full record of propositions, votes, vetoes, and results will be found. Still some leading points must be stated here, in order to make Mr. Garfield’s various speeches fully intelligible.

A new Army Bill was reported to the House, March 27. While this bill was less obnoxious to the Republicans than the amended bill of the previous session, it still contained the “political” sections offered by Mr. Hewitt on February 6. Two days after this bill was reported, Mr. Garfield opened the attack upon it from the Republican side of the chamber, in the speech given below, and named by him “Revolution in Congress.” At the same time that the Army Bill was passing through its various stages in the House, the Legislative, Executive, and Judicial Bill was also on its way. Throughout the debate on both bills, Mr. Gar-

field bore the foremost part on the Republican side ; in fact, he was more prominent than any other member, Republican or Democrat. The questions raised by the two bills were to a great degree the same ; hence his several speeches and various remarks need to be taken together to get a full statement of his views. They are here given in the order of their delivery as found in the Record, and not in the order of their subjects. The introductory notes furnish the necessary connecting narrative : the notes and the speeches together will give a comprehensive history of the extra session of the Forty-sixth Congress.

The reader who will take the pains to look through the Revised Statutes, as they stood in 1879, will find a large amount of legislation in regard to the elections of Representatives. He will observe, too, that most of it is of later date than the civil war. The Constitution declares that "the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof ; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators." (Article I., Section 4.) Obviously it would have been competent for the general government, under this clause, to take the sole and exclusive direction of the elections of Representatives. But, owing no doubt to their unwillingness to take what would then have been considered a pronounced step in the direction of centralization, and to the fact that each State had a fully equipped electoral system in operation while the nation had none, Congress did nothing of the kind, but, by leaving the whole matter to the management of the States, practically adopted the State machinery. There the matter stood until 1842, when Congress enacted, after bitter opposition, that the Representatives from States entitled to more than one should be elected by districts composed of contiguous territory. Before that time, the States had elected them by districts, or on a general ticket, as they saw fit. No further legislation was had until near the close of the war, when the law concerning troops at the polls, referred to in the following speech, was enacted. Later came the provision that all votes for Representatives in Congress must be by written or printed ballot, and all votes cast otherwise should be of no effect. This was in 1871. The provisions of Title 26 of the Revised Statutes, relating to supervisors and marshals, were originally enacted in 1870, 1871, and 1872, being parts of laws for carrying into effect the Fourteenth and Fifteenth Amendments. The same may be said of the provisions of Title 70, in relation to the same general subject. Most of this legislation, which was a direct outgrowth of the war, was enacted when the Republican party was overwhelmingly in the ascendant, and the Democratic party was too feeble to offer even an energetic protest. Without here raising the question of its propriety and utility, it may be said that it was quite in harmony with the spirit and traditions of the Republican party, but was antagonistic to the general spirit and traditions of

the Democratic party. Separate and apart, therefore, from any desire to obtain a party advantage, which Mr. Garfield constantly charges in his speeches of that period, it was but natural that the Democrats, as soon as they gained full control of Congress, or of either house, should fiercely antagonize the election laws.

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MR. CHAIRMAN,—I have no hope of being able to convey to the members of this House my own conviction of the very great gravity and solemnity of the crisis which this decision<sup>1</sup> of the chair and of the Committee of the Whole has brought upon this country. I wish I could be proved a false prophet in reference to the result of this action. I wish I could be overwhelmed with the proof that I am utterly mistaken in my views. But no view I have ever taken has entered more deeply and more seriously into my conviction than this, that the House has to-day resolved to enter upon a revolution against the Constitution and government of the United States. I do not know that this intention exists in the minds of half the representatives who occupy the other side of this hall; I hope it does not; I am ready to believe it does not exist to any great extent; but I affirm that the consequence of the programme just adopted, if persisted in, will be nothing less than the total subversion of this government. Let me in the outset state, as carefully as I may, the precise situation.

At the last session, all our ordinary legislative work was done in accordance with the usages of the House and Senate, except the passage of two bills. Two of the twelve great appropriation bills for the support of the government were agreed to in both houses as to every matter of detail concerning the appropriations proper. We were assured by the committees of conference in both bodies that there would be no difficulty in adjusting all differences in reference to the amounts of money to be appropriated and the objects of their appropriation. But the House of Representatives proposed three measures of distinctly independent legislation; one upon the army appropriation bill, and two upon the legislative appropriation bill. The three grouped together are briefly these: first, the substantial

<sup>1</sup> The point of order had been raised, under the rules, that one of the sections changed existing law, that it was not germane to the bill, and that it did not trench expenditures. The decision referred to above is the chairman's, overruling the point of order.



modification of certain sections of the law relating to the use of the army; second, the repeal of the jurors' test oath; and third, the repeal of the laws regulating elections of members of Congress. These three propositions of legislation were insisted upon by the House, but the Senate refused to adopt them. So far it was an ordinary proceeding, one which occurs frequently in all legislative bodies. The Senate said to us through their conferees, "We are ready to pass the appropriation bills; but we are unwilling to pass as riders the three legislative measures you ask us to pass." Thereupon the House, through its conference committee, made the following declaration,—and in order that I may do exact justice, I read from the speech of the distinguished Senator from Kentucky,<sup>1</sup> on the report of the second conference committee on the Legislative, Executive, and Judicial Appropriation Bill:—

"The Democratic conferees on the part of the House seemed determined that unless those rights were secured to the people"—alluding to the three points I have named—"in the bills sent to the Senate, they would refuse, under their constitutional right, to make appropriations to carry on the government, if the dominant majority in the Senate insisted upon the maintenance of these laws and *refused to consent* to their repeal."

Then, after stating that, if the position they had taken compelled an extra session, the new Congress would offer the repealing bills separately, and forecasting what would happen when the new House should be under no necessity of coercing the Senate, he said:—

"If, however, the President of the United States, in the exercise of the power vested in him, should see fit to veto the bills thus presented to him, . . . then I have no doubt those same amendments will be again made part of the appropriation bills, and it will be for the President to determine whether he will block the wheels of government and refuse to accept necessary appropriations rather than allow the representatives of the people to repeal odious laws which they regard as subversive of their rights and privileges. . . . Whether that course is right or wrong, it will be adopted, and I have no doubt adhered to, no matter what happens with the appropriation bills."<sup>2</sup>

That was the proposition made by the Democracy in Congress at the close of the Congress now dead.

Another distinguished Senator, Mr. Thurman, of Ohio,—and

<sup>1</sup> Mr. Beck.

<sup>2</sup> Congressional Record, March 3, 1879, p. 2319.

I may properly refer to Senators of a Congress not now in existence, — reviewing the situation, declared in still more succinct terms: “We claim the right, which the House of Commons in England established after two centuries of contest, to say that we will not grant the money of the people unless there is a redress of grievances.”<sup>1</sup>

These propositions were repeated with various degrees of vehemence by the majority in the House. The majority in the Senate and the minority on this floor expressed the deepest anxiety to avoid an extra session and to avert the catastrophe thus threatened, — the stoppage of the government. They pointed out the danger to the country and its business interests of an extra session of Congress, and expressed their willingness to consent to any compromise consistent with their views of duty which should be offered, — not in the way of coercion, but in the way of fair adjustment, — and asked to be met in a spirit of just accommodation on the other side. Unfortunately no spirit of adjustment was manifested in reply to their advances. In consequence the new Congress is assembled, and, after ten days of caucus deliberation, the House of Representatives has resolved, substantially, to reaffirm the positions of its predecessors, except that the suggestion of Senator Beck to offer the independent legislation in a separate bill has been abandoned. By a construction of the rules of the House far more violent than any heretofore given, a part of this independent legislation is placed on the pending bill for the support of the army; and this House has determined to begin its career by the extremest form of coercive legislation. In my remarks to-day I shall confine myself almost exclusively to the one phase of the controversy presented in this bill.

MR. ATKINS. Do I understand you to state that in the conference committee no proposition was made other than the one suggested in the legislation proposed to be attached to the bill by the House conferees?

I did not undertake to state what was done in conference except as reported by Senator Beck, for I was not a member of the committee.

MR. ATKINS. I thought you did.

No; I only declared what was proposed on the floor of the House and Senate.

<sup>1</sup> Congressional Record, March 3, 1879, p. 2321.

MR. ATKINS. With the gentleman's permission I will state that the proposition the House made in conference committee was substantially the proposition now before the House, and here offered to be attached to these bills.

I take it for granted that what my friend on the other side says is strictly true; but not even that proposition was reported to either House.

The question, Mr. Chairman, may be asked, Why make any special resistance to certain repealing clauses in this bill, which a good many gentlemen on this side declared at the last session that they cared but little about, and regarded as of very little practical importance, because for years there had been no actual use for any part of the laws proposed to be repealed, and they had no expectation there would be any? It may be asked, Why make any controversy on either side? So far as we are concerned, Mr. Chairman, I desire to say this. We recognize the other side as accomplished parliamentarians and strategists, who have adopted with skill and adroitness their plan of assault. You have placed in the front one of the least objectionable of your measures; but your whole programme has been announced, and we reply to your whole order of battle. The logic of your position compels us to meet you as promptly on the skirmish line as afterward when our intrenchments are assailed; and therefore, at the outset, we plant our case upon the general ground where we have chosen to defend it.

And here, sir, I wish to make a brief digression, which I hope no gentleman will consider as controversial or personal. I had occasion at a late hour of the last Congress to say something on what may be called the voluntary element in our institutions. I spoke of the distribution of the powers of government: first, to the nation; second, to the States; and, third, the reservation of powers to the people themselves. I called attention to the fact, that under our form of government the most precious rights that men can possess on this earth are not delegated to the nation nor to the States, but are reserved to the third estate, the people themselves. I called attention to the interesting fact that lately the Chancellor of the German Empire had made the declaration that it was the chief object of the existence of the German government to defend and maintain the religion of Jesus Christ, — an object in reference to

which our Congress is absolutely forbidden by the Constitution to legislate at all. Congress can establish no religion, — indeed, can make no law respecting it, because in the view of our fathers, the founders of our government, religion was too precious a right to be intrusted by delegation to any government. Its maintenance was left to the voluntary action of the people themselves. In continuation of that thought, I wish now to speak of the voluntary element inside our government, — a topic that I have not heard discussed, but one which appears to me of vital importance in any comprehensive view of our institutions.

Mr. Chairman, viewed from the standpoint of a foreigner, our government may be said to be the feeblest on the earth; from our standpoint, and with our experience, it is the mightiest. But why would a foreigner call it the feeblest? He can point out a half-dozen ways in which it can be destroyed without violence. Of course, all governments may be overturned by the sword; but there are several ways in which ours may be annihilated without the firing of a gun. For example, if the people of the United States should say we will elect no House of Representatives — of course this is a violent supposition — but suppose they do not, is there any remedy? Does our Constitution provide any remedy whatever? In two years there would be no House of Representatives; of course no support of the government, and no government. Suppose, again, the States should say, through their legislatures, we will elect no Senators. Such abstention alone would absolutely destroy this government; and our system provides no process of compulsion to prevent it.

Again, suppose the two houses were assembled in their usual order, and a majority of one in this body, or in the Senate, should firmly band themselves together and say they would vote to adjourn the moment the hour of meeting arrives, and continue so to vote at every session during our two years of existence, the government would perish, and there is no provision of the Constitution to prevent it. Or, again, if a majority of one in either body should declare that they would vote down, and should vote down, every bill to support the government by appropriations, can you find in the whole range of our judicial or our executive authority any remedy whatever? A Senator

or a Representative is free, and may vote "No" on every proposition. Nothing but his oath and his honor restrains him. Not so with executive and judicial officers. They have no power to destroy this government. Let them travel an inch beyond the line of the law, and they fall within the power of impeachment. But against the people who create Representatives, against the legislatures who create Senators, against Senators and Representatives in these halls, there is no power of impeachment; there is no remedy, if by abstention or by adverse votes they refuse to support the government.

At a first view, it would seem strange that a body of men so wise as our fathers were should have left one whole side of their fabric open to these deadly assaults; but on a closer view of the case their wisdom will appear. What was their reliance? This: the sovereign of this nation, the God-crowned and Heaven-anointed sovereign, in whom resides "the state's collected will," and to whom we all owe allegiance, is the people themselves. Inspired by love of country, and by a deep sense of obligation to perform every public duty, — being themselves the creators of all the agencies and forces to execute their own will, and choosing from themselves their representatives to express that will in the forms of law, — it would have been like a suggestion of suicide to assume that any of these great voluntary powers would be turned against the life of the government. Public opinion was trusted as a power amply able, and always willing, to guard all the approaches on that side of the Constitution against any assault on the life of the nation.

Up to this hour our sovereign has never failed us. There has never been such a refusal to exercise those primary functions of sovereignty as either to endanger or cripple the government; nor have the majority of the representatives of that sovereign, in either house of Congress, ever before announced their purpose to use their voluntary powers for its destruction. And now, for the first time in our history, — and I will add, for the first time for at least two centuries in the history of any English-speaking nation, — it is suggested and threatened that these voluntary powers of Congress shall be used for the destruction of the government. I want it distinctly understood that the proposition which I read at the beginning of my remarks, and which is the programme announced to the American people to-day, is this: that if this House cannot have its

own way in certain matters not connected with appropriations, it will so use or refrain from using its voluntary powers as to destroy the government.

Now, Mr. Chairman, it has been said on the other side, that, when a demand for the redress of grievances is made, the authority that runs the risk of stopping and destroying the government is the one that resists the redress. Not so. If gentlemen will do me the honor to follow my thought for a moment more, I trust I shall make this denial good.

Our theory of law is free consent. That is the granite foundation of our whole superstructure. Nothing in this republic can be law without consent, — the free consent of the House, the free consent of the Senate, the free consent of the Executive, or, if he refuse it, the free consent of two thirds of these bodies. Will any man deny that? Will any man challenge a letter of the statement that free consent is the foundation of all our institutions? And yet the programme announced two weeks ago was, that, if the Senate refused to consent to the demand of the House, the government should stop. And the proposition was then, and the proposition is now, that, although there is not a Senate to be coerced, there is still a third independent branch of the legislative power of the government whose consent is to be coerced at the peril of the destruction of this government; that is, if the President, in the discharge of his duty, shall exercise his plain constitutional right to refuse his consent to this proposed legislation, the Congress will so use its voluntary powers as to destroy the government. This is the proposition which we confront; and we denounce it as revolution.

It makes no difference, Mr. Chairman, what the issue is. If it were the simplest and most inoffensive proposition in the world, yet if you demand, as a measure of coercion, that it shall be adopted against the free consent prescribed in the Constitution, every fair-minded man in America is bound to resist you as much as though his own life depended upon his resistance. Let it be understood that I am not arguing the merits of any one of the three amendments. I am discussing the proposed method of legislation; and I declare that it is against the Constitution of our country. It is revolutionary to the core, and is destructive of the fundamental principle of American liberty, the free consent of all the powers that unite to make laws. In

opening this debate, I challenge all comers to show a single instance in our history where this consent has been thus coerced. This is the great, the paramount issue, which dwarfs all others into insignificance.

I now turn aside from the line of my argument, for a moment, to say that it is not a little surprising that our friends on the other side should have gone into this great contest on so weak a cause as the one embraced in the pending amendment to this bill. Victor Hugo said, in his description of the battle of Waterloo, that the struggle of the two armies was like the wrestling of two giants, when a chip under the heel of either might determine the victory. It may be that this amendment is the chip under your heel, or it may be that it is the chip on our shoulder; as a chip, it is of small account to you or to us; but when it represents the integrity of the Constitution, and is assailed by revolution, we fight for it as for a Kohinoor of purest water.

The distinguished and venerable gentleman from Georgia<sup>1</sup> spoke of the law which is sought to be repealed as "odious and dangerous." It has been denounced as a piece of partisan war legislation, to enable the army to control elections. Do gentlemen know its history? Do they know whereof they affirm? Who made this law which is denounced as so great an offence as to justify the destruction of the government rather than let it remain on the statute-book? Its first draft was introduced into the Senate by a prominent Democrat from the State of Kentucky, Mr. Powell, who made an able speech in its favor. It was reported against by a Republican committee of that body, whose printed report I hold in my hand. It encountered weeks of debate, was amended and passed, and then came into the House. Every Democrat present in the Senate voted for it on its final passage. Every Senator who voted against it was a Republican. No Democrat voted against it. Who were the Democrats that voted for it? Let me read some of the names: Hendricks, of Indiana; Davis, of Kentucky; Johnson, of Maryland; McDougall, of California; Powell, of Kentucky; Richardson, of Illinois; and Saulsbury, of Delaware. Of Republican Senators, thirteen voted against it; only ten voted for it.

The bill then came to the House of Representatives, and was

<sup>1</sup> Mr. Stephens.

put upon its passage here. How did the vote stand in this body? Every Democrat present at the time in the House of Representatives of the Thirty-eighth Congress voted for it. The total vote in its favor in the House was one hundred and thirteen, and of these fifty-eight were Democrats. And who were they? The magnates of the party. The distinguished Speaker of this House, Mr. Samuel J. Randall, voted for it. The distinguished chairman of the Committee of Ways and Means of the last House, Mr. Fernando Wood, voted for it. The distinguished member from my own State, who now holds a seat in the other end of the Capitol, Mr. George H. Pendleton, voted for it. Messrs. Cox and Coffroth, Kernan and Morrison, who are still in Congress, voted for it. Every Democrat of conspicuous name and fame in that House voted for the bill, and not one against it. There were but few Republicans who voted against it. I was one of the few. Thaddeus Stevens and Judge Kelley were others.

But what was the controversy? What was the object of the bill? It was alleged by Democrats that in those days of war there were interferences with the proper freedom of elections in the border States. We denied the charge; but lest there might be some infraction of the freedom of elections, many Republicans, unwilling that there should be even the semblance of interference with that freedom, voted for it. This law is an expression of their purpose that the army should not be used at any election except for the purpose of keeping the peace. Those Republicans who voted against it did so on the ground that there was no cause for such legislation; that it was a slander upon the government and the army to say that they were interfering with the proper freedom of elections. I was among that number —

MR. CARLISLE. I ask if the Democrats in the Senate and House of Representatives did not vote for that proposition because it came in the form of a substitute for another proposition that was still more objectionable.

The gentleman is quite mistaken. The original bill was introduced by a gentleman from Kentucky, Mr. Powell; it was amended in its course through the Senate; but the votes to which I have referred were the final votes on its passage after all the amendments had been made; and, what is more, a Republican Senator moved to reconsider it, hoping that he might



thereby kill it. And after several days' delay and debate it was again passed, every Democrat again voting for it. In the House there was no debate, and therefore no expression of the reasons why anybody voted for it. Each man voted according to his convictions, I suppose.

MR. STEPHENS. — I simply ask if the country is likely to be revolutionized, and the government destroyed, by repealing a law that the gentleman himself voted against.

I think not. That is not the element of revolution, as I will show the gentleman. The proposition now is, that after fourteen years have passed, and not one petition from one American citizen has come to us asking that this law be repealed, while not one memorial has found its way to our desks complaining of the law, so far as I have heard, the Democratic Representatives declare that, if they are not permitted to force upon the other house and upon the Executive, against their consent, the repeal of a law that Democrats made, this refusal will be considered a sufficient ground for starving this government to death. That is the proposition which we denounce as revolution.

MR. FERNANDO WOOD. Before he leaves that part of his remarks to which the gentleman from Kentucky<sup>1</sup> has referred, I desire to ask the gentleman whether he wishes to make the impression upon the House that the bill introduced by Senator Powell of Kentucky, and which resulted finally in the law of 1865, was the bill that passed the Senate, that passed the House, and for which he says the present Speaker of this House and myself voted.

I have not intimated that there were no amendments. On the contrary I have said that it was amended in the Senate. One amendment permitted the use of the army to repel armed enemies of the United States from the polls.

MR. WOOD. So far as I am personally concerned, I deny that I ever voted for the bill except as a substitute for a more pernicious and objectionable measure.

What I have said is a matter of record. I say again the gentleman voted for this law; every Democrat in the Senate and in the House, who voted at all, voted for this law just as it now stands; and without their votes it could not have passed. No amendments whatever were offered in the House, and there was no other bill on the subject before the House.

<sup>1</sup> Mr. Carlisle.

MR. WOOD. I desire to submit another question to my friend. It is whether, in 1865, at the time of the passage of this law, when the war had not really subsided,—whether there was not in a portion of this country a condition of things rendering it almost impossible to exercise the elective franchise unless there was some degree of military interference. And further, whether, after the experience of fourteen years since the war has subsided, that gentleman is yet prepared to continue a war measure in a time of profound peace in this country.

No doubt the patriotic gentleman from New York took all these things into consideration when he voted for this law; and I may have been unpatriotic in voting against it at that time; but he and I must stand by our records, as they were made. Let it be understood that I am not discussing the merits of this law. I have merely turned aside from the line of my argument to show the inconsistency of the other side in proposing to stop the government if they cannot force the repeal of a law which they themselves helped to make. I am discussing a method of revolution against the Constitution now proposed by this House, and to that issue I hold gentlemen in this debate, and challenge them to reply.

And now, Mr. Chairman, I ask the forbearance of gentlemen on the other side while I offer a suggestion, which I make with reluctance. They will bear me witness that I have, in many ways, shown my desire that the wounds of the war should be healed; that the grass which has grown green over the graves of the dead of both armies might symbolize the returning spring of friendship and peace between citizens who were lately in arms against each other. But I am compelled by the conduct of the other side to refer to a chapter of our recent history.

The last act of Democratic domination in this Capitol, eighteen years ago, was striking and dramatic, perhaps heroic. Then the Democratic party said to the Republicans, "If you elect the man of your choice President of the United States, we will shoot your government to death"; but the people of this country, refusing to be coerced by threats or violence, voted as they pleased, and lawfully elected Abraham Lincoln President. Then your leaders, though holding a majority in the other branch of Congress, were heroic enough to withdraw from their seats and fling down the gage of mortal battle. We called it rebellion; but we recognized it as courageous and manly to avow your purpose, take all the risks, and fight

it out in the open field. Notwithstanding your utmost efforts to destroy it, the government was saved. Year by year, since the war ended, those who resisted you have come to believe that you have finally renounced your purpose to destroy, and are willing to maintain the government. In that belief you have been permitted to return to power in the two houses. To-day, after eighteen years of defeat, the book of your domination is again opened, and your first act awakens every unhappy memory, and threatens to destroy the confidence which your professions of patriotism inspired. You turned down a leaf of the history that recorded your last act of power in 1861, and you have now signalized your return to power by beginning a second chapter at the same page; not this time by an heroic act that declares war on the battle-field; but you say, if all the legislative powers of the government do not consent to let you tear certain laws out of the statute-book, put there by the will of the people, if you cannot coerce an independent branch of this government, not that you will shoot our government to death, as you tried to do before, but that you will starve the government to death. Between death on the field and death by starvation, I do not know that the American people will see any great difference. The end, if successfully reached, will be death in either case. Gentlemen, you have it in your power to kill this government; you have it in your power, by withholding these two bills, to smite the nerve-centres of our Constitution with the paralysis of death; and you have declared your purpose to do this, if you cannot break down that fundamental principle of free consent which, up to this hour, has always ruled in the legislation of this government.

MR. DAVIS. Do I understand the gentleman to say that the refusal to permit the army at the polls will be the death of this government? That is the logic of the gentleman's argument, if it means anything. But we say that it will be the preservation of this government to keep the military power from destroying liberty at the polls.

I have too much respect for the intellect of the gentleman from North Carolina to believe that he thinks that is my argument. He does not say he thinks so. On the contrary, I am sure that every clear-minded man on this floor knows that such is not my argument. The position on the other side is simply this: that unless some independent branch of the legislative power of this government is forced against its will to vote for or

to approve what it does not freely consent to, you will use the voluntary power in your hands to starve the government to death.

MR. DAVIS. Will the gentleman permit me to ask him another question? Do I understand him to assume that we are forcing some branch of the government to do what it does not wish to do? How do we know that, or how does the gentleman know it? Does the gentleman, when he speaks of "the government," mean to say that it is not the government of the majority, or does he assume that the majority is on his side?

I am perfectly protected against the suggestion of the gentleman. I read in the outset declarations of leading members of his party, in both branches of Congress, asserting this programme, and declaring the intention of carrying it through to the end, in spite of the Senate and in spite of an Executive veto, which they anticipate. The method here proposed invites, possibly compels, a veto.

Touching this question of Executive action, I remind the gentleman that in 1852 the National Democratic Convention in session at Baltimore, and, still later, the National Democratic Convention of 1856, at Cincinnati, affirmed the right of the veto as one of the sacred rights guaranteed by our government. Here is the resolution: "That we are decidedly opposed to taking from the President the qualified veto power, by which he is enabled, under restrictions and responsibilities amply sufficient to guard the public interest, to suspend the passage of a bill whose merits cannot secure the approval of two thirds of the Senate and House of Representatives, until the judgment of the people can be obtained thereon."

The doctrine of this is that any measure which cannot be passed over a veto by a two-thirds vote has no right to become a law, and the only mode of redress is an appeal to the people at the next election. That has been the Democratic doctrine from the earliest days, notably so from Jackson's time until now.

In leaving this topic, let me ask, What would you have said if, in 1861, the Democratic members of the Senate, being then a majority of that body, instead of taking the heroic course and going out to battle, had simply said, "We will put on an appropriation bill an amendment declaring the right of any State to secede from the Union at pleasure, and forbidding the President, or any officer of the army or navy of the United States from interfering with any State in its work of secession"? Suppose

they had said to the President, "Unless you consent to the incorporation of this provision in an appropriation bill, we will refuse supplies to the government." Perhaps they could then have killed the government by starvation; but even in the madness of that hour the leaders of rebellion did not think it worthy their manhood to put their fight on that dishonorable ground. They planted themselves on the higher plane of battle, and fought it out to defeat. Now, by a method which the wildest Secessionist scorned to adopt, it is proposed to make this new assault upon the life of the republic.

Gentlemen, we have calmly surveyed this new field of conflict; we have tried to count the cost of the struggle, as we did that of 1861 before we took up your gage of battle. Though no human foresight could forecast the awful loss of blood and treasure, yet in the name of liberty and union we accepted the issue and fought it out to the end. We made the appeal to our august sovereign, to the omnipotent public opinion of America, to determine whether the Union should perish at your hands. You know the result. And now lawfully, in the exercise of our right as representatives, we take up the gage you have this day thrown down, and appeal again to our common sovereign to determine whether you shall be permitted to destroy the principle of free consent in legislation under the threat of starving the government to death.

We are ready to pass these bills for the support of the government at any hour when you will offer them in the ordinary way, by the methods prescribed by the Constitution. If you offer your other propositions as separate measures, we will meet you in the fraternal spirit of fair debate and will discuss their merits. Some of your measures many of us will vote for in separate bills. But you shall not coerce any independent branch of this government, even by the threat of starvation, to surrender its lawful powers until the question has been appealed to the sovereign and decided in your favor. On this ground we plant ourselves, and here we will stand to the end.

Let it be remembered that the avowed object of this new revolution is to destroy all the defences which the nation has placed around its ballot-box to guard the fountain of its own life. You say that the United States shall not employ even its civil power to keep peace at the polls. You say that the marshals shall have no power to arrest either rioters or criminals who seek to destroy

the freedom and purity of the ballot-box. I remind you that you have not always shown this great zeal in keeping the civil officers of the general government out of the States. Only six years before the war, your law authorized marshals of the United States to enter all our hamlets and households to hunt for fugitive slaves. Not only that, it empowered the marshals to summon the *posse comitatus*, to command all bystanders to join in the chase and aid in remanding the fleeing slave to eternal bondage. And your Democratic Attorney-General,<sup>1</sup> in an opinion published in 1854, declared that the marshal of the United States might summon to his aid the whole able-bodied force of his precinct, all bystanders, including not only the citizens generally, "but any and all organized armed forces, whether militia of the State, or officers, soldiers, sailors, and marines of the United States," to join in the chase and hunt down the fugitive. Now, gentlemen, if, for the purpose of making eternal slavery the lot of an American, you could send your marshals, summon your posse, and use the armed force of the United States, with what face or grace can you tell us that this government cannot lawfully employ the same marshals, with their armed posse of citizens, to maintain the purity of our own elections and keep the peace at our own polls?

You have made the issue, and we have accepted it. In the name of the Constitution, and on behalf of good government and public justice, we make the appeal to our common sovereign. For the present, I refrain from discussing the merits of the election laws. I have sought only to state the first fundamental ground of our opposition to this revolutionary method of legislation by coercion.

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THE speech of March 29th was directed, not so much against the end that Mr. Garfield's political opponents proposed to effect, as against the way in which they proposed to reach that end. He repeatedly professed a willingness to go a considerable distance in the direction of repeal and amendment, provided the repealing and amending enactments were brought forward as original measures, and not as "riders" to appropriation bills. But while making this proffer, he objected *in toto* to their method of legislation, — viz. coercing the Executive by threatening to withhold necessary supplies,—a method which he called revolutionary.

<sup>1</sup> Caleb Cushing, of Massachusetts.

Gentlemen on the opposite side who followed him misstated his position. This led him, at the close of the debate on the Army Bill, to restate his position in the following remarks, made on April 4.

MR. CHAIRMAN, — During the last four days some fifteen or twenty gentlemen have paid their special attention to the speech I made last Saturday, and have announced its complete demolition. Now that the general debate has closed, I will notice the principal points by which this work of destruction has been accomplished.

In the first place, every man save one who has replied to me has alleged that I held it was revolutionary to place this general legislation upon an appropriation bill. One gentleman went so far as to fill a page of the Record with citations from the Congressional Globe and the Congressional Record to show that for many years riders had been placed upon appropriation bills. If gentlemen find any pleasure in setting up a man of straw and knocking him down again, they have enjoyed themselves. I never claimed that it was either revolutionary or unconstitutional for this House to put a rider on an appropriation bill. No man on this side of the House has claimed that. The most that has been said is, that it is considered a bad parliamentary practice; and all parties in this country have said that repeatedly.

The gentleman from Kentucky<sup>1</sup> evidently thought he was making a telling point against me when he cited the fact that, in 1872, I insisted upon the adoption of a conference report on an appropriation bill that had a rider on it; and he alleged that I said it was revolutionary for his party to resist it. Let me refresh his memory. I said then, and I say now, that it was revolutionary for the minority to refuse to let the appropriation bill be voted on. For four days they said we should not vote at all on the Sundry Civil Appropriation Bill because there was a rider on it, put there, not by the House, but by the Senate. I was sorry the rider was put on, and moved to non-concur in the amendments when they came to the House; but when the minority on this floor said that we should not act on the bill at all because the rider was put upon it, I said, and now say, it was unjustifiable parliamentary obstruction. We do not filibuster. We do not struggle to prevent a vote on this bill. I will be loyal to the House of which I am a member, and maintain now, as I

<sup>1</sup> Mr. Blackburn.

did then, the right of the majority to bring an appropriation bill to a vote.

You have a right—however unwise and indecent it may be as a matter of parliamentary practice—you have a perfect right to put this rider on this bill and pass it. When you send it to the Senate, that body has a perfect right to pass it. It is your constitutional right and theirs to pass it; for the free consent of each body is the basis of the law-making power. When it goes to the President of the United States, it is his constitutional right to approve it; and if he does, it will then be a law which you and I must obey. But it is equally his constitutional right to disapprove it; and should he do so, then, gentlemen, unless two thirds of this body and two thirds of the Senate pass it notwithstanding the objections of the President, it is not only not your right to make it a law, but it will be the flattest violation of the Constitution, the sheerest usurpation of power, to attempt to make it a law in any other way. Without these conditions you cannot make it a law. What, then, is the proposition you have offered? You say that there are certain odious laws that you want to take off the statute-book. I say repeal them, if you can do so constitutionally. But you declare that you will compel consent to your will by refusing the necessary support, not to the President, not to any man, but to the government itself. This proposition I denounced as revolution, and no man has responded to the charge either by argument or denial.

No member on this side brought the question into this chamber. The issue was not raised by us. What brought it here? The proclamation of your caucus, the declaration of your conference committees. They announced it in the last House as their programme. They said you would combine these measures of legislation together and send them to the President in one bill, and if he did not approve them you would never vote the supplies for the government. You threatened the President in advance, before you allowed him an opportunity to say yes or no. You entered this hall fulminating threats against him in a high-sounding proclamation. You thundered in the index. It remains to be seen whether, in the body of your work, and in its concluding paragraphs, your thunder will be as terrible as it was in the opening chapter. By adopting the programme of the last House you have made



it your own; but you have put the measures in their most offensive form by tacking them all to the two great appropriation bills.

Another equally groundless charge against me and my associates is that we have threatened your bills with an Executive veto. I repel the charge as wholly untrue in fact. I said nothing that can be tortured into such a threat. It would be indecent on my part; it would be indecent for any of us even to speak of what the Executive intends to do; for none of us have the right to know. But you, in advance, proclaimed to the country and to him, that, if he dares to exercise his constitutional right of refusing his consent, you will refuse to vote the supplies for the government; in other words, you will starve it to death. That is the proposition we have debated.

My distinguished friend from Virginia,<sup>1</sup> who has come nearer meeting this case with argument than any other man on that side, has made a point which I respect as an evidence of the gallantry of his intellect. He says that under our Constitution we can vote supplies to the army for but two years; that we may impose conditions upon our supplies, and if these be refused the army ceases to exist after the 30th of June following. In short, that the annual Army Bill is the act of reconstituting the army. He is mistaken in one vital point. The army is an organization created by general laws; and so far as the creation of officers and grades is concerned, it is independent of the appropriation bills. The supplies, of course, come through appropriations. I grant that, if supplies are refused to the army, it must perish of inanition; it becomes a skeleton; but its anatomy was created by general law, and it would remain a skeleton, your monument of starvation.

The gentleman from Virginia says, "Unless you let us append a condition which we regard a redress of grievances, we will let the army be annihilated on the 30th of next June, by withholding supplies." That is legitimate argument; that is a frank declaration of your policy. Let us examine the proposition. What is the "grievance" of which the gentleman complains? He uses the word "grievance" in the old English sense, as though the king were thrusting himself in the way of the nation by making a war contrary to the nation's wish. But his "grievance" is a law of the land, — a law made by the representatives

<sup>1</sup> Mr. Tucker.

of the people,—by all the forms of consent known to the Constitution. It is his “grievance” that he cannot get rid of this law by the ordinary and constitutional method of repeal. When he can get rid of any law by the union of all consents required to make or unmake a law, he gets rid of it lawfully, whether it be a grievance or a blessing; but his method is first to call a law a “grievance,” and then try to get rid of it in defiance of the processes which the Constitution prescribes for the law-making power of the nation. I denounce his method as unconstitutional and revolutionary, and one that will result in far greater evil than that of which he complains. If he goes to the American people with the proposition to annihilate our army on the 30th of June next, unless the President, contrary to his conscience, contrary to his sense of duty, shall sign whatever Congress may send him,—I say if the gentleman from Virginia puts that proposition before the American people, we will debate it in the forum of every patriotic heart, and will abide the result. If the party which, after eighteen years’ banishment from power, has come back, as the gentleman from Kentucky<sup>1</sup> said yesterday, to its “birthright of power,”—or “heritage,” as it is recorded in the Record of this morning,—is to signalize its return by striking down the gallant and faithful army of the United States, the people of this country will not be slow to understand that there are reminiscences of that army which these gentlemen would willingly forget, by burying both the army and the memories of its great service to the Union in one grave. We do not seek to revive the unhappy memories of the war; but we are unwilling to see the army perish at the hands of Congress, even if its continued existence should occasionally awaken the memory of its former glories.

Now, let it be understood once for all that we do not deny—we have never denied—your right to make such rules for this House as you please. Under those rules, as you make or construe them, you may put all your legislation upon these bills as riders. But we say that, whatever your rules may be, you must make or repeal a law in accordance with the Constitution, by the triple consent to which I referred the other day, or you must do it by violence. As my friend from Connecticut<sup>2</sup> well said, if you can elect a President and a Congress in 1880, you have to wait only two years, and you have the three consents.

<sup>1</sup> Mr. Blackburn.

<sup>2</sup> Mr. Hawley.

You can then, without revolution, tear out this statute and all the rest. You can follow out the programme which some of your members have suggested, and tear out one by one the records of the last eighteen years. Some of them are glorious with the unquenchable light of liberty; some of them stand as the noblest trophies of freedom; but with full power in your hands, you can destroy them. But we ask you to restrain your rage against them until you have the lawful power to smite them down.

My friend from Virginia, whom I know to be a master and lover of mathematics, has formulated his argument in an equation: "Right equals duty plus power." Now, I say to the gentleman that his sense of duty resides in his own breast; but power, the other part of the second member of his equation, must be found, not in his consciousness, but in the Constitution of the United States. His notions of duty lead him to tear down the laws which the republic enacted to protect the purity of national elections, and to use such force as may be necessary to keep the peace while the national voice is finding expression at the polls. That, I say, is his notion of duty, of which he is sole arbiter; but when he comes to superadd power, in order to complete his "right" as a legislator, I hope he will not evoke that power out of his consciousness, but will seek for it in the great charter, the Constitution of the United States. According to his own algebra, he must have both these elements before he can claim the "right" to overturn these laws which he denounces as grievances.

Now, Mr. Chairman, let me add a word in conclusion, lest I may be misunderstood. I said last session, and I have said since, that if you want this whole statute concerning the use of the army at the polls torn from your books, I will help you to do it. If you will offer a naked proposition to repeal those two sections of the Revised Statutes named in the sixth section of this bill, I will vote with you. But you do not ask a repeal of those sections. Why? They impose restrictions upon the use of the army, limiting its functions and punishing its officers for any infraction of these limitations; but you seek to strike out a negative clause, thereby making new and affirmative legislation of the most sweeping and dangerous character. Your proposed modification of the law affects not the army alone, but the whole civil power of the United States. Civil officers are

included in these sections; and if the proposed amendment be adopted, you deny to every civil officer of the United States any power whatever to summon the armed posse to help him enforce the processes of the law. If you pass the section in that form, you impose restrictions upon the civil authorities of the United States never before proposed in any Congress by any legislator since this government began. I say, therefore, in the shape you propose it, this is much the worst of all your riders. In the beginning of this contest we understood that you desired only to get the army away from the polls. As that would still leave the civil officers full power to keep the peace at the polls, I thought it was the least important and the least dangerous of your demands; but as you have put it here, it is the most dangerous. If you re-enact it in the shape presented, it becomes a later law than the supervisors' and marshals' law, and *pro tanto* repeals the latter. As it stands now in the statute-book, it is the earlier statute, and is *pro tanto* itself repealed by the marshals' law of 1871, and is therefore harmless so far as it relates to civil officers; but if you put it in here, you deny the power of the marshals of the United States to perform their duties whenever a riot may require the use of an armed posse.

The gentleman from Maryland<sup>1</sup> said, the other day, there was nothing in the Constitution which empowered any officer of the United States to keep the peace in the States. I ask that gentleman to tell us whether the United States has no power to keep the peace in the great post-office in Baltimore, so that the postmaster may attend to his duties; whether it has not the power to keep the peace along the line of every railroad that carries our mails, or where any post-rider of the Star Service carries the mail on his saddle; whether it has not the right, if need be, to line the post-road with troops, and to bring the guns of the navy to bear to protect any custom-house or lighthouse of the United States. And yet, if the gentleman's theory be correct, we cannot enforce a single civil process of this government by the aid of an armed posse, without making it a penitentiary offence on the part of the officer who does it.

<sup>1</sup> Mr. McLane.

# THE NATIONAL ELECTIONS PROTECTED BY NATIONAL AUTHORITY.

REMARKS MADE IN THE HOUSE OF REPRESENTATIVES,

APRIL 26, 1879.

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THE Legislative, Executive, and Judicial Appropriation Bill of the Extra Session of the Forty-sixth Congress contained "political" provisions touching jurors in the United States courts, supervisors of elections, and deputy marshals; the great point being so to change the laws as almost wholly to withdraw the national power and authority from the elections of the members of the House of Representatives in the States.<sup>1</sup> Pending this bill Mr. Garfield made the following remarks. The bill passed the two houses, but was vetoed by President Hayes, May 29.

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MR. CHAIRMAN — I had intended to speak somewhat elaborately upon this bill, but I have preferred to give way for the sake of allowing those who had not spoken an opportunity to be heard. I would not rise now to ask the attention of the House at all, but for the sake of correcting a few plain misapprehensions and evasions in this debate. The gentleman who has just taken his seat<sup>2</sup> has said that I have led in an attempt to raise sectional feeling in the North against the patriotic people of the South. It is the old and absurd cry of a sectional North and a national South; that is, the thirty million people of the North, and their representatives, of whom he is one, are sectional, passionate, unkind, and the fifteen millions of national-minded and patriotic people of the South are suffering from this narrow and unjust sectionalism. The gentleman reminds me of what he was pleased to call a patriotic

<sup>1</sup> See McPherson's Handbook of Politics for 1880, p. 117, for these provisions.

<sup>2</sup> Mr. Ewing.

sentiment of mine, uttered at the last session of Congress, when I said what I am glad to have remembered, — that in my judgment the man or political party who sought to raise sectional issues and revive the unhappy passions that ought to sleep in the graves of our dead on both sides was not patriotic, and would not find an echo in the hearts of the best people of this country. I said that deliberately, with all the meaning that the words import.

The blindness that leads my colleague to call two thirds of this nation sectional, also leads him to think my denunciation of those who reawaken old sectional strife can apply only to Republicans. Let him not forget the origin of the present controversy. Who raised this unhappy issue? Did any Republican begin it? Was it not brought here by the predetermined caucus action of the Democratic party? Was it not embodied in the declaration of your Senators and Representatives, that, if you could not force certain acts of legislation upon the statute-book, you would never grant supplies for the support of the government? That was the party and that was the act which raised this controversy, involving an issue never raised before in this nation; and, because we meet it and denounce it, you declare that we who stand by orderly and constitutional methods are sectional, and you who make the innovation are national!

Gentlemen, I took upon myself a very grave responsibility in the opening of this debate, when I quoted the declarations of leading members on the other side, and said that the programme was revolution, and, if not abandoned, would result in the destruction of this government. I declared that you had entered upon a scheme which, if persisted in, would starve the government to death. I say that I took a great risk when I made this charge against you as a party. I put myself in your power, gentlemen. If I had misconceived your purposes and misrepresented your motives, it was in your power to prove me a false accuser. It was in your power to ruin me in the estimation of fair-minded, patriotic men, by one utterance. The humblest or the greatest of you could have overwhelmed me with shame and confusion in one short sentence. You could have said, "We wish to pass our measures of legislation in reference to elections, juries, and the use of the army, and we will if we can do so constitutionally; but if we cannot get these measures

in accordance with the Constitution, we will pass the appropriation bills like loyal representatives, and then go home and appeal to the people." If any man, speaking for the majority, had made that declaration, uttered that sentence, he would have ruined me in the estimation of fair-minded men, and set me down as a false accuser. Forty-five of you have spoken; forty-five of you have deluged the ear of this country with debate; but that sentence has not been spoken by any one of you. On the contrary, by your silence, as well as by your affirmation, you have made my accusation overwhelmingly true. And there I leave that controversy. The assaults upon my speech have been, from the beginning to the end, evasions of the issue. What have you said? Not less than thirty of you, in spite of my plain and emphatic declarations to the contrary, have insisted that I said it was revolutionary to put a rider on an appropriation bill,—a thing that no man on this side of the House has said. You were guilty, gentlemen, and in this I include the gentleman from Pennsylvania,<sup>1</sup> of what Sydney Smith once called "an indecent exposure of your intellects."

MR. KELLEY. Did I misunderstand you when I said that your speech, which lay before me, had the title of "Revolution in Congress," and said, if the gentleman believed that doctrine now, he had undergone a mental revolution?

The gentleman should not confine his reading to the title. If he had read my speech as well as its title, he would have read that in 1872, in the debate to which he referred, the Democratic party on this floor said we should not even consider an appropriation bill. I said to them, "You have a right to vote against it, you have a right to filibuster to get a chance to discuss it if need be, but when you say that the majority shall not act on an appropriation bill at all, because there is a rider on it, that is parliamentary revolution"; and so I say to-day. The gentleman quoted that as though it were inconsistent with my present position. In 1872 the Democracy said the appropriation bill should not be acted on at all because a rider was on it; now they say the appropriation bills shall not be acted upon at all unless there are riders on them. I resisted their position then, and I resist it now.

There is another point which I must touch to show the evasions which have been resorted to in this debate. The other

<sup>1</sup> Mr. Kelley.

side seeks to go before the country on pleas like this, which stands as the heading of the speech of the distinguished gentleman from Virginia,<sup>1</sup>—“Elections by the people must be free from the power and presence of the standing army.” They seek to make the people believe that Democrats in Congress are struggling to get the bayonets away from the breasts of the voters, and that we are striving to keep them there. The Democratic press is everywhere stating the issue in this way,—that the Republicans are defending an odious law, enacted amid the passions of the war, to authorize the use of the army at State elections. “Mark now, how a plain tale shall put you down.”

On this side of the hall this proposition was made: If you find fault with the law of 1865, we will help you repeal it altogether. On the motion of the distinguished gentleman from Michigan,<sup>2</sup> every Republican on this floor who voted at all when the Army Bill was here voted to repeal *in toto* the law of 1865, which you complained of to the people as putting the bayonets at the breasts of the voters; and every Democrat who voted at all voted “No.” You would not repeal the law, but you told the people we were trying to keep it on the statute-books, and you were trying to get it off. Now, Mr. Chairman, our vote on that subject has put us beyond all cavil on this high and unassailable ground. We are willing to repeal, and we have voted to repeal, the whole of that law, and we even went so far as to put that repeal on the Army Bill, and you voted against it. Now, never again go to the people and say you tried to repeal the odious law of 1865 and the Republicans would not let you.

My colleague<sup>3</sup> who has just taken his seat says that the sections sought to be repealed by the bill now before us authorize unwarrantable and unconstitutional interference with elections in the States. He says that the supervisors and marshals are intruders at the elections of Congressmen; that they have no constitutional right to be there, even as witnesses. Gentlemen, I never believed in State rights to the extent you did and do; but there is one thing concerning which I have always thought that the States came very near being sovereign. I suppose that all our States claim the right to have a legislature of two houses, each house having a right to make its own rules, sit in its own separate chamber, pass measures according to its own rules, and

<sup>1</sup> Mr. Tucker.

<sup>2</sup> Mr. Conger.

<sup>3</sup> Mr. Ewing.



regulate the conduct of its own clerks. Yet, gentlemen, if you will read from Section 14 to Section 19 of the Revised Statutes, you will find that this is what has been done. The supreme power of the United States, by force of national law, has gone into the legislature of every State in this Union, and said to them: "There is a certain Tuesday, the second Tuesday after you have organized, when you shall not fix your own time of meeting; when you shall not even adjourn over. You shall meet at twelve o'clock. When you meet you shall not vote by ballot; you shall vote *viva voce*. Your clerk shall call the roll. You shall vote for a United States Senator." The law prescribes how the clerks of both houses shall make the entries in their journals. If there is no election, the clerk shall certify it; and then this national authority says: "If there is no election by the separate vote of the two houses the second day, I take your two houses and consolidate them into one. I abolish the distinction between Senator and Representative, put them into one hall, and hold them in joint session from day to day, and they shall vote as one body until a Senator is elected." Who does all that to State legislatures? It is done by a law of the United States passed in July, 1866; and no Democrat has denounced that law as unconstitutional, no State legislature has made any opposition to it, and every one of the seventy-six Senators now at the other end of this Capitol holds his seat in pursuance of its operation. Now, if we do all that unchallenged to the legislature of a sovereign State, who will say that we cannot go among our own citizens and supervise and protect our own ballot-boxes where men are to be elected to seats on this floor? Your constitutional question is given away when you admit the supervisors there at all, as you do in this bill; still more decisively is it given away by the universal acquiescence in the law for electing Senators.

The great danger which threatens this country is, that our sovereign may be dethroned or destroyed by corruption. In any monarchy of the world, if the sovereign be slain, or become lunatic, it is easy to put another in his place, for the sovereign is a person. But our sovereign is the whole body of voters. If you kill, or corrupt our sovereign, or he becomes a lunatic, there is no successor, no regent, to take his place. The source of our sovereign's supreme danger, the point where his life is vulnerable, is the ballot-box, where his will is declared; and if

we cannot stand by that ballot-box, and protect it to the uttermost against all assassins and assailants, we have no government and no safety for the future.

MR. EWING. I hope the House will allow me to ask the gentleman a question, and him to reply. I ask the gentleman, May we therefore authorize United States supervisors to inspect the officers of the House and Senate of each State as to the manner of election when electing a United States Senator, and appoint marshals to back up the supervisors, and send out the army to back up the marshals?

Not at all. The gentleman from New Jersey<sup>1</sup> answered that by anticipation. Our Constitution adopted the legislatures of the States as our agents to elect Senators at the times and in the manner which Congress may by law direct. They were adopted as bodies organized under State laws. For the election of Representatives to this House, we may set up all our own machinery if we please. We may adopt the State machinery, and superadd our own national superintendence and safeguards; and the safeguards which have already been established we will maintain and defend.

<sup>1</sup> Mr. Robeson.

# CONGRESSIONAL NULLIFICATION.

REMARKS MADE IN THE HOUSE OF REPRESENTATIVES,

JUNE 10, 1879.

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PRESIDENT HAYES vetoed the Legislative, Executive, and Judicial Appropriation Bill, May 29, 1879. A new bill bearing the same title was now brought forward, which omitted the appropriations for jurors and marshals. This bill carried no "riders"; it was passed by the almost unanimous votes of both houses, and was approved by the President, June 19. The appropriations for paying supervisors and deputy-marshals were put in a separate bill, called "Certain Judicial Expenses Bill," which contained the obnoxious features relative to those subjects. More specifically, it made no provision for executing Title 26 of the Revised Statutes, or any provision of said title. This title covers the appointment of deputy-marshals, their duties in relation to enforcing the election laws, their pay, etc.<sup>1</sup> Mr. McMahan, of Ohio, who reported the bill, said the "political" features were "intended to prevent the enforcement of the supervisors and deputy-marshals clauses of the Revised Statutes during the next fiscal year, so far as a failure to appropriate money for their compensation will effect that purpose." It repealed Sections 820 and 821 of the Revised Statutes, and contained the old provision concerning jurors. The Republicans opposed the bill. While it was pending in the House, Mr. Garfield spoke on its several sections as follows. The later history of the measure is shown in the introduction to the next speech.

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**M**R. CHAIRMAN,—Those provisions of this bill which itemize the expenses of the courts are in the right direction,—the direction of economy and a prudent regard for the safe disbursement of the public funds. I welcome them in this respect as in pursuance of a policy which we ought always to approve.

<sup>1</sup> See McPherson's Political Hand-Book for 1880, p. 125.

In so far as the bill creates unnecessary deficiencies, as has been stated by the gentleman from New York,<sup>1</sup> it is objectionable. The fair and manly course for the House to pursue is to appropriate what is fully adequate, and no more, to meet the expenses of the current fiscal year. The opposite course has been frequently pursued by political parties; but, in the long run, it has been found unwise to make an apparent reduction of expenditures, knowing that the supplies withheld must be made up by subsequent deficiency bills. There is no real gain to any party in the end; and it is a bad way to manage the fiscal affairs of the government. I hope, therefore, whatever amendment this bill may need in that respect will be made, and that the full amount required for the actual service of the year will be added. In reference to the two clauses which have been referred to by the gentleman from New York, and which are found on pages 2 and 3 of the bill, I shall make a few observations.

It is not a valid objection to the passage of an appropriation bill that it does not embrace all the objects for which appropriations should be made. We cannot justly vote against appropriations which are proper in themselves merely because the amounts are not large enough. But there is a clause at the end of the first section, which is something more than a mere omission to make a necessary appropriation. I read it: "No part of the money hereby appropriated is appropriated to pay any salaries, compensations, fees, expenses, under or in virtue of Title 26 of the Revised Statutes." It is fair to inquire whether those statutes do not command the executive officers of the government to perform some positive duties, and whether by this clause we are not only neglecting to appropriate money, but are virtually nullifying the law by preventing its enforcement. If the clause which I have read stood alone, it would be less objectionable; but taken in connection with the second section, which I will read presently, it amounts to a legislative prohibition, for one year, to enforce the provisions of Title 26. The sections of that title are the laws which this House and the Senate have vainly tried to repeal, and have found they have not the constitutional power to do so. We were told, in the outset, that these laws should be repealed, or no appropriations would be made. But it has been

<sup>1</sup> Mr. Hiscock.

demonstrated to the most unobservant, that the present Congress is powerless to repeal these laws, and the attempt has been wisely abandoned. The chief amounts needed for the support of the civil departments were appropriated in the bill which we passed yesterday,<sup>1</sup> with no provision for repealing or modifying the law; but now the Committee on Appropriations propose a bill by which, for the coming year, these laws shall be, not repealed, but not enforced,—nullified. Now, gentlemen, that is only an indirect way of doing temporarily, for one year, what you have no constitutional authority to do absolutely and permanently. This provision ought to be stricken out. As I have already intimated, the clause to which I have referred draws its evil inspiration from the provisions of the second section, which I will now read:—

“That the sums appropriated in this act for the persons and public service embraced in its provisions are in full for such persons and public service for the fiscal year ending June 30, 1880; and no department or officer of the government shall, during said fiscal year, make any contract, or incur any liability for the future payment of money, until an appropriation sufficient to meet such contract, or pay such liability, shall have first been made by law.”

Mr. Chairman, let us consider the effect of this section upon existing law.

MR. COX. I desire to ask the gentleman whether what he has just read is not substantially the law now.

My remarks will soon answer the gentleman. In 1870, in order to prevent the extravagant use of the public money, Congress passed a law restricting the expenditures for any one year to the appropriations made for that year; that is, if the appropriations made for the year were not sufficient, a deficiency must be asked for. Unexpended balances remaining from previous years could not be applied to meet deficiencies. This was a wise provision. Then it was found that there was a tendency to incur obligations by making contracts, such as for the rent of buildings, the lease extending over a series of years ahead. Thus obligations were incurred for which no appropriations of money had been made. To check that tendency, Section 3679 of the Revised Statutes was enacted, in these words: “No department of the government shall expend, in any one

<sup>1</sup> Namely, the new Legislative Bill, mentioned in the introductory note.

fiscal year, any sum in excess of appropriations made by Congress for that fiscal year, or involve the government in any contract for the future payment of money in excess of such appropriations." Now, *in pari materia*, as part of the same general prohibition, gentlemen will find, in Section 3732, this enactment: "No contract or purchase on behalf of the United States shall be made, unless the same is authorized by law, or is under an appropriation adequate to its fulfilment, except—" and here is an important exception that gentlemen appear to have overlooked, and it answers the question of the gentleman from New York—"except in the War and Navy Departments, for clothing, subsistence, forage, fuel, quarters, or transportation, which, however, shall not exceed the necessities of the current year." Perhaps this section may throw a little side-light on another bill which is shortly to be before us, in regard to feeding, clothing, and transporting the army. Under the laws as they now stand, if Congress neglects to pass the regular appropriation bills, or if the appropriations run out, still the army is to be fed, and not starved; clothed, and not left naked; transported to points of danger, and not left idle and useless. So also with the navy. But the pending bill contains a section which for one year nullifies Section 3732, for it makes no exception for the army and navy.

MR. CARLISLE. Did not the act of 1870 repeal all that?

No, sir.

MR. CARLISLE. Why not?

Because of the exception which I have just read with reference to the army and the navy, which has never been construed as repealed.

MR. CARLISLE. You have read the exceptions in the act of 1861; but the act of 1870, a later statute, contained no exceptions whatever.

I have read from the Revised Statutes now in force two exceptions which must be construed together; one does not repeal the other.

MR. CARLISLE. How did that provision get there?

It is enough for me to know that this is the law. Both sections have been adopted by Congress in the revision of 1874.

But this is not all. Besides nullifying the exceptions of Sec-

tion 3732 for the coming year, there is imported into this second section of the bill a new term. Before this, outside of these exceptions, a department could not make a contract, a written contract, binding the government to pay money for an object for which no appropriation had been made. That was wise and judicious, for it prevented the departments from entering into large schemes that bound the government in advance of the action of Congress. But here is another expression not known in our existing statutes: "No department or officer of the government shall . . . make any contract *or incur any liability.*" Here is a provision which is much broader than any that can be found in the statutes, as every lawyer will concede. "Incur any liability." What does that mean? Suppose the President of the United States should think it important to send a minister extraordinary to some foreign court, being authorized thereto by the Constitution, and in an emergency should send him. Would he incur a liability? Certainly. Suppose he had been ordered by Congress to do it; suppose it was made mandatory under the law, but there happened to be no special appropriation for it, and he should make the appointment, would he incur a liability for which an appropriation had not first been made? Suppose it should so happen that a new judicial district had been created by act of Congress, and the President had been ordered by law to appoint a judge, but no appropriation had been made for the salary of the judge. The President in appointing that judge according to law incurs a liability for the government to pay the salary. In short, any executive act, which by law he is commanded to perform, he is here forbidden to perform during the coming year, because in doing so he incurs a liability for which an appropriation has not been specially made in advance.

The object of this legislation is plain. During the coming year there is to be an election for members of Congress in the State of California, and one in the Westchester district of New York to fill a vacancy; and this legislation is levelled at these elections, so that neither the courts nor the marshals shall appoint deputy marshals to act as official witnesses, or to keep the peace at those elections, in order that the United States may be properly and lawfully present at the creation of its own legislators. This legislation is an attempt to prevent the United States' being present at those two elections which are to be held

during the coming summer. It is an attempt to accomplish by indirection what cannot be done by an open and plain repeal.

Now, Mr. Chairman, as we have successfully resisted the repeal of righteous laws, in spite of the threat that the appropriations would be refused, none the less will we resist their nullification. The chapter of forced repeal seems to be closed. Gentlemen have abandoned it. But the chapter of nullifying laws is now opened. Again we stand upon the unassailable proposition, not only that these just laws shall remain upon the statute-book, but that they shall be executed. If you do not appropriate the money, we cannot help ourselves; we are powerless to appropriate it without your aid; you are the majority; but not by our consent shall you nullify a law which the Constitution does not permit you to repeal.

MR. SPRINGER. I rise to ask the gentleman the question whether it was not within the province of a majority of this House and of the Senate to withhold appropriations for any purpose that they might desire.

O, yes.

MR. SPRINGER. What complaint, then, have you to make against the majority of this House and of the other house for refusing appropriations for objects which they deem subversive of the rights and liberties of the people?

I answer the gentleman from Illinois by a quotation from the distinguished gentleman from Virginia,<sup>1</sup> who is not now here. He defined right to be equal to power plus duty. Now you have the power to withhold appropriations for executing the laws, but have you the right? Your power and your duty put together constitute your right in the best sense of the word. Of course you are your own judges of duty. But we are all here, Mr. Chairman, under the solemn obligation of an oath. We are sworn, before the Searcher of all hearts, that we will well and faithfully perform the duties of Representatives under the Constitution. And the Constitution makes it our duty to appropriate the necessary means to enforce the laws. The Constitution provides that the judges, the President, and other officers, shall receive a fixed compensation at stated times, and this can be done only by our being faithful to our oaths. Will the gentleman deny that we are under a solemn obligation to make all the appropriations necessary to carry on the government and execute the laws of the United States? If any gentlemen here

<sup>1</sup> Mr. Tucker.



see fit to neglect that high duty and violate that great obligation, they must answer to their own constituents, to their consciences, and to God. But as for me, I hold that to appropriate the money required by the law is my duty; and my vote shall be for the appropriations\* under the laws as they are, and not coupled with acts which nullify or obstruct them. There has come into our treasury during the last year \$235,000,000. Every dollar of that money came from the people, under the sanction of laws which were passed for the express purpose of raising money for the support of the government. That money is in the treasury for that purpose; and we are the trustees of the fund under the law and the Constitution. The people paid it without imposing any conditions; they paid it under the laws as they now exist, to support the government. Therefore, if we, the trustees of that great fund, step in between those for whom we hold the trust and the execution of the trust, and say we will not apply this money according to the laws under which we received it, but will impose conditions of our own, different from those under which they paid it, are we not betrayers of a trust, and violators of the Constitution?

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DURING the debate on the second section of the bill, the same day, Mr. Garfield said: —

MR. CHAIRMAN, — I move to amend by striking out in line 6, section 2, the words "or incur any liability." I do that because it will leave the statutes on the subject plain and unambiguous. If these words are out, the remainder of the provision is not unlike what is now in the law, and I think there would be no ambiguity in the section; but if these words be retained, no man can know precisely what he may or may not do without violating the law. I do not myself think that, strictly and properly construed, this section suspends certain sections of the Revised Statutes which some gentlemen may think are suspended; but these words leave an uncertainty hanging over some sections as to what constitutes incurring liability.

I can conceive such a thing as this. The President may appoint a man to some place, and say to him, "Go and do this duty; the law authorizes me to appoint you. You may never receive any pay. You will never receive any unless Congress appropriates it hereafter." Possibly the President would not

thereby incur any liability. I presume, when election day comes, the judges can appoint supervisors and the marshals can appoint assistant marshals in the same way. There is certainly nothing here which prevents them from doing their duty; and if they are told at the time of their appointment that they never can have any pay from the government unless Congress should thereafter appropriate it, query whether any liability has been incurred. I rather think not.

MR. SPRINGER. I should think there had been.

I think not. The liability spoken of here is certainly a pecuniary one. But if the gentleman thinks there is liability, it proves the necessity of making the language clear, which certainly will be done by striking out the words which render it doubtful.

Now, if gentlemen have put these words in here to suit two views of the case, so that they can say to one class of men, "We have done it," and to another, "We have not done it,"— I say if they have a double purpose in view, these words are well chosen. But if they have a plain, frank, manly purpose in view, that everybody can understand, they should leave these words out. I think, therefore, for the honor of the House and for the clearness and definiteness of the statutes, these words ought to come out; and in the interest of good legislation I make the motion to strike them out.

MR. COX. I understand my friend from Ohio to say that he believes United States supervisors and others will be appointed.

I did not say they would be, but perhaps they can be—

MR. COX. That the President and the judges would appoint them under this clause if passed,— that they would be appointed?

The gentleman will understand that I am merely saying, if it should be done, and they were told they never could have any pay until Congress subsequently appropriated the money,— I refer to deputy marshals,— I doubt whether that would constitute under this section an incurred liability.

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<sup>1</sup> In the debate on the third section, relating to jurors, the same day, Mr. Garfield said :—

I OFFER the following amendment. In line 16, after the word "citizen," insert the words "of good standing"; and strike out

all after the word "held," in line 17, down to and including the word "belong," in line 19; so that it will read, "Which commissioner shall be a citizen of good standing residing in the district in which such court is held." This will strike out the words, "and a well-known member of the principal political party opposed to that to which the clerk may belong."

I offer this amendment because I am unwilling, if I can prevent it, to allow a statute to pass this House which, for the first time in the history of this government, injects party politics into our jury laws. The words "political parties" are unknown in our Constitution. There is not a word in the Constitution that indicates such a creation as a political party. Political parties are probably necessary in all free governments; but there has been one place in the whole circle of our judicial system into which hitherto the word party has never found its place as a part of the law. The goddess of justice, so far as persons are concerned, is blind; but so far as the objects and essence of justice are concerned, she sees the whole world.

Now it is proposed, most unwisely, and I think for the first time in our history, (and I beg the lawyers and judges who sit before me to think of this,) to put into the jury-boxes a man recognized as a political partisan, and then another beside him recognized as belonging to another political party, to administer justice. One is to do Democratic justice, another Republican justice, another Greenback justice, and so on to the end of the chapter. If these obnoxious words be planted in our law, no man can tell the bitter, bad fruits that it may produce in our jurisprudence in the future. Let us, gentlemen, have one place where, as lawyers and citizens, there shall be no such thing as politics recognized, but where equal and exact justice will be meted out to all men.

The gentleman from Iowa<sup>1</sup> proposed, a little while ago, what was entirely proper, that the provision should not be confined to two political parties. There may be two, three, four, or five parties, — there are perhaps that many in the country, — and if you let the idea of party politics get into the law of juries at all, you ought to go through the whole list of parties, to be just or fair.

Let me ask how many clerks of national courts there are whose politics you can really ascertain without an inquest?

<sup>1</sup> Mr. Weaver.

Some of these clerks have held their positions during the lives of half a dozen political parties, and have no political partisanship in them, and they make it a part of their daily bread to keep out of politics. Some of them were in office before the Republican party was born, and do not know to which party they belong. Now, in order to execute this proposed law, you must find out what their political opinions are; you must, in fact, make them partisan before you can appoint a commissioner or impanel a jury.

I beg gentlemen to let this amendment of mine pass, in the interest of law and justice. I hope that the fact that we have been looking into each other's faces and fighting a political battle has not put the majority into such an attitude that they will reject everything proposed by my associates or by myself. I should be glad for the sake of justice to see the House agree to this amendment.

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In reply to Mr. McMahon, Mr. Garfield said: —

MR. CHAIRMAN, — The gentleman has referred to the Electoral Commission. He will remember that there was not, in the Electoral Commission law, a word which referred to one political party or the other. It was the sense of decency and fair play between the two parties which, after the law was passed, led them voluntarily to put men of both parties upon that Commission. The Republican Senate put upon it a fair share of Democrats, and the Democratic House put upon it a proper share of Republicans. But the law said not a word about selecting men from opposite political parties to serve upon the Commission. The law was just as this law ought to be, — free from the recognition of party politics.

## TROOPS AT THE POLLS.

REMARKS MADE IN THE HOUSE OF REPRESENTATIVES,

JUNE 11, 1879.

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HOUSE Bill No. 1, introduced March 27, in opposition to which the speeches of March 29 and April 4 were delivered, passed the House of Representatives and the Senate, but was vetoed by the President, April 29. A few days later the two houses passed the following, which is "the short bill of six or eight lines" mentioned by Mr. Garfield below, and which was also vetoed by the President:—

"Whereas the presence of troops at the polls is contrary to the spirit of our institutions and the traditions of our people, and tends to destroy the freedom of elections: Therefore,—

"*Be it enacted, etc.,* That it shall not be lawful to bring to, or employ at, any place where a general or special election is being held in a State, any part of the army or navy of the United States, unless such force be necessary to repel the armed enemies of the United States, or to enforce Section 4, Article IV. of the Constitution of the United States, and the laws made in pursuance thereof, upon the application of the legislature or the executive of the State where such force is to be used; and so much of all laws as is inconsistent herewith is hereby repealed."

A second bill was now brought forward, in which the political legislation was reduced to a *minimum*, as follows: "That no money appropriated in this act is appropriated, or shall be paid, for the subsistence, equipment, transportation, or compensation of any portion of the army of the United States to be used as a police force to keep the peace at the polls at any election held within any State." A large majority of the Republican members of both houses, not deeming this provision a material one, voted for the bill. Mr. Garfield led the way in the remarks following, at the close of which he calls the rider "only a stump speech, changing no law and having no legal effect whatever." The bill passed the two houses, and was approved by the President, June 23, 1879.

This was the virtual end of the struggle on the question known as "Troops at the Polls." However, the following section was added to the

Army Bill at the next session of Congress : "SEC. 2. That no money appropriated in this act is appropriated or shall be paid for the subsistence, equipment, transportation, or compensation of any portion of the army of the United States, to be used as a police force to keep the peace at the polls, in any election held within any State. *Provided*, that nothing in this provision shall be construed to prevent the use of troops to protect against domestic violence in each of the States on application of the legislature thereof, or the executive when the legislature cannot be convened."

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MR. CHAIRMAN,—Permit me to recount very briefly the steps which have been taken in regard to this Army Appropriation Bill in connection with the Legislative Bill. At the close of the last session those two bills were prevented from passing, upon the alleged ground that there were three grievances in the form of laws which gentlemen on the other side said must be redressed by repeal before they would vote the appropriations necessary to carry on the government. One grievance was set forth in a general charge, vague and not well founded, that there was a law upon the statute-book that authorized military interference with elections. The second was that the jurors' test oath, made necessary by the war, was now a hardship and a grievance. The third was that the several sections of the law relating to supervisors and marshals at national elections were a grievance which must also be removed. And we were told, in the most unequivocal language, by the Democratic leaders in both houses, that the \$45,000,000 needed for the performance of the functions of the government covered by the two bills should never be appropriated until these statutes were repealed.

In response to these demands on this side of the House, we declared our willingness, first, to pass a bill which the Senate, a Republican Senate, sent to us, repealing that section of the statute which prescribed a test oath for jurors. We were ready then, we are ready now, to pass that bill just as the Senate sent it to us at the last session. Secondly, we said then, what we say now, that we have never voted for a law to make use of the army to run elections. We have said repeatedly that there never was in this country, and there is not now, such a law; that we do not desire such a law or such a practice; and that, if any law be needed to prevent the running of elections by bayonets,

we are ready to help enact it. These two propositions we offered at the close of the last session, in order to remove any real or apparent ground of complaint on those two scores, provided that on the other side the third demand, namely, the repeal of the laws relating to supervisors and marshals, should be abandoned. These offers were rejected with arrogant contempt; and the extra session was forced upon the country. A struggle of nearly three months has followed, at the end of which nearly all the appropriations have passed this House without conditions or change of the laws. After this general review, I shall now confine my remarks wholly to the history of the Army Appropriation Bill.

Soon after this session began, we were tendered an Army Bill that had in it, not a repeal of the law of 1865, alleged to be an offence, — not that, for we tendered that, and one hundred and nine Republicans voted to repeal it, and not one Republican voted against the repeal while every Democrat in this House voted against its repeal, — not a repeal, but a proposition so to modify the law of 1865 as to extend its restrictions beyond the army and navy, and make it a crime, punishable by imprisonment or fine, for any civil officer of the United States to employ any armed force, soldiers or citizens, to keep the peace at the national elections. In other words, we were tendered a proposition which swept the whole circle of the civil power with its prohibitions, and prevented the civil authorities of the nation from preserving the peace at the elections of Representatives, or protecting supervisors in the execution of their duties. That assault upon the law we resisted as one man. But while we resisted, we protested that we were not and never had been advocates of running elections by bayonets. Though that bill, with its revolutionary menace, passed both houses, it was wrecked upon the rock of the Constitution, and went down, leaving not a spar afloat on the face of the political waters. It met the veto with which the Constitution had wisely armed our Chief Magistrate.

Then came the second chapter. A short bill of six or eight lines was introduced, not merely repealing the military provisions of the law of 1865, but in effect declaring that the army of the United States should not be used to enforce any of the laws of the Union anywhere, at any time when an election was being held. We pointed out the fact that this bill would smite

with paralysis the executive authority of the nation during two, three, five, ten, or possibly a hundred days of every year; that under its provisions even the property of the nation could not be protected from destruction at any place where any election was being held. This violent measure was also passed by the solid Democratic vote of both houses; but, like its predecessor, it ran upon the rock of the Constitution, and sank to the bottom, and only bubbles mark the spot where it went down.

And now we have before us a third bill making appropriations for the support of the army. Before considering its other provisions, I turn aside to congratulate the country and the army that so many gentlemen on both sides have finally consented to strike out the ninth section, which would have proved a hardship to the meritorious officers of the army by stopping promotions for an indefinite period; and I tender my compliments and thanks to the distinguished gentleman from Virginia<sup>1</sup> who made the motion. The country and the army will not forget it. I believe the appropriations made in this bill are sufficient for the support of our military establishment, and no laws in reference to which there is any controversy are repealed by it. This brings me to the consideration of the only provision about which there is any question. It is the sixth section, and I will read it: "That no money appropriated in this act is appropriated or shall be paid for the subsistence, equipment, transportation, or compensation of any portion of the army of the United States to be used as a police force to keep the peace at the polls at any election held within any State."

My first observation is, that this section does not profess to repeal, and does not repeal, any law of the United States. There is not now, and so far as I know there never was, on our statute-book a law which authorized the use of the army "as a police force" at the polls; and even if this section were a repealing clause, there is nothing on which it can operate as a repeal. But whatever the section means, it is in the form of a limitation for the coming year upon the objects to which the appropriations are to be applied. It is declared that this money is not "appropriated for the subsistence, etc. of any portion of the army to be used as a police force to keep the peace at the polls." I affirm, without fear of successful con-

<sup>1</sup> Mr. Johnston.



tradition, that this limited and indirect prohibition does not apply to any law or to any practice known in this country.

MR. HAWLEY. Not since the Kansas troubles.

Certainly not since the Kansas troubles. And, furthermore, I do not know of a man in this House who is in favor of using the army of the United States as an ordinary police force to run elections. There are, I believe, about forty thousand polling-places in the United States. If our army roster was full — officers, soldiers, and camp followers — we should not have over twenty-five thousand men in all. And if there were a law for using the army as a police force at the polls, we should have about three fourths of one soldier to each polling-place. Now, if anybody proposes to employ our army in that way, I do not know where the lunatic lives. I speak for myself, and of course for everybody who thinks as I do, and for nobody else. We hold two things. First, that we will not, if we can help it, let vital and righteous laws be repealed or nullified as the condition of getting an appropriation to support the government; we have resisted, and will resist to the end, all such measures. And, in the second place, even under the pressure of party feeling and party opposition, we will do no act, and cast no vote, that will place us really, or apparently, in any attitude inconsistent with the old and recognized principles and traditions of English and American liberty; namely, that civil, not military force, is the usual, the safe, the American method of keeping peace at the polls.

That no one may misunderstand me, let me put the case thus. Suppose some one should offer the following as a substitute for this section: "*Be it enacted, etc.*, That it shall be lawful for the President of the United States to use the army, or any portion of it, as a police force to keep the peace at the polls at any election held within any State." Is there a man in this house that would vote to make that a part of our law? If there be one, let him speak. [A pause.] Now, if no one would vote to enact into law the thing for which this section says no money is appropriated, how can any one hold that the section prohibits anything that ought to be done? I say, for one, that in so far as this section indicates the relation between the civil and military arms of the government in the conduct of elections, it meets my cordial concurrence; and a vote for the section will put at

rest the reckless and false charge that this side of the house desires to run elections by bayonets. I admit, as my friend from Indiana<sup>1</sup> has said, that the section is mere surplusage. It does not repeal or change any existing law; but if its framers expect, by offering it, to gain a party advantage by getting me, or those with whom I act, to cast a vote that implies that the army ought to be used as an ordinary police at elections, they are greatly mistaken, for they have set a very open trap, baited with a very small piece of very poor cheese.

Now, Mr. Chairman, a word further in reference to the language of the section. Some gentlemen may be troubled about the scope and meaning of the words "to be used as a police force." Let me recall a little history. When flagrant war was raging, when eleven States were banded against the Union to destroy it, and the theatre of war covered five or six States that adhered to the Union, there was in fact military interference at the elections; it was the military interference of the armed enemies of the United States. I once voted at an election where there was very serious military interference. In the autumn of 1862, under the heights of Missionary Ridge, near the city of Chattanooga, where five thousand Ohio soldiers under the laws of that State were permitted to vote, in company with my comrades I voted for a Governor of Ohio. While we were voting, the shells from the batteries of armed enemies of the United States were bursting over our heads, and some of our voters were killed while in the exercise of the right of suffrage as citizens of Ohio. That was the only military interference with elections that I ever witnessed. It was to prevent that kind of military interference that our armies in time of war kept off the armed enemies of the United States in the State of Kentucky, and in other border States, while elections were being held there. And in order that they might not, in the performance of that necessary duty, interfere with the freedom of elections and the right of citizens, the act of February 25, 1865, was passed, while our guns were yet smoking and while we were yet in line of battle. Even in that act it was provided, under the severe penalties of criminal law, that no officer, civil, military, or naval, should interfere with the right of any man to vote, or should undertake to prescribe qualifications for a voter.

<sup>1</sup> Mr. Baker.

Now, I say that the act of 1865 was in the interest of civil liberty, restraining our armies from doing any wrong, or committing any outrage. In that act there occurs, for the first time in the history of our legislation connected with the army, the expression "to keep the peace at the polls." And even there it is used for the purpose of saying that the law does not make it a crime punishable by imprisonment and fine for an officer of the government to keep the peace at the polls, or to repel the armed enemies of the United States. Nothing in that law refers to the use of the army as an ordinary police force. The marshals and their deputies are the police force of the United States. Our army is governed by the Rules and Articles of War, and is always used as an army when it is ordered to execute the laws. The proposition to use our army as a police, to force the soldiers out and station them one by one at the polls to run the elections as a police, is a fiction so absurd that I trust no man on this side of the House will give the least color to the assumption that he favors it by holding that this sixth section repeals, suspends, or modifies any existing statute.

MR. WILLIAMS. Are you now in favor of using any portion of the army of the United States at any time, under any circumstances, in any emergency, to keep the peace at the polls?

Not in the sense of using that army as an ordinary police force.

MR. WILLIAMS. In any form or manner?

MR. CARLISLE. This section does not refer to the use of the army as an ordinary police force. I do not mean as an ordinary civil police, but in any form whatever. Is the gentleman in favor of using the army in any form whatever to keep the peace at the polls?

I am in favor of using the army and the navy, and all the militia of the United States, to enforce the laws of the United States, any one of them, and all of them, everywhere, and at all times, when the civil force is inadequate, but not until then.

MR. WILLIAMS. Including the keeping of the peace at the polls?

If there be any law that authorizes the President to use the army as an ordinary police force for that purpose, I am in favor of enforcing it.

MR. WILLIAMS. Does my friend think that we have that law, or does he think that we do not have it?

I think we have not, that we never have had it, and that we never ought to have it; the marshals and their deputies are our police. Under our laws at the present moment, we have the amplest power to add deputy marshals and assistant marshals in any number that may be needed to keep the peace at the polls, and those marshals may summon the posse, the armed posse of all faithful citizens who will obey the orders of the marshals, for this purpose. This is the traditional law of the English-speaking people.

Now, if my friend from Wisconsin<sup>1</sup> will remember, it was distinctly provided in the law of last year that the army of the United States should not be used as a part of the *posse comitatus* in any case, except where the law expressly provided that it should be so used. Therefore, in the presence of that restrictive legislation, passed almost unanimously by a Republican Senate, — although my friend and I voted against it in the House, yet it was finally concurred in without a division, — in the presence of that restrictive legislation, I say there is no law in the United States to which this sixth section can attach itself, either as a repealing or as a modifying clause. Therefore I say, in conclusion, that whatever use may be made of this section as party literature, it is evident to me that, in the judgment of the lawyers, courts, and executive officers of the government, it will be regarded merely and only a stump speech, changing no law and having no legal effect whatever.

<sup>1</sup> Mr. Williams.

# CONGRESSIONAL NULLIFICATION.

REMARKS MADE IN THE HOUSE OF REPRESENTATIVES,

JUNE 19, 1879.

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THE "Certain Judicial Expenses Bill," mentioned in the introductory note to the remarks of June 10, passed the House on that day. On the 16th of June the Senate made amendments in which the House did not concur, and the subject went to a committee of conference. Upon the report of this committee Mr. Garfield made the following remarks. The bill as finally amended passed the House, but was vetoed by the President, June 23. A bill was now passed called the "Jurors Bill," and was approved June 30, 1879. Section 2 contained the following provisions concerning jurors: "That the per diem pay of each juror, grand or petit, in any court of the United States, shall be two dollars; and that the last clause of Section 800 of the Revised Statutes of the United States, which refers to the State of Pennsylvania, and Sections 801, 820, and 821 of the Revised Statutes of the United States, are hereby repealed; and that all such jurors, grand and petit, including those summoned during the session of the court, shall be publicly drawn from a box containing, at the time of such drawing, the names of not less than three hundred persons, possessing the qualifications prescribed in Section 800 of the Revised Statutes, which names shall have been placed therein by the clerk of such court, and a commissioner, to be appointed by the judge thereof, which commissioner shall be a citizen of good standing, residing in the district in which such court is held, and a well-known member of the principal political party, in the district in which the court is held, opposing that to which the clerk may belong, the clerk and said commissioner each to place one name in said box alternately, without reference to party affiliations, until the whole number required shall be placed therein. But nothing herein contained shall be construed to prevent any judge from ordering the names of jurors to be drawn from the boxes used by the State authorities in selecting jurors in the highest courts of the State; and no person shall serve as a petit juror more than one term in any one year, and all juries to serve in courts after the passage of this act shall be drawn

in conformity herewith. *Provided*, that no citizen possessing all other qualifications which are or may be prescribed by law, shall be disqualified for service as a grand or petit juror in any court of the United States on account of race, color, or previous condition of servitude."

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**M**R. SPEAKER, — We do not insist that this House is obliged to vote all the money which some of us may think necessary for any given purpose. If the majority offer to appropriate for a particular purpose a part only of the money needed, we should not be justified in voting against the bill merely because the amount is insufficient, for it might be your purpose to supply the deficiency hereafter. But it is certainly an objectionable mode of legislation so to cut down the appropriation bills as to make a deficiency inevitable. This bill is open to that objection; it does not appropriate enough; for it wholly omits a part of the usual supplies. But that objection alone would not prevent this side from voting for it.

The feature of the bill which is most objectionable, and to which we do not and cannot agree, has been well stated by my colleague.<sup>1</sup> The bill goes beyond appropriations, and proposes by law to lay hold of the executive department of this government, and affirmatively prevent its officers from enforcing certain of the laws of the land. That is the attempt which we resist and shall continue to resist. The objectionable provision is now made definite and unmistakable in this conference report. The language of the clause as it first passed the House was somewhat vague; but here it is plain, and we perfectly understand its import. If any doubt remained, my colleague who presented the report<sup>2</sup> removed it, by declaring the purpose of the clause. The issue is narrowed down to this. The gentleman tells us that he and his associates are determined that no marshals, deputy marshals, or assistant marshals shall be appointed to execute the laws of the Union, as required in Title 26 of the Revised Statutes; that they have devised and agreed on this clause in the conference between the two houses, so as to prevent the enforcement of that part of the existing law. This makes a sharp issue which everybody can understand.

Now, assuming that the gentlemen on the other side do not

<sup>1</sup> Mr. Monroe.

<sup>2</sup> Mr. McMahon.

like these provisions of law relating to elections, (and we understand that to be their unanimous sentiment,) they ought to propose amendments to them. My colleague who presents this report says that the law has been used for partisan purposes; that marshals, deputy marshals, and assistant marshals have been appointed merely to advocate and advance the political interest of one party at the elections. If that be so, it is a just criticism of the law, and an amendment ought to be offered to correct such an abuse. If my colleague will offer an amendment, or allow us to offer an amendment, so as to put the appointment of deputy and assistant marshals who are to serve in connection with Congressional elections on the same basis as the appointment of supervisors,—that is, that they shall be appointed by the courts, and shall be chosen in equal numbers from the different political parties,—we will aid him, and the abuse of which he complains can be corrected. But that is not in the line of the gentleman's purpose, nor that of his party. They do not wish to better the law, but to annul it. They do not wish the law executed, so long as they have not the power to make the appointments and execute it in their own way.

Recent events have shown them that they cannot repeal these statutes. In the present situation of parties and opinions in Congress it is impossible to repeal them. Those who wish to repeal them have not the constitutional majority to do so. They can no more remove them from the statute-book than they can enact a law without a majority of votes. In short, they have not the constitutional majority to repeal these laws. Not being able constitutionally to repeal them, gentlemen on the other side say, "We will prevent their enforcement." And, in attempting this, they attack the government in a very vital part. They know that the whole country, without regard to party, needs to have the courts of the United States open to all suitors. They know that justice ought to be administered in every District and Circuit Court of the United States. They know that United States prisoners are locked up, some under sentence of our courts, others awaiting trial; and that the Constitution provides that all who are held under charges shall have a speedy trial. The great duty, the imperative obligation, to provide for the speedy and prompt administration of justice, rests upon members of Congress, Republicans and Democrats alike. But the majority of this House have segregated from all

the other appropriations of the year this one for the judicial expenses of the government, and now offer an appropriation of two and a half millions of dollars, and say,—not to us alone, but through us to the nation and to all the officers of the nation,—that this money of the people, which has been paid into the national treasury for the very purpose of maintaining the courts, shall not be used for that purpose, save on condition that the Democratic party shall be permitted to couple with it a provision that certain laws of the land which they cannot repeal shall not be enforced; nay, more, that for the coming year these laws shall be nullified. In short, we are told that we must submit to the nullification of the election laws, or the courts of the United States shall be closed, the prisoners awaiting trial shall be discharged or shall be held untried, contrary to the constitutional provision in their behalf, and that no provision shall be made even to feed them. It is to be made unlawful to try them, unlawful to keep them, and it is unlawful to discharge them. With these hard conditions you have fettered the appropriations, the use of which reaches to the very vitals of national justice. You say, “Take these appropriations coupled with the nullification of certain laws, or you shall not have them at all.”

Gentlemen, we earnestly desire to go home. We have borne the burden of this long, weary, and profitless session, until we are anxious to go to our homes to rest and give the country rest. But we cannot, even under the persuasive heat of the dog-star and the pressure of this weary and distasteful work, accept the dishonor which this bill offers. It is a moral bribe to us to consent to the nullification of laws which you seek, not to improve, but to destroy. We cannot, we will not, consent.

You have retained in this bill a clause which, if it becomes a law, will place the President of the United States between two fires,—the fire of this law if he disobeys it, and the fire of Heaven if he violates his oath by obeying it.

MR. McMAHON. Will my colleague allow me to ask him how the President is at all interfered with?

I will answer. The President has taken an oath that he will see to it that the laws be faithfully executed. You do not repeal the election laws, but you make it impossible for him to execute them without violating another. You seek to place



him in reach of your impeachment on the one hand, or, on the other, to compel him to neglect his duty and violate his oath. We have no legal or moral right to put the Chief Executive in such an attitude. The wisdom of the Old Testament proverb, "In vain is the net spread in the sight of any bird," may be fitly applied in this case. I do not see that there is the slightest probability that you can catch a bird in this net.

MR. HOUSE. Do I understand the gentleman from Ohio as threatening us with another veto?

Mr. Speaker, we have heard of war and rumors of war in another quarter; but this House, this body, whose members come directly from the people, — the only real sovereigns in this country, — have not only not come to blows, but, so far as I know, have not come to threats.

MR. HOUSE. The gentleman talks about blows.

I say, neither blows nor threats. I am certainly indulging in no threats. I only say you offer a bill for the approval of the Executive which, if he approves it, puts him in a position where he will be involved in a conflict between the Constitution and the law you make.

MR. HOUSE. What a very frank answer.

It is both frank and just. I appeal to you, gentlemen, whether this kind of legislation meets the approval of your best judgment. Now, I had some hope, when we were told yesterday by my colleague<sup>1</sup> that the amendment which had come from the Senate was left open so as to enable the conference committee to soften the asperities of this bill, — I had some hope that we should see our way through the entanglement by finding a bill which gentlemen on this side could support, and that we might then adjourn, shake hands, and go home. But I am compelled for the present to bid farewell to that pleasing prospect. WE STAY!

<sup>1</sup> Mr. McMahan.

## THE REVIVED DOCTRINE OF STATE SOVEREIGNTY.

SPEECH DELIVERED IN THE HOUSE OF REPRESENTATIVES,

JUNE 27, 1879.

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THE "Jurors Bill," approved June 30, made no provision for paying the United States marshals and their deputies for the fiscal year closing June 30, 1880. In the mean time a "United States Marshals Bill" had been brought forward making appropriations for the marshals and their general deputies. The appropriations, however, were accompanied by limitations that made the enforcement of the election laws impossible. The bill was passed by the houses, but was vetoed by President Hayes, June 30. This was the end of the struggle for that session. Congress adjourned on July 1st. Still there was no appropriation for the fees of marshals. Pending the "Marshals Bill," Mr. Garfield made this speech, "The Revived Doctrine of State Sovereignty."

This was the end, for the session, of the long and hard-fought battle on the election laws, — a battle brought on by an attempt to make numerous and important changes in the national laws by putting "riders" on appropriation bills. A brief survey of the field on the adjournment of Congress will not be out of place.

The army appropriation had been made accompanied by a mild political provision. The Legislative, Executive, and Judicial Bill contained no political legislation whatever. The "Jurors Bill" contained features deemed objectionable by the Republican Senators and Representatives, though promptly signed by President Hayes. The "Marshals Bill" failed altogether, and no provision whatever was made for the payment of the marshals' fees for the ensuing fiscal year. Of the \$45,000,000 needed by the army, and for legislative, executive, and judicial expenses, contained in the two bills that failed to pass at the last session of the Forty-fifth Congress, all but \$600,000 had been voted. It should be added, that the failure to appropriate money for the marshals in no way

interfered with civil cases between private parties : no provision was made for paying them for business done for the government.

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MR. CHAIRMAN, — “To this favor” it has come at last. The great fleet that set out on the 18th of March, with all its freightage and armament, is so shattered that now all the valuables it carried are embarked in this little craft, to meet whatever fate the sea and the storm may offer. This little bill contains the residuum of almost everything that has been the subject of controversy at the present session. I will not discuss it in detail, but will speak only of its central feature, and especially of the opinions which the discussion of that feature has brought to the surface during the session.

The majority in this Congress have adopted what I consider very extreme and dangerous opinions on certain important constitutional questions. They have not only drifted back to their old attitude on the subject of State sovereignty, but they have pushed that doctrine much further than most of their predecessors ever went before, except during the period immediately preceding the late war. So extreme are some of these utterances, that nothing short of actual quotations from the Record will do their authors justice. I shall therefore read several extracts from the debates at the present session of Congress, and group them in the order of the topics discussed.

Senator Wallace of Pennsylvania: “The Federal government has no voters; it can make none, it can constitutionally control none. . . . When it asserts the power to create and hold *national elections*, or to regulate the conduct of the voter *on election day*, or to maintain *equal suffrage*, it tramples under foot the very basis of the Federal system, and seeks to build a consolidated government from a democratic republic. This is the plain purpose of the men now in control of the Federal government, and to this end the teachings of leading Republicans are now shaped. . . . If there be such a thing, then, as a “national election,” it wants the first element of an election,—a national voter. The Federal government, or (if it suits our friends on the other side better) the nation has no voters; it cannot create them, it cannot qualify them. . . . There are no

national voters. Voters who vote for national representatives are qualified by State constitutions and State laws, and national citizenship is not required of a voter of the State by any provision of the Federal Constitution, nor in practice." <sup>1</sup>

Representative Clark of Missouri: "The United States has no voters." <sup>2</sup>

Senator Maxey of Texas: "It follows . . . as surely as 'grass grows and water runs,' that under our Constitution the entire control of elections must be under the States whose voters assemble; whose right to vote is not drawn from the Constitution of the United States, but existed and was freely exercised long before its adoption." <sup>3</sup>

Senator Williams of Kentucky: "The legislatures of the States and the people of the several districts are the constituency of Senators and Representatives in Congress. They receive their commissions from the Governor, and when they resign (which is very seldom) they send their resignations to the Governor, and not to the President. They are State officers, and not Federal officers." <sup>4</sup>

Senator Whyte of Maryland: "There are no elections of United State officers and no voters of the United States. The voters are voters of the States, they are the people of the States, and their members of the House of Representatives are chosen by the electors of the States to represent the people of the States, whose agents they are." <sup>5</sup>

Mr. McLane of Maryland: "Do I understand him <sup>6</sup> to say that the government of the United States has the right to keep the peace anywhere within a State? Do I understand him to say that there is any 'peace of the United States' at all recognized by the Supreme Court of the United States?" <sup>7</sup>

Mr. McLane: "I believe that the provision of law which we are about to repeal is unconstitutional; that is to say, that it is unconstitutional for the United States to 'keep the peace' anywhere in the States, either at the polls or elsewhere; and if it were constitutional, I believe, in common with gentlemen on this side of the house, that it would be highly inexpedient to

<sup>1</sup> Congressional Record, May 29, 1879, pp. 1685-1687.

<sup>2</sup> *Ibid.*, April 24, p. 857.

<sup>3</sup> *Ibid.*, April 21, p. 601.

<sup>4</sup> *Ibid.*, April 23, p. 723.

<sup>5</sup> *Ibid.*, May 20, p. 1468.

<sup>6</sup> To Mr. Robeson, who answered, "Certainly I do."

<sup>7</sup> Congressional Record, April 3, 1879, p. 198.

exercise that power. . . . When that law used the phrase 'to keep the peace,' it could only mean the peace of the States. . . . It is not a possible thing to have a breach of the United States peace at the polls."<sup>1</sup>

Senator Whyte: "Sovereignty is lodged with the States, where it had its home long before the Constitution was created. The Constitution is the creature of that sovereignty. The Federal government has no inherent sovereignty. All its sovereign powers are drawn from the States."<sup>2</sup>

Senator Wallace: "Thus we have every branch of the Federal government, House, Senate, the executive and judiciary departments, standing upon the State governments, and all resting finally upon the people of the States, qualified as voters by State constitutions and State laws."<sup>3</sup>

Senator Whyte: "No, Mr. President; it never was declared that we were a nation. . . . In the formation and adoption of the Constitution the States were the factors."<sup>4</sup>

These are the declarations of six distinguished members of the present Congress. The doctrines set forth in the above quotations may be fairly regarded as the doctrines of the Democracy as represented in this Capitol. Let me summarize them.

First, there are no national elections; second, the United States has no voters; third, the States have the exclusive right to control all elections of members of Congress; fourth, the Senators and Representatives in Congress are State officers, or, as they have been called during the present session, "ambassadors" or "agents" of the State; fifth, the United States has no authority to keep the peace anywhere within a State, and, in fact, has no peace to keep; sixth, the United States is not a nation endowed with sovereign power, but is a confederacy of States; seventh, the States are sovereignties possessing inherent supreme powers; they are older than the Union, and as independent sovereignties the State governments created the Union and determined and limited the powers of the general government.

These declarations embody the sum total of the constitutional doctrines which the Democracy has avowed during this extra session of Congress. They form a body of doctrines which I do not hesitate to say are more extreme than was ever before

<sup>1</sup> Congressional Record, April 5, 1879, pp. 257, 258.      <sup>2</sup> *Ibid.*, May 20, p. 1472.

<sup>3</sup> *Ibid.*, May 29, p. 1686.

<sup>4</sup> *Ibid.*, May 20, pp. 1468, 1469.

held on this subject, except perhaps at the very crisis of secession and rebellion. And they have not been put forth as abstract theories of government. True to the logic of their convictions, the majority have sought to put them in practice by affirmative acts of legislation. Let me enumerate these attempts.

First, they have denounced as unconstitutional all attempts of the United States to supervise, regulate, or protect national elections, and have tried to repeal all laws on the national statute-book enacted for that purpose. Secondly, following the advice given by Calhoun in his political testament to his followers, they have tried to repeal all those portions of the venerated Judiciary Act of 1789, the act of 1833 against nullification, the act of 1861, and the acts amendatory thereof, which provide for carrying to the Supreme Court of the United States all controversies that relate to the duties and authority of any officer acting under the Constitution and laws of the United States. Thirdly, they have attempted to prevent the President from enforcing the laws of the Union, by refusing necessary supplies and by forbidding the use of the army to suppress violent resistance to the laws by which, if they had succeeded, they would have left the citizens and the authorities of the States free to obey or disobey the laws of the Union, as they might choose.

These, I believe, Mr. Chairman, are fair summaries both of the principles and of the attempted practice to which the majority of this House have treated the country during the extra session.

Before quitting this topic, it is worth while to notice the fact that the attempt made in one of the bills now pending in this House, to curtail the jurisdiction of the national courts, is in the direct line of the teachings of John C. Calhoun. In his "Discourse on the Constitution and Government of the United States," published by authority of the legislature of South Carolina in 1851, he sets forth at great length the doctrine that ours is not a national government, but a confederacy of sovereign States, and then proceeds to point out what he considers the dangerous departures which the government has made from his theory of the Constitution. The first and most dangerous of these departures he declares to be the adoption of the twenty-fifth section of the Judiciary Act of 1789, by which in certain

cases appeals from the judgments of the supreme courts of the States to the Supreme Court of the United States were authorized. He declares that section of the act unconstitutional, because it makes the supreme court of a "sovereign" State subordinate to the judicial power of the United States; and he recommends his followers never to rest until they have repealed, not only that section, but also what he calls the still more dangerous law of 1833, which forbids the courts of the States to sit in judgment on the acts of an officer of the United States done in pursuance of national law. The present Congress has won the unenviable distinction of making the first attempt, since the death of Calhoun, to revive and put in practice his disorganizing and destructive theory of government.

Firmly believing that these doctrines and the attempted practice of the present Congress are erroneous and pernicious, I will state briefly the counter-propositions.

I affirm, first, that the Constitution of the United States was not created by the government of the States, but was ordained and established by the only sovereign in this country,—the common superior of both the States and the nation,—the people themselves; secondly, that the United States is a nation, having a government whose powers, as defined and limited by the Constitution, operate upon all the States in their corporate capacity, and upon all the people; thirdly, that by its legislative, executive, and judicial authority, the nation is armed with adequate power to enforce all the provisions of the Constitution against all opposition of individuals or of States, at all times and all places within the Union. These are broad propositions; and I take the few minutes remaining to me to defend them.

The constitutional history of this country, or rather the history of sovereignty and government in this country, is comprised in four sharply defined epochs:—

First. Prior to the 4th of July, 1776, sovereignty, so far as it can be affirmed of this country, was lodged in the Crown of Great Britain. Every member of every Colony (the Colonists were not citizens but subjects) drew his legal rights from the King of England. "Every acre of land in this country was then held mediately or immediately by grants from the Crown," and "all the civil authority then existing or exercised here flowed from the head of the British empire."

Second. On the 4th of July, 1776, the people of these Colonies, asserting their natural inherent right as sovereigns, withdrew the sovereignty from the Crown of Great Britain and reserved it to themselves. In so far as they delegated this national authority at all, they delegated it to the Continental Congress assembled at Philadelphia. That Congress, by general consent, became the supreme government of this country, — executive, judiciary, and legislature in one. During the whole of its existence it wielded the supreme power of the new nation.

Third. On the 1st of March, 1781, the same sovereign power, the people, withdrew the authority from the Continental Congress, and lodged it, so far as they lodged it at all, in the Confederation, which, though a league of States, was declared to be a perpetual union.

Fourth. When at last our fathers found the Confederation too weak and inefficient for the purposes of a great nation, they abolished it, and lodged the national authority, enlarged and strengthened by new powers, in the Constitution of the United States, where, in spite of all assaults, it still remains. All these great acts were done by the only sovereign in this republic, the people themselves.

That no one may charge that I pervert history to sustain my own theories, I call attention to the fact that not one of the Colonies declared itself free and independent. Neither Virginia nor Massachusetts threw off its allegiance to the British Crown as a colony. The great Declaration was made not even by all the Colonies as colonies, but it was made in the name and by authority of "all the good people of the Colonies," as one people. Let me fortify this position by a great name, that will shine forever in the constellation of our Southern sky, the name of Charles Cotesworth Pinckney, of South Carolina. He was a leading member of the Constitutional Convention of 1787, and also a member of the convention of South Carolina which ratified the Constitution. In this latter convention the doctrine of State sovereignty found a few champions; and their attempt to prevent the adoption of the Constitution, because it established a supreme national government, was rebuked by him in these memorable words. I quote from his speech as recorded in Elliott's Debates.

"This admirable manifesto [the Declaration of Independence], which for importance of matter and elegance of composition stands unrivalled,



sufficiently confutes the honorable gentleman's doctrine of the individual sovereignty and independence of the several States. In that Declaration the several States are not even enumerated ; but after reciting, in nervous language and with convincing arguments, our right to independence, and the tyranny which compelled us to assert it, the Declaration is made in the following words : 'We, therefore, the representatives of the United States of America, in general Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these Colonies, solemnly publish and declare that these united Colonies are, and of right ought to be, free and independent States.'

"The separate independence and individual sovereignty of the several States were never thought of by the enlightened band of patriots who framed this Declaration. The several States are not even mentioned by name in any part of it, as if it was intended to impress this maxim on America, that our freedom and independence arose from our union, and that without it we could neither be free nor independent. Let us, then, consider all attempts to weaken this union by maintaining that each State is separately and individually independent as a species of political heresy, which can never benefit us, but may bring on us the most serious distresses." <sup>1</sup>

For a further and equally powerful vindication of the same view, I refer to the Commentaries of Mr. Justice Story.<sup>2</sup> In this same connection, and as a pertinent and effective response to the Democratic doctrines under review, I quote from the first message of Abraham Lincoln,<sup>3</sup> than whom no man of our generation studied the origin of the Union more profoundly.

"Our States have neither more nor less power than that reserved to them in the Union by the Constitution, no one of them ever having been a State *out* of the Union. The original ones passed into the Union even *before* they cast off their British colonial dependence, and the new ones each came into the Union directly from a condition of dependence, excepting Texas. And even Texas, in its temporary independence, was never designated a State. The new ones only took the designation of States on coming into the Union, while that name was first adopted for the old ones in and by the Declaration of Independence. Therein the 'united Colonies' were declared to be 'free and independent States'; but even then the object plainly was not to declare their independence of *one another*, or of the *Union*, but directly the contrary, as their mutual pledge and their mutual action before, at the time, and afterwards abundantly show. . . .

<sup>1</sup> Elliott's Debates, Vol. IV. pp. 301, 302.

<sup>2</sup> Book II. sect. 213-215.

<sup>3</sup> July 4, 1861.

“The States have their status in the Union, and they have no other legal status. If they break from this, they can only do so against law, and by revolution. The Union, and not themselves separately, procured their independence and their liberty. By conquest or purchase the Union gave each of them whatever of independence and liberty it has. The Union is older than any of the States, and in fact it created them as States. Originally some dependent colonies made the Union, and in turn the Union threw off their old dependence for them, and made them States, such as they are. Not one of them ever had a State constitution independent of the Union. Of course it is not forgotten that all the new States framed their constitutions before they entered the Union; nevertheless, dependent upon and preparatory to coming into the Union.”

In further enforcement of the doctrine that the State governments were not the sovereigns who created this government, I refer to the great decision of the Supreme Court of the United States in the case of *Chisholm v. The State of Georgia*,— a decision replete with the most enlightened national spirit, in which the court stamps with its indignant condemnation the notion that the State of Georgia was “sovereign” in any sense that made it independent of or superior to the nation. Mr. Justice Wilson said:—

“As a judge of this court, I know, and can decide upon the knowledge, that the citizens of Georgia, when they acted upon the large scale of the Union, as a part of the ‘people of the United States,’ did *not* surrender the supreme or sovereign power to that State; but, *as to the purposes of the Union*, retained it to themselves. *As to the purposes of the Union*, therefore, Georgia is *NOT a sovereign State*. . . .

“Whoever considers, in a combined and comprehensive view, the general texture of the Constitution, will be satisfied that the people of the United States intended to form themselves into a nation for national purposes. They instituted for such purposes a national government, complete in all its parts, with powers legislative, executive, and judiciary; and, in all those powers, extending over the whole nation. Is it congruous that, with regard to such purposes, any man or body of men, any person, natural or artificial, should be permitted to claim successfully an entire exemption from the jurisdiction of the national government?”<sup>1</sup>

Mr. Chairman, the dogma of State sovereignty, which has reawakened to such vigorous life in this chamber, has borne such bitter fruits, and entailed such suffering upon our people, that it deserves more particular notice.

It should be noticed that the word “sovereignty” cannot be

<sup>1</sup> 2 Dallas, 457, 465.

fitly applied to any government in this country. It is not found in our Constitution. It is a feudal word, born of the despotism of the Middle Ages, and was unknown even in imperial Rome. A sovereign is a person, a prince, who has subjects that owe him allegiance. There is no one paramount sovereign in the United States. There is no person here who holds any title or authority whatever, except the official authority given him by law. Americans are not subjects, but citizens. Our only sovereign is the whole people. To talk about the "inherent sovereignty" of a corporation — an artificial person — is to talk nonsense; and we ought to reform our habit of speech on that subject.

But what do gentlemen mean when they tell us that a State is sovereign? What does sovereignty mean, in its accepted use, but a political corporation having no superior? Is a State of this Union such a corporation? Let us test it by a few examples drawn from the Constitution.

No State of this Union can make war or conclude a peace. Without the consent of Congress it cannot raise or support an army or a navy. It cannot make a treaty with a foreign power, nor enter into any agreement or compact with another State. It cannot levy imposts or duties on imports or exports. It cannot coin money. It cannot regulate commerce. It cannot put a single ship in commission anywhere on the high seas; if it should, that ship would be seized as a pirate, or confiscated by the laws of the United States. A State cannot emit bills of credit. It can enact no law which makes anything but gold and silver a legal tender. It has no flag except the flag of the Union. And there are many other subjects on which the States are forbidden by the Constitution to legislate. How much inherent sovereignty is left in a corporation which is thus shorn of all these great attributes of sovereignty?

But this is not all. The Supreme Court of the United States may declare null and void any law or any clause of the constitution of a State which happens to be in conflict with the Constitution and laws of the United States. Again, the States appear as plaintiffs and defendants before the Supreme Court of the United States. They may sue each other; and, until the Eleventh Amendment was adopted, a citizen might sue a State. These "sovereigns" may all be summoned before their common superior to be judged. And yet they are endowed with supreme inherent sovereignty!

Again, the government of a State may be absolutely abolished by Congress, in case it is not Republican in form. And finally, to cap the climax of this absurd pretension, every right possessed by one of these "sovereign" States, every inherent sovereign right except the single right to equal representation in the Senate, may be taken away, without its consent, by the vote of two thirds of Congress and three fourths of the States. But, in spite of all these disabilities, we hear them paraded as independent sovereign States, the creators of the Union and the dictators of its powers. How inherently "sovereign" must be that State west of the Mississippi which the nation bought and paid for with the public money, and permitted to come into the Union a half-century after the Constitution was adopted! And yet we are told that the States are inherently sovereign, and created the national government!

Read a long line of luminous decisions of the Supreme Court. Take the life of Chief Justice Marshall, that great judge, who found the Constitution paper and made it power, who found it a skeleton and clothed it with flesh and blood. By his wisdom and genius he made it a potent and beneficent instrument for the government of a great nation. Everywhere he repelled the insidious and dangerous heresy of the sovereignty of the States in the sense in which it has been used in these debates.

Half a century ago this heresy threatened the stability of the nation. The eloquence of Webster and his compeers, and the patriotism and high courage of Andrew Jackson, resisted, and for a time destroyed, its power; but it continued to live as the evil genius, the incarnate devil, of America, and in 1861 it was the fatal phantom that lured eleven millions of our people into rebellion against their government. Hundreds of thousands of those who took up arms against the Union stubbornly resisted all inducements to that fatal step until they were summoned by the authority of their States. The dogma of State sovereignty in alliance with chattel slavery finally made its appeal to that court of last resort, where laws are silent and where kings and nations appear in arms for judgment. In that awful court of war two questions were tried: Shall slavery live? and, Is a State so sovereign that it may nullify the laws and destroy the Union? Those two questions were tried on the thousand battle-fields of the war; and if war ever "legislates," as a leading Democrat of Ohio once wisely affirmed, then our war legis-

lated finally upon those subjects, and determined beyond all controversy that slavery should never again live in this republic, and that there is not sovereignty enough in any State to authorize its people either to destroy the Union or to nullify its laws.

I am unwilling to believe that any considerable number of Americans will ever again push that doctrine to the same extreme; and yet, in these summer months of 1879, in the Congress of the reunited nation, we find the majority drifting fast and far in the wrong direction, by reasserting much of that doctrine which the war ought to have settled forever. And what is more lamentable, such declarations as those which I read at the outset are finding their echoes in many portions of the country which was lately the theatre of war. No one can read the proceedings at certain recent celebrations, without observing the growing determination to assert that the men who fought against the Union were not engaged in a treasonable conspiracy against the nation, but that they did right to fight for their States, and that in the long run the lost cause will be victorious. These indications are filling the people with anxiety and indignation; and they are beginning to inquire whether the war has really settled these great questions.

I remind gentlemen on the other side, that we have not ourselves revived these issues. We had hoped they were settled beyond recall, and that peace and friendship might be fully restored to our people. But the truth requires me to say, that there is one indispensable ground of agreement on which alone we can stand together, and it is this: the war for the Union was right, everlastingly right; and the war against the Union was wrong, forever wrong. However honest and sincere individuals may have been, Secession was none the less rebellion and treason. We defend the States in the exercise of their many and important rights, and we defend with equal zeal the rights of the United States. The rights and authority of both were received from the people,—the only source of inherent power.

We insist not only that this is a nation, but that the power of the government, within its own prescribed sphere, operates directly upon the States, and upon all the people. We insist that our laws shall be construed by our own courts and enforced by our own Executive. Any theory which is inconsistent with this doctrine we will resist to the end.

Applying these reflections to the subject of national elections embraced in this bill, I remind gentlemen that this is a national House of Representatives. The people of my Congressional district have a right to know that a man elected in New York City is elected honestly and lawfully; for he joins in making laws for forty-five millions of people. Every citizen of the United States has an interest and a right in every election within the republic where national representatives are chosen. We insist that these laws relating to our national elections shall be enforced, not nullified; shall remain on the statute-books, and not be repealed; and that the just and legal supervision of these elections shall never again be surrendered by the government of the United States. By our consent it never shall be surrendered.

Now, Mr. Chairman, this bill is about to be launched upon its stormy passage. It goes not into unknown waters; for its fellows have been wrecked in the same sea. Its short, disastrous, and, I may add, ignoble voyage, is likely to be straight to the bottom.

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IN reply to Mr. Hurd of Ohio, on the same day, Mr. Garfield said:—

MR. CHAIRMAN,—Two points were made by my colleague from Ohio to which I desire to call attention. To strengthen his position, that the United States has no voters, he has quoted, as other gentlemen have quoted, the case of *Minor v. Happersett*.<sup>1</sup>

The question before the court in that case was, whether a provision in a State constitution which confines the right of voting to *male* citizens of the United States is a violation of the Fourteenth Amendment of the Constitution. The court decided that it is not; and in delivering his opinion the Chief Justice took occasion to say that “the United States has no voters in the States, of its own creation.” Now, all the gentlemen on the other side who have quoted this decision have left out the words “of its own creation,” which makes a very essential difference. The Constitution of the United States declares who shall vote for members of Congress, and it adopts the great body of voters whose qualifications may be or have been prescribed by the laws of the States. The power of *adop-*

<sup>1</sup> 21 Wallace, 170.

tion is no less a great governmental power than the power of creation.

But the second point to which I wish to refer, and which has been made by several gentlemen, and markedly by my colleague, is this: that the contemporaneous construction of that clause of the Constitution which provides that Congress may at any time make or alter the regulations in regard to the time, place, and manner of holding elections, has determined that Congress can never exercise that right so long as the States make provision for it. So long as the States do not neglect or refuse to act, or are not prevented by rebellion or war from acting, it is their exclusive right to control the subject. That is what my colleague says. That is what is said, in the Record of May 29, by a distinguished member of the Senate.<sup>1</sup>

On the 21st of August, 1789, in the first House of Representatives that ever met, Mr. Burke, a member from South Carolina, offered the following as an amendment to the Constitution: "Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections of Senators or Representatives, except when any State shall refuse, or neglect, or be unable, by invasion or rebellion, to make such election."<sup>2</sup> That was the very proposition which my colleague says is the meaning of the Constitution as it now stands. That amendment was offered in a House of Representatives nearly one half of whose members were in the Convention that framed the Constitution. That amendment was debated, and I hold in my hand the brief record of the debate. Fisher Ames of Massachusetts, approving of the clause as it now stands, —

"Thought this one of the most justifiable of all the powers of Congress; it was essential to a body representing the whole community, that they should have power to regulate their own elections, in order to secure a representation from every part, and prevent any improper regulations, calculated to answer party purposes only. It is a solecism in politics to let others judge for them, and is a departure from the principles upon which the Constitution was founded. . . . [He thought] inadequate regulations were equally injurious as having none, and that such an amendment as was now proposed would alter the Constitution; it would vest the supreme authority in places where it was never contemplated. . . .

"Mr. Sherman observed, that the Convention were very unanimous in

<sup>1</sup> Mr. Wallace.

<sup>2</sup> Annals of Congress, Vol. I. p. 797.

passing this clause ; that it was an important provision, and if it was resigned it would tend to subvert the government.

“ Mr. Madison was willing to make every amendment that was required by the States, which did not tend to destroy the principles and efficacy of the Constitution ; he conceived that the proposed amendment would have that tendency, he was therefore opposed to it. . . .

“ Mr. Goodhue hoped the amendment never would obtain. . . . Now, rather than this amendment should take effect, he would vote against all [the amendments] that had been agreed to. His greatest apprehensions were, that the State governments would oppose and thwart the general one to such a degree as finally to overturn it. Now, to guard against this evil, he wished the Federal government to possess every power necessary to its existence.”<sup>1</sup>

After a full debate, in which the doctrine of State rights was completely overwhelmed so far as involved in this amendment, the vote was taken, and twenty-three votes were given in favor of the amendment and twenty-eight votes against it. It did not get even a majority, much less a two-thirds vote, in the House ; and in the Senate the subject was never called up at all. Now, who were the men that voted against it? Let me read some of their honored names : Fisher Ames, of Massachusetts ; Charles Carroll of Carrollton ; Clymer, of Pennsylvania, whose distinguished descendant is a member of this House ; Fitzsimmons, of Pennsylvania ; Muhlenberg, of Pennsylvania, who was Speaker of the first House of Representatives ; Lee and Madison, of Virginia ; Trumbull and Sherman, of Connecticut, — all these great names are recorded against a proposition declaring what my colleague defends as the correct interpretation of the existing clause on that subject. That is all I desire to say.

<sup>1</sup> Annals of Congress, Vol. I. pp. 797-801.



# OBEDIENCE TO LAW THE FIRST DUTY OF CONGRESS.

SPEECH DELIVERED IN THE HOUSE OF REPRESENTATIVES,

MARCH 17, 1880.

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WHEN the extra session of the Forty-sixth Congress came to an end, July 1, 1879, the usual appropriations had been voted save that for the United States Marshals. After June 30, 1879, all the government business pertaining to their offices was performed by the marshals without pay and at their own expense, in the expectation that the money would be voted at the regular session. In an amendment to a deficiency bill, reported March 12, 1880, the Committee on Appropriations undertook to deal with this question. One of their amendments read, "For the payment of the fees and expenses of United States Marshals and their general deputies during the fiscal year ending June 30, 1880, \$600,000." Pending the bill, Mr. Garfield addressed the Committee of the Whole in a speech in which, after touching upon an amendment that abolished the office of Public Printer and created that of Congressional Printer, he discussed the duty of Congress to obey the law. His remarks on the first topic are here omitted.

The two decisions of the Supreme Court referred to below are no doubt those of *Ex parte* Albert Siebold *et al.* and *Ex parte* Augustus F. Clarke. In both cases the petitioners were State judges of election, tried, convicted, and sentenced to punishment for violating Sections 5515 and 5522 of the Revised Statutes. Both cases involved the constitutionality of the election laws. Mr. Justice Bradley rendered an elaborate decision in the former case: the decision in the second was rested upon the first. Justices Field and Clifford dissented. Neither case is found in Otto's Reports, but a report is found in the Weekly Cincinnati Law Bulletin, Vol. V. pp. 125-127. The decision in both cases was rendered March 8, 1880. It is a sweeping affirmation of the constitutionality of the legislation in controversy between Republicans and Democrats in 1879-80. The second paragraph of the Bulletin's synopsis is here given: —

“That Congress had the power, by the Constitution, to pass this resolution referred to, viz. Section 5515 of the Revised Statutes, which makes it a penal offence against the United States for any officer of elections, at an election held for Representatives in Congress, to neglect to perform or to violate any duty in regard to such election, whether required by the law of the State or of the United States, or knowingly to do any act unauthorized by any such law, with intent to affect such election, or to make a fraudulent certificate of the result; and Section 5522, which makes it a penal offence for any officer or other person, with or without process, to obstruct, hinder, bribe, or interfere with the supervisor of the election, or the marshal or deputy marshal, in the performance of the duty required of them by any law of the United States, or to prevent their free attendance at the place of registration or election, etc.; also Sections 2011, 2012, 2016, 2017, 2021, and 2022, Title 26, Revised Statutes, which authorize the Circuit Courts to appoint supervisors of such elections, and the marshal to appoint special deputies to aid and assist them, and which prescribe the duties of such supervisors and deputy marshals, these being the laws provided by Congress in the Enforcement Act of May 31, 1870, and the supplement thereto of February 28, 1877, for supervising elections of Representatives, and for preventing frauds therein.”

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MR. CHAIRMAN, — My colleague,<sup>1</sup> in his speech opening the discussion upon this bill, made the announcement in substance, and it remains without being contradicted or protested against by any one on his side of the house, first, that “we have not hitherto made, do not in this bill, and will not in any future bill, make any appropriation whatever for supervisors or special deputy marshals, so far as they have to do with Congressional elections.” He asserted that it is not proper for any officer of the government to appoint special deputy marshals, when no appropriation has been made for that specific purpose. Then further on he declares (I quote from his printed speech): —

“And I desire to say that because the Supreme Court of the United States has decided that the election law is constitutional by a sort of eight-by-seven decision, — and I mean by that a division apparently according to party lines, (without impugning the good faith of any member of the Supreme Court, but to show how differently a legal question may appear to persons who have been educated in different political schools,) — that although that court has decided the constitutionality of the law, that when we come, as legislators, to appropriate money it is our

<sup>1</sup> Mr. McMahon.

duty to say, Is this law constitutional? or, if constitutional, is it a good law, and are we bound to appropriate money for it?"<sup>1</sup>

He undertakes, as will be seen, to throw contempt on that decision by styling it "a sort of eight-by-seven decision." I remind him that it is a seven-to-two decision, having been adopted by a larger number of the members of the court than the majority of its decisions. It is a decision of a broad, sweeping character, and declares that Congress may take the whole control of Congressional elections, or a partial control, as they choose; that the election law, as it stands on the national statute-book, is the supreme law of the land on that subject. More than that: the Supreme Court, not only in this case but in another recent case, has made a declaration which ought to be engraven upon the minds and hearts of all the people of this country. And this is its substance: that a law of Congress interpenetrates and becomes a part of every law of every State of this Union to which its subject-matter is applicable, and is binding upon all people and covers every foot of our soil.

This is the voice of the Constitution. Now, therefore, under this decision the election laws of the United States are the laws of every State of this Union. No judge of election, no State officer or other person connected with any Congressional election, no elector who offers his ballot at any such election, can, with impunity, lift his hand or do any act against any of the provisions of these laws. They rest upon Congressional elections in every State like the "casing air," broad and general, protecting with their dignity every act, and penetrating with their authority every function, of Congressional elections. They are the supreme law of the land on that subject.

But now a Representative, speaking for the Democratic party in this House, rises, — not with the plea which he could have made with some show of plausibility last year, that the law is unconstitutional, and that therefore they would not enforce it, but, with a constitutional law, declared so by the Supreme Court, covering him and filling the republic from end to end, reaching everywhere and covering every foot of our soil where a Congressional election can be held, — he rises in his place and declares that the Democratic party will not execute that law nor permit it to be obeyed. We, who are the sworn law-makers of the nation, and ought to be examples of respect for and obedience

<sup>1</sup> Congressional Record, March 12, 1880, p. 1517.

to the law, — we, who before we took our first step in legislation swore before God and our country that we would support the supreme law of the land, — we are now invited to become conspicuous leaders in the violation of the law. My colleague announces his purpose to break the law, and invites Congress to follow him in his assault upon it.

My colleague tries to shield his violation of the law behind a section of the statutes which provides that no disbursing or other officer shall make any contract involving the expenditure of money beyond what is appropriated for the purpose. I answer that I hold in my hand a later law, a later statute, which governs the restrictive law of which he speaks, which governs him, and governs the courts. It is the election law itself. I invite attention briefly to its substance.

Sections 2011 and 2012 of the Revised Statutes provide that, upon the application of any two citizens of any city of more than twenty thousand inhabitants to have a national election guarded and scrutinized, the judge of the Circuit Court of the United States shall hold his court open during the ten days preceding the election. In open court, from day to day and from time to time, the judge shall appoint, and under the seal of the court shall commission, two citizens of different political parties, who are voters within the precinct where they reside, to be supervisors of the election. That law is mandatory upon the judge. Should he refuse to obey, he can be impeached of high crimes and misdemeanors. He must not stop to inquire whether an appropriation has been made to pay these supervisors. The rights of citizens are involved, and upon their application the judge must act.

Again, Section 2021 provides that, on the application of two citizens of such city, the Marshal of the United States shall appoint special deputy marshals to protect the supervisors in the execution of their duty. And the law is mandatory upon the Marshal. He must obey it, under the pains and penalties of the law. What then? When the supervisors and special deputy marshals have been appointed, they find their duties plainly prescribed in the law.

And then Section 5521 provides that, if the supervisors or marshals neglect or refuse to perform fully all these duties enjoined upon them, they are liable to fine and imprisonment. They cannot excuse their neglect by saying, "We will not act,

because Congress has not appropriated the money to pay us." All these officers are confronted by the imperial command of the law, — first to the judge and marshal to appoint, then to the supervisor and deputy marshal to act, and to act under the pains and penalties of fine and imprisonment. Impeachment enforces the obedience of the judge; fine and imprisonment, the obedience of the supervisors and deputy marshals.

Now comes one other mandatory order: in the last section of this long chapter of legislation, the majestic command of the law is addressed both to Congress and the Treasury. It declares that there "shall be paid" out of the Treasury five dollars a day to these officers as compensation for their services. Here too the law is equally imperious and mandatory; it addresses itself to the conscience of every member of this House, with only this difference: we cannot be impeached for disobedience; we cannot be fined or locked up in the penitentiary for voting "No," and refusing the appropriation; we cannot be fined or imprisoned if we refuse to do our duty. And so, shielded by the immunity of his privilege as a Representative, my colleague sets the example to all officers and all people of deliberately and with clear-sighted purpose violating the law of the land. Thus he seeks to nullify the law. Thus he hopes to thwart the nation's collected will.

Does my colleague reflect that in doing this he runs the risk of vitiating every national election? Suppose his lead be followed, and the demand of citizens for supervisors and marshals is made and refused because an appropriation has not been voted. Does he not see the possibility of vitiating every election, where fraud and violence are not suppressed and the law has not been complied with? Yet he would risk the validity of all the Congressional elections of the United States. Rather than abandon his party's purpose, he would make Congress the chief of the law-breakers of the land.

Mr. Chairman, when I took my seat as a member of this House, I took it with all the responsibilities which the place brought upon me; and among others was my duty to keep the obligations of the law. Where the law speaks in mandatory terms to everybody else and then to me, I should deem it cowardly and dishonorable if I skulked behind my legislative privilege for the purpose of disobeying and breaking the supreme law of the land.

The issue now made is somewhat different from that of the last session, but, in my judgment, it is not less significant and dangerous. I would gladly waive any party advantage which this controversy might give, for the sake of that calm and settled peace which would reign in this hall if we all obeyed the law. But if the leaders on the other side are still determined to rush upon their fate by forcing upon the country this last issue, — that because the Democratic party happen not to like a law they will not obey it, — because they happen not to approve of the spirit and character of a law, they will not let it be executed, — I say to gentlemen on the other side, if you are determined to make such an issue, it is high time that the American people should know it.

Here is the volume of our laws. More sacred than the Twelve Tables of Rome, this rock of the law rises in monumental grandeur alike above the people and the President, above the courts, above Congress, commanding everywhere reverence and obedience to its supreme authority. Yet the dominant party in this House virtually declares: "Any part of this volume that we do not like and cannot repeal, we will disobey. We have tried to repeal these election laws; we have failed because we had not the constitutional power; the Constitution says they shall stand in their power and authority; but we, the Democratic party, in defiance of the Constitution, declare that, if we cannot destroy them outright by repeal, they shall be left to crumble into ruin by wanton and lawless neglect." Mr. Chairman, I ask gentlemen on the other side whether they wish to maintain this attitude in regard to the legislation of this country. Are they willing to start on a hunt through the statutes, and determine for themselves what they will obey and what they will disobey? That is the meaning of my colleague's speech. If it means anything, it means that. He is not an old Brandenburg Elector, but an elector in this novel and modern sense, that he will elect what laws he will obey and what he will disobey, and in so far as his power can go he will infect with his spirit of disobedience all the good people of this country who trust him.

Mr. Chairman, by far the most formidable danger that threatens the republic to-day is the spirit of law-breaking which shows itself in many turbulent and alarming manifestations. The people of the Pacific Coast, after two years of wrestling

with Communism in the city of San Francisco, have finally grappled with this lawless spirit, and the leader of it was yesterday sentenced to penal servitude as a violator of the law. But what can we say to Dennis Kearney and his associates, if to-day we announce ourselves the foremost law-breakers of the country, and set an example for all the turbulent and vicious elements of disorder to follow?

I ask gentlemen whether this is a time when it is safe to disregard and weaken the authority of law. In all quarters, the civil society of this country is becoming honeycombed through and through by disintegrating forces: in some States by the violation of contracts and the repudiation of debts; in others, by open resistance and defiance; in still others, by the reckless overturning of constitutions, and letting "the red fool-fury of the Seine" run riot among our people and build its blazing altars to the strange gods of misrule and ruin. All these things are shaking the good order of society and threatening the foundations of our government and our peace. In a time like this, more than ever before, this country needs a body of lawgivers clothed and in their right minds, who will lay their hands upon the altar of the law as its defenders, not its destroyers. And yet now, in the name of party, for some supposed party advantage, my colleague announces, and no one on his side has said him nay, that they not only have not in the past obeyed, but in the future they will not obey, this law of the land which the Supreme Court has just crowned with the authority of its sanction. If my colleague chooses to meet that issue, if he chooses to go to the country with that plea, I shall regret it deeply for my country's sake; but if I looked only to my party's interest, it would give me joy to engage in such a struggle. The contest of last autumn made the people understand the tendencies of gentlemen on the other side. This cool, calm, deliberate assassination of the law will not be tolerated. We have had a winter to freeze out our passion, we have had a summer to thaw out our indifference, we have had the changing circles of the year to bring us around to order and calmness, and yet all the stars in their courses seem to have shed their influence on my colleague to fire him with a more desperate madness, and to drive his party on to a still sadder fate. I trust that we may yet find some responses from the other side of the house that will prevent this course of procedure. If we

do, I will gladly give away any party advantage for the sake of strengthening the foundations of law and good order. And I therefore appeal to gentlemen on the other side to prevent a disaster which their party leaders are preparing, not for themselves alone, but for our common country. I hope before this day is over we may see such a vote in this chamber upon this bill as will put an end to this miserable business, and cast out of these halls the dregs of that unfortunate and crazy extra session.



## THE APPOINTMENT OF SPECIAL DEPUTY MARSHALS.

REMARKS MADE IN THE HOUSE OF REPRESENTATIVES,

MARCH 19 AND APRIL 23, 1880.

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IN the State of California expenses amounting to \$7,600 were incurred, in the election of 1879, in the appointment of special deputy marshals. Further, one point in the Congressional controversy about the special deputy marshals of elections was the manner of their appointment. March 18, 1880, Mr. Garfield offered the following as a substitute for a proposition then pending: "For special deputy marshals of elections, the sum of \$7,600: *Provided*, that hereafter special deputy marshals of elections, for performing any duties in reference to any election, shall receive the sum of \$5 per day in full for their compensation; and that all appointments of such special deputy marshals having any duties to perform in respect to any election shall be made by the judge of the Circuit Court of the United States for the district in which such marshals are to perform their duties, or by the District Judge of the district in the absence of the Circuit Judge; said special deputies to be appointed in equal numbers from the different political parties." The point here involved was whether these deputies should be appointed by the marshals, as the existing law said, or by the judges, as the amendment proposed. After some verbal modification, and the addition of a provision that the special deputies should be persons of good moral character and well-known residents of the voting precinct, the amendment was added, by the Democratic majority, to the Deficiency Bill as a rider. President Hayes vetoed the bill, May 4, mainly upon the ground that "riders" should not be put upon the appropriation bills. So, on May 31, this clause was added to the Sundry Civil Appropriation Bill: "For payment of Marshals and their general deputies, except for services of the latter rendered at elections, \$650,000." The \$7,600 due to the Marshals of California for services rendered at the election of 1879 has never been voted. Mr. Garfield was willing to vote for his proposition as an original measure, but refused to vote for it as a rider. He defined his position

in two short speeches, made on March 19 and April 23 respectively. Before giving his remarks, another phase of the contest over the Marshals should be presented, and a remark or two added touching the contest of which this was a part.

The appropriation made on the 31st of May was for the fiscal year ending June 30, 1880. On the 14th of May, Mr. Bayard reported to the Senate, from the Committee on the Judiciary, a bill that dealt with the future. This bill, which was entitled "An Act regulating the pay and appointment of Deputy Marshals," as finally passed, provided that from and after its passage the pay of all deputy marshals for services in reference to any election should be \$5 for each day of actual service, and no more, and then provided :

"SEC. 2. That all deputy marshals to serve in reference to any elections shall be appointed by the Circuit Court of the United States for the district in which such marshals are to perform their duties in each year, and the judges of the several Circuit Courts of the United States are hereby authorized to open their respective courts at any time for that purpose, and in case the Circuit Courts shall not be open for that purpose at least ten days prior to a registration, if there be one, or if no registration be required, then at least ten days before the election the judges of the District Courts of the United States are hereby respectively authorized to cause their courts to be opened for the purpose of appointing such deputy marshals, who shall be appointed by the said District Courts, and the officers so appointed shall be in equal numbers from the different political parties, and shall be well-known citizens, of good moral character, and actual residents of the voting precincts in which their duties are to be performed, and shall not be candidates for any office at such election, and all laws and parts of laws inconsistent with this act are hereby repealed: *Provided*, that the marshals of the United States for whom deputies shall be appointed by the courts under this act shall not be liable for any of the acts of such deputies."

This bill President Hayes vetoed, June 15, on the ground that it "failed to adapt its provisions to the existing laws, so as to secure efficient supervision and protection" of the elections. This veto was the end of the party struggle concerning the Marshals. It was the end, also, of the long party struggle over the army and the enforcement of the national election laws, which began soon after the Democratic party gained a majority in the House of Representatives.<sup>1</sup> The Democrats now abandoned the contest. Each year the Army Appropriation Bill has provided for the payment and subsistence of 25,000 enlisted men. Nor has the proviso in the Army Bill for the fiscal years 1880 and 1881, whereby money was denied for the payment, subsistence, and transportation of any portion of

<sup>1</sup> See the introductory notes to the speeches entitled "The Army and the Public Peace," and "Revolution in Congress," *ante*, p. 543 and p. 655.

the army of the United States to be used as a police force to keep the peace at the polls within any State, called by Mr. Garfield "only a stump speech," been since renewed. The Sundry Civil Expense Bill for the year 1881 appropriated for "the payment of United States Marshals and their general deputies, except for services of the latter rendered at elections," \$650,000. But this exception did not appear in the corresponding bills for the years 1882 and 1883. In both of those bills the appropriation is "for payment of the fees and expenses of United States Marshals and deputies."

Throughout this long and heated struggle, Mr. Garfield was in hearty accord with the Republicans in Congress; but it is proper to say that his proposition to vest the appointment of the Special Deputy Marshals in the Judges rather than in the Marshals, submitted March 18, given above and defended below, was disapproved of by the majority of Republican Representatives, and by all of the Republican Senators save one. The following are Mr. Garfield's remarks made on March 19.

**MR. CHAIRMAN,** — We are equals here, each having rights equal to every other, and nobody having any authority to bind any but himself. With that preface, I will speak for myself.

The first object that I try to keep before my mind in legislation is to be right. On this question of the election laws, during the long and heated debates of last summer, in which all sorts of accusations were made by gentlemen on the other side, there was made but one just criticism of the existing law touching elections. There was one charge made by the other side, and in so far as it was true I consider it a just objection to the law. It was that the law had been used, or was capable of being used, to fill election precincts with men of one party whose time might be employed at the public expense for party electioneering purposes. I say in so far as that law can be so used, to that extent it is unjust; and at all times and on all proper occasions I have declared, and I now declare, myself willing to modify the law so that the alleged abuse cannot take place. That I say for myself, and will continue to say it. No other valid objection to this law was, in my judgment, made by anybody during the last session of this Congress, or since.

Now what happened? In the first place, on this side we objected, and do still object, with entire unanimity, to riders on appropriation bills.

**MR. TOWNSHEND,** of Illinois. Yes; but you said yesterday that you would vote for this as a rider.

I hope the gentleman from Illinois will possess his soul in patience. We did all in our power to prevent any rider ; but the rider was ruled in order. What then? I hold it always to be my duty to help make a pending measure, even though obnoxious, as decent and harmless as possible. When that is done in the present case, we can, and doubtless shall, vote against its final adoption because it is a rider. Yesterday, distinctly disclaiming the right to speak for anybody but myself, I offered a substitute for the proposed amendment, providing that the special deputy marshals should have their pay fixed at five dollars a day, should be appointed by the courts equally from the different political parties, so as to prevent the only evil that can be justly complained of. I will vote to substitute that for the pending proposition, if I vote alone on this or on both sides of the house.

But what has been done? Gentlemen on the other side not only did not accept my substitute, but voted it down, and substituted for it a proposition containing these provisions: first, that the compensation of these deputy marshals shall be cut down to two dollars a day; second, that there shall never be more than three of them in any one election precinct; and, third, that they shall not be employed more than three days, even though the registration under the law of the State lasts ten days. Now, what does this mean? It means that under the pretence of enforcing the election laws for scrutinizing and guarding the polls, though there may be a thousand rioters around the polls seeking to break up the election, yet there shall be but three men empowered to keep the peace of the United States against the mob. In other words, the pending amendment proposes to make this law a notice to the mob in advance to come and overwhelm the keepers of the peace, and make violence rather than order reign at our national elections. If this were a part of the best bill in the world, I would not vote for it, because it cuts the vitals out of the law and makes its enforcement an impossibility. But if you will take the naked proposition that I offered, I will vote for it as a substitute, if I vote alone. I will vote for it as a betterment of the pending amendment, though I say again that it is not proper to put it on the appropriation bill, but altogether improper. Yet when an amendment is pending I will vote for its improvement. I did not offer my substitute as a compromise. On the

question of what I believe just and right, I make no compromise anywhere; but I do believe that it strengthens the election law to free it from every ground of charge that it is partisan, or can be used for merely partisan purposes. I want the law to insure, so far as law can do it, fair, honest, and peaceable elections, and I want it for no other purpose.

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THE second speech was made on April 23, and was a fuller statement of his views.

MR. CHAIRMAN,—Nothing is more unfortunate than the persistent determination of a majority of this House to tack “riders” upon appropriation bills, and thus take again the indefensible position of last session, that they will coerce another branch of the government to approve of an independent measure in order to save the government supplies. There is no valid reason for not offering this amendment and passing it through both houses as an independent bill. The majority have the power to pass it, and, if it is made free from ambiguity, I have no doubt it would receive many votes on this side. But the majority have adopted a method to reach the result which is universally acknowledged to be bad, and which they know is especially offensive to the minority. On this ground we are unanimous on this side of the house in the opinion that this amendment ought not to be made to this bill. In short, to put this measure upon this bill is a challenge to an independent department of the government—the Executive—to declare whether he will consent to be coerced in order to secure the necessary appropriations. It is a revival of the controversy of the last session, which ended so disastrously to the majority. Experience ought to have taught them wisdom, and led them to offer this measure by itself

I now ask attention to the merits of the proposition itself. If the point made by the gentleman from Maine<sup>1</sup> be good, that the language of this amendment is such that its provisions cannot be fairly and fully executed, his objection is fatal to the measure. In my judgment, however, the pending clause, by necessary implication, is a repeal of a part of one of the sections of the election laws, and hence must be incorporated with that

<sup>1</sup> Mr. Reed.

section, and be construed and executed as a part of the whole body of those laws; and I think any court would be compelled thus to construe it. Still, if there is a reasonable doubt on that question, it is a good reason why that doubt ought to be removed before the amendment becomes a law.

Now, I call attention to the debate on another point. In all that has been said upon the subject, I have noticed what appears to me an utter ignoring of one central fact in relation to the special deputy marshals created by the election law. They are a class of officers wholly unknown to the statutes of the United States, except as they appear in the election law. Marshals and deputy marshals have been known in our statutes since 1789, and their powers and duties have been carefully defined; but the office of special deputy marshal never existed in this country until it was created, and its duties defined, in the sections of the election law of 1871. To show how completely this office has been confounded in the recent debate with that of deputy marshal, or general deputy marshal, as it is called by way of distinction in the statutes, I call attention to Section 2021 of the Revised Statutes, and the sections immediately following.

The duty of the special deputy marshal is to attend all places for the registration of voters and for voting for members of Congress, and "to aid and assist the supervisors of election in the verification of any list of persons who may have registered or voted." This is the primary and chief duty of special deputy marshals. They are really assistants of the supervisors, rather than of the marshals; and the fact that they are called special deputy marshals does not change the nature of their office or the character of their duties. It is true that in the next section these officers are made conservators of the peace; but so are the supervisors of the elections and many other officers. But with this exception the special deputy marshals have none of the general executive powers which the law has confided to marshals and their general deputies. They have no authority, by virtue of their appointment as special deputies, to make arrests and summon the *posse comitatus* to put down violence at the election. This they can do only when the Marshal, under his hand and seal in writing, specially empowers them so to act, as provided in Section 2024. But the general deputy marshals are required to exercise these powers by virtue of the office they hold, as defined by the law.

From this review of the statutes it will be seen that the chief duty of the special deputy marshals is to accompany and assist the supervisors of elections in the discharge of their *quasi* judicial duties; that is, in scrutinizing and verifying the registration and election, and detecting any fraud or attempted fraud. Let me follow this subject a step further.

The supervisor cannot leave his post at the ballot-box to follow John Doe and learn whether he has registered or voted under a false name; and therefore this Section 2021 of the statute gives the supervisor an assistant, known as a special deputy marshal, who goes out and verifies John Doe, and reports the result of his investigation to the supervisor. As this is their chief function, it is clear that the special deputy marshals, in their essential character, are assistant supervisors, and their duties partake of the judicial character of those of their chief. Under the law as it now stands, the supervisors themselves are appointed by the courts, and from the different political parties. Now, can any valid reason be given, on the merits of the case, why their assistants, whose first and chief duty is to aid them in the discharge of their *quasi* judicial duties, should not also be appointed by the courts, as they themselves are appointed, without regard to political affiliation? The argument that these officers should not be appointed by the courts because they are under the orders of the marshal, falls to the ground when the plain fact is known that they serve the supervisor rather than the marshal.

But we are told that, if the special deputies should be appointed from different political parties, there would be no unity of action among them in the execution of the law. I am not willing to confess, for I do not believe it to be true, that this country is so far gone in debasement and anarchy that the fair-minded people in any Democratic township or ward can truthfully say, "There is no Republican in this precinct who can be trusted to aid in executing the election law," or that they will in any Republican community say, "There is no Democrat in all the borders of this precinct whom we can trust to help carry out a fair election law." When I am compelled to believe this, I shall say that my country is no longer capable of self-government, is no longer worthy of freedom.

Our laws provide for summoning the *posse comitatus* as the extreme civil remedy for suppressing disorder and keeping the

peace. What is the *posse comitatus* but the whole body of bystanders,—men of all political parties? The theory of our government is, that, in the last civil resort, we summon all men without distinction of party to act as conservators of the peace. If the bystanders, without distinction of party, can be trusted to perform this important duty, surely we can trust such as the courts, on their high responsibility, shall appoint to aid in securing a fair election. It ought constantly to be remembered that no one of these special deputy marshals has any power to put down a riot at the polls, unless the marshal, under his hand and seal, in writing, shall specially empower such special deputy to do that thing; and let it also be remembered that this amendment in no way interferes with the power of the marshal to appoint as many general deputy marshals as may be needed to suppress disorder.

I hope I am not altogether a dreamer, forgetful of practical necessities, but I have never been able to see why this measure cannot be executed fully, thoroughly, and justly, provided its language makes it a part of the election law. My friend from Maine has raised some doubt on that point, and in so far as that doubt is justified, it is a fair argument against the clause. But we should look beyond the mere word of the amendment to the objects of national good it may be made to accomplish. I care but little for it as a mere settlement of a present party controversy.

No thoughtful man can fail to see great danger in a close and bitterly contested national election. In common with my party associates, I believe that these election laws are great and beneficent safeguards to the fair and free expression of the national will. Now, if the adoption of a measure like this will harness the two great political parties to these election laws, by the bonds of common consent and mutual co-operation for their enforcement, it will be a benefit that will far outweigh any slight advantage that can be gained by retaining wholly within our party the appointment of a few officers to aid the supervisors. I believe this measure will not weaken, but will strengthen, the authority of the election laws, and will remove from them the only reasonable ground of complaint that the other side have made against them. I resist the amendment only because it is a rider which should not be a part of the appropriation bill; but as a measure by itself, clearly and plainly drawn, I will cordially



support it. I agree that ours is a party government, and I believe in parties, especially my own; but when we come to the ballot-box, where citizens of all parties meet to enjoy the highest rights of freemen, all parties should unite in enforcing these just and necessary laws, designed to secure free, fair, and peaceable national elections throughout the Union.

## NATIONAL APPROPRIATIONS AND MISAPPROPRIATIONS.

PAPER CONTRIBUTED TO THE NORTH AMERICAN REVIEW,

JUNE, 1879.

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AN eminent French statesman has said: "A nation embodies its spirit, and much of its history, in its financial laws. Let one of our budgets alone survive the next deluge, and in it will plainly appear all that we are."

If our republic were blotted from the earth, and from the memory of mankind, and if no record of its history survived, except a copy of our revenue laws and our appropriation bills for a single year, the political philosopher would be able from these materials alone to reconstruct a large part of our history, and sketch with considerable accuracy the character and spirit of our institutions.

\* Revenue is not, as some one has said, the friction of a government, but rather its motive power. As in the human body every motion is produced by an expenditure of vital force, so in government the exercise of the smallest function is accompanied, or rather is produced, by an expenditure of money.

To collect from the property and labor of a nation a revenue sufficient to carry on the various departments of its government, and so to distribute that revenue as to supply every part of the complicated machinery with adequate motive power, neither, on the one hand, crippling the resources of the people or the functions of the government, nor, on the other, producing overgrowth and waste by lavish expenditure, is one of the most difficult and delicate problems of modern statesmanship. And this problem presents itself every year under new conditions. An adjustment which is wise and equitable for one year may be wholly inadequate for the next.

[The next two and a half pages of this paper were in substance, and almost in form, a reproduction of the first pages of the Speech entitled "Public Expenditures, their Increase and Diminution," made January 23, 1872, and are here omitted.<sup>1</sup>]

From the foregoing [the omitted pages] it will be seen that two forces have been in constant action in determining the tendency of appropriations while the nation was passing from war to peace: first, the normal increase of ordinary expenses, dependent upon increase of population and extension of settled territory; and, second, the decrease caused by the payment of war obligations. The decrease due to the latter cause is greater immediately after a war than the increase due to the former; but the normal increase, being a constant element, will finally overcome the decrease caused by the payment of war debts, and a point will be reached from which the annual expenditures will again increase.

In a speech delivered in the House of Representatives, January 23, 1872, I undertook to estimate the reduction that could be made in our expenditures, and to forecast the date at which a farther reduction of the annual amount would cease. I venture to quote a few paragraphs from that speech, both as an illustration of the operations of the law of expenditure, and of the risks one takes who ventures a prediction on such a subject.

"Throughout our history there may be seen a curious uniformity in the movement of the annual expenditures for the years immediately following a war. We have not the data to determine how long it was after the War of Independence before the expenditures ceased to decrease, that is, before they reached the point where their natural growth more than balanced the tendency to reduction of war expenditure; but in the years immediately following all our subsequent wars, the decrease has continued for a period almost exactly twice the length of the war itself. After the war of 1812 to 1815 the expenditures continued to decline for eight years, reaching the lowest point in 1823. After the Seminole war, which ran through three years, 1836, 1837, and 1838, the new level was not reached until 1844, six years after its close. After the Mexican war, which lasted two years, it took four years, until 1852, to reach the level of peace.

"It is perhaps unsafe to base our calculations for the future on these analogies; but the wars already referred to have been of such varied

<sup>1</sup> See *ante*, page 1.

character, and their financial effects have been so uniform, as to make it not unreasonable to expect that a similar result will follow our late war. If so, the decrease of our ordinary expenditures, exclusive of the principal and interest of the public debt, will continue until 1875 or 1876.

“ It will be seen by an analysis of our current expenditures that, exclusive of charges on the public debt, nearly fifty million dollars are expenditures directly for the late war. Many of these expenditures will not appear again, such as the bounty and back pay of volunteer soldiers, and payment for illegal captures of British vessels and cargoes. We may reasonably expect that the expenditures for pensions will hereafter steadily decrease, unless our legislation should be unwarrantably extravagant. We may also expect a large decrease in expenditures for the internal revenue department. Possibly, we may ultimately be able to abolish the department altogether. In the accounting and disbursing bureaus of the Treasury Department, we may also expect a further reduction of the force now employed in settling war claims.

“ We cannot expect so rapid a reduction of the public debt and its burden of interest as we have witnessed for the last three years; but the reduction will doubtless continue, and the burden of interest will constantly decrease. I know it is not safe to attempt to forecast the future; but I venture to express the belief that, if peace continues, the year 1876 will witness our ordinary expenditures reduced to \$135,000,000, and the interest on our public debt to \$95,000,000; making our total expenditures, exclusive of payment on the principal of the public debt, \$230,000,000. Judging from our own experience, and from that of other nations, we may not hope thereafter to reach a lower figure.”

Reviewing the subject in the light of subsequent experience, it will be seen that the progress of reduction of expenditures from the war level has been very nearly in accordance with these expectations of seven years ago. The actual expenditures since the war, including interest on the public debt, as shown by the official record, were as follows: —

1865 . . . . .	\$1,297,555,224.41	1872 . . . . .	\$277,517,962.67
1866 . . . . .	520,809,416.99	1873 . . . . .	290,345,245.33
1867 . . . . .	357,542,675.16	1874 . . . . .	287,133,873.76
1868 . . . . .	377,340,284.86	1875 . . . . .	274,623,392.84
1869 . . . . .	322,865,277.80	1876 . . . . .	258,459,797.33
1870 . . . . .	309,653,560.75	1877 . . . . .	238,660,008.93
1871 . . . . .	292,177,188.25	1878 . . . . .	236,964,326.80

Omitting the first of these years, in which the enormous payments to the army swelled the aggregate of expenses to \$1,297,000,000, and beginning with the first full year after the

termination of the war, it will be seen that the expenditures have been reduced, at first very rapidly, and then more slowly, from \$520,000,000, in 1866, to about \$237,000,000, in 1878. The estimate quoted above was, that in 1876 expenditures would be reduced to \$230,000,000, including \$95,000,000 for interest on the public debt. In 1877, one year later than the estimated date, the expenditures were \$238,000,000, including \$97,000,000 for interest on the public debt. It is evident that in 1877 we had very nearly reached the limit of possible reduction, for the aggregate expenditures of 1878 show a reduction below that of the preceding year of less than \$2,000,000; and the expenditures, actual and estimated, for the current year ending June 30, 1879, are \$240,000,000. It thus appears that 1878 was the turning-point from which, under the influence of the elements of normal growth, we may expect a constant, though it ought to be a small, annual increase of expenditures. But if the appropriations for 1880, most of which have already been made, are to be taken as an index of the future policy to be pursued by Congress, we are to see a sudden, capricious, and dangerously large increase.

It has been a slow and difficult work to force down the scale of expenditures made necessary by the war. Even as late as 1874, more than fifty per cent of all the payments over the national counter were made to meet war debts. Besides these payments, a large increase of ordinary expenses was made necessary by the war. From 1860 to 1865, the harbors, light-houses, and other public works in the States that went into rebellion, were of course wholly neglected by the national government. To restore, preserve, and place them again in a state of efficiency, has required unusually large expenditures since the war. Several new bureaus, such as that for assessing and collecting internal revenue, and that for engraving and printing the public securities, have been created; and a large increase of force in the several executive departments has been made necessary, to enable the government to audit the accounts and disburse the vast payments made necessary by the war.

In its relation to good government, the amount of expenditure authorized by law is not so important as the methods adopted by Congress for regulating the appropriation and disbursement of revenues. In the early history of the government, all appropriations for the year were made in one bill,

and in gross sums, to be expended by the several executive departments. Though the number of leading officers in each department was fixed by general statute, yet large discretion was given to the heads of departments, both in reference to the number of subordinates to be employed and to the special items of expenditure.

In his annual message of December 8, 1801, Mr. Jefferson called attention to the careless methods of appropriation which had been adopted by Congress, mentioning the fact that many clerks were employed, and their salaries fixed, at the discretion of the executive departments; and he urged upon Congress "the expediency of regulating that power by law, so as to subject its exercise to legislative inspection and sanction." In the following paragraph of that message, the necessity of Congressional control and limitation of appropriations, both as to amount and object, is admirably stated: —

"It would be prudent to multiply barriers against their dissipation, by appropriating specific sums to every specific purpose susceptible of definition; by disallowing all applications of money varying from the appropriation in object, or transcending it in amount; by reducing the undefined field of contingencies, and thereby circumscribing discretionary powers over money; and by bringing back to a single department all accountabilities for money, where the examination may be prompt, efficacious, and uniform."<sup>1</sup>

These wise suggestions were not adopted by Congress at that time, and the loose method of appropriating in bulk was continued for many years.

Until a recent date, Congress frequently empowered the President to order transfers of appropriations from one branch of the service to another. But this power was usually conferred for a limited time only. Occasionally a special bill was passed, making appropriations for a particular branch of the service; but in the main, during the first forty years of our history, the appropriations were made in one act, entitled "An Act making Appropriations for the support of the Government."

In 1823 the appropriations for fortifications were placed in a separate bill. In 1826 the appropriations for pensions were made in a separate bill. The first separate act for rivers and harbors appeared in 1828, and in 1844 the Post-Office and Deficiency Bills were first passed as separate acts.

<sup>1</sup> Jefferson's Works, Vol. VIII. pp. 10, 11.

In 1847 the appropriations were made in nine separate bills: Pensions, Fortifications, Indian, Military Academy, Army, Navy, Post-Office, Civil and Diplomatic, and Deficiency.

In 1856 the consular and diplomatic appropriations were embodied in a separate bill. In 1857 the Legislative, Executive, and Judicial Bill first appeared in the form which is still maintained. In 1862 a new bill was added, which has since been known as the Sundry Civil Bill, containing the various miscellaneous items not embraced in the other bills.

Since 1862 there have been twelve regular annual appropriation bills, as follows: Pensions, Legislative, Executive, and Judicial, Consular and Diplomatic, Army, Navy, Military Academy, Post-Office, Fortifications, Indian, Sundry Civil, Deficiency, and Rivers and Harbors.

In addition to these are the various relief acts making special appropriations. There is also a class of permanent appropriations authorized by general statute, which do not appear in the annual bills, such as payments of interest on the public debt, and payments on account of the sinking fund.

It will be seen from the foregoing, that, on the whole, there has been an increasing tendency to limit the discretion of the executive departments and bring the details of expenditure more immediately under the annual supervision of Congress; and this tendency has been specially manifest since the late war.

As all regular appropriation bills originate in the House of Representatives, the chief responsibility for the amounts authorized, and for the measures adopted to regulate and restrict the uses to which the revenues may be applied, rests with that body.

During the last four years the Democratic party has had control of legislation in the House; and a comparison of their management of this subject with the Republican management which preceded will not be without interest. Much credit is deservedly due to the Democrats in the Forty-fourth Congress for continuing the work of reduction which had been carried on by their Republican predecessors from 1865 down to and including the passage of the appropriation bills for the fiscal year ending June 30, 1876. On some subjects of reduction they could act more effectively and with less embarrassment than their Republican predecessors. They were less restrained

by party associations from reducing the official force in the departments.

The aggregate reduction of expenditures made by the Forty-fourth Congress for the fiscal years 1877 and 1878 was \$20,000,000. This includes all the reductions made by the executive departments, as well as those made by Congress. An apparent though not real reduction of \$1,500,000 was made by a change in the law relating to official postage-stamps. The last Republican House appropriated that sum for official postage for the several executive departments, charging the amount to the departments as an expenditure, and crediting the Post-Office Department with the face value of the stamps. This exhibited the whole transaction on one side of the ledger as revenue, and on the other as expenditure. The Forty-fourth Congress repealed that law, and authorized the departments to make requisitions upon the Postmaster-General for stamps, thus making an apparent reduction of \$1,500,000, without changing the actual facts in the case.

But the progress made in the direction of economy by the Forty-fourth Congress was far more than neutralized by the action of the last Congress. This will appear from a statement of the appropriations made during each of the four years of Democratic rule in the House. Omitting permanent appropriations, which do not appear in the annual bills, the appropriations voted during the last four years were as follows:—

For the fiscal year ending June 30, 1877, \$124,122,010.

For the fiscal year ending June 30, 1878, \$114,069,483.<sup>1</sup>

For the fiscal year ending June 30, 1879, \$146,304,309.

For the fiscal year ending June 30, 1880, \$161,808,934.

To this last amount should be added \$16,500,000, authorized by law at the last session but yet to be appropriated, to pay the arrears of pensions, which will swell the amount of the appropriations authorized for the next fiscal year to \$178,300,000. Even this large amount must be further increased by the deficiencies which will be required for that year. The appropriations authorized at the last session, not including these deficiencies, exceed by \$64,000,000 the amount voted at the last session of the Forty-fourth Congress, and considerably exceed those of any year since 1869. Of course, the arrears of pensions, which are estimated by the Secretary of the Treasury to

<sup>1</sup> No appropriations for rivers and harbors were made for this year.



amount to \$41,500,000, will not appear in the yearly expenditure hereafter; but the Secretary of the Interior estimates that the application of this law to all new pensions hereafter allowed will increase the annual Pension Bill four or five millions each year for some years to come.

As I have already shown, it would not have been reasonable to expect that the last Congress could continue to make reductions in the aggregate expenditures; but the increased amounts which have been authorized greatly exceed the limits of just economy.

In striking contrast with this increase of expenditures by Congress is the remarkable reduction of annual expenditures effected by the refunding operations of the Secretary of the Treasury. Since the 1st of March, 1877, the Secretary has sold four per cent bonds and four per cent certificates to the amount of \$803,095,700, and has redeemed and cancelled a like amount of six per cent and five per cent bonds, thereby reducing the annual coin interest on the public debt by the sum of \$13,638,651. This reduction was made possible by the legislation which brought resumption of specie payments, and has greatly strengthened the public credit at home and abroad.

Important as are the amounts expended for the public service, the legislative methods of making and regulating appropriations are perhaps even more important. I shall notice some of these, and also the efforts that have been made to reform them.

From the beginning of the government there has been a tendency on the part of Congress to neglect that clause of the Constitution which declares that no money shall be drawn from the Treasury but in consequence of appropriations made by law. This provision has been evaded by appropriating, for a given object, so much money as may be necessary, leaving the amount indefinite, and to be determined by the discretion of the executive departments. It was possibly not the purpose of the framers of the Constitution to compel Congress to act annually on all necessary appropriations. The only express limit in this direction was placed upon appropriations to raise and support armies, which should not be for a period longer than two years. As early as April 25, 1808, Congress passed an act appropriating an annual sum of \$200,000 to provide arms and military equipments for the militia of the United States; and this law has been the only authority for the expenditures which

have been made annually on that account ever since. If one appropriation may be made to run for seventy years without the supervision of Congress, the same method might be applied to all other appropriations except those for the army. The general rule of good government requires Congress annually to supervise all its appropriations. One exception is properly made to this rule. The payment of the interest on the public debt is made in pursuance of a permanent appropriation, in order that the public credit may not suffer from the neglect of Congress to make provision promptly, each year, for this class of obligations.

At the close of the war it was found that more than one half of all our expenditures were authorized by general and permanent laws, and did not come under the annual scrutiny of Congress. Prior to the act of March 3, 1849, the expenses of collecting the revenue from customs were paid out of the gross receipts, and only the balance was paid into the Treasury. The act of 1849 was intended to correct this vicious method, which offered so many opportunities for abuse. It required the gross receipts from customs to be paid into the Treasury, and estimates to be submitted to Congress for the expense of collecting the revenues. By the act of June 14, 1858, a backward step was taken. A permanent semiannual appropriation of \$1,800,000 was authorized, and authority was given to collectors to apply certain customs fees directly to pay the cost of collection. This unwise method of appropriation still continues; but since 1861 Congress has placed many restrictions upon the discretion of collectors and other customs officers, by regulating the number and salaries of employees.

The Internal Revenue Bureau, established in 1862, has been supported by annual appropriations made on detailed estimates, presented to Congress in the regular way. Prior to the passage of the act of June 20, 1874, the expenses of the issuing, reissuing, transferring, redemption, and destruction of securities of the United States were paid from the permanent appropriation of one per cent of all securities issued during each fiscal year. Some years these expenditures amounted to \$3,000,000, no part of which came under the previous scrutiny of Congress. By the act of June 20, 1874, all appropriations for that service were placed in the annual bills on regular estimates sent to Congress. Under the act of March 31, 1849, an indefinite appropriation

was made to pay for horses, vessels, and other property lost in the military service under impressment or contract; and large sums have been expended which do not appear in the annual bills. By the act of July 12, 1870, Congress attempted to repeal these permanent appropriations, and require estimates to be submitted for them; but the old law appears by some blunder to have been re-enacted in the revised statutes.

Prior to 1872, an appropriation once authorized by Congress remained on the books of the Treasury as a continuous appropriation, subject to be drawn upon at any time. The result was that the unexpended balances of one year could be drawn against for subsequent years; and these balances so accumulated in all the bureaus and departments that in the course of years they constituted a large and forgotten fund, which could be used for a great variety of purposes without the special notice of Congress. In a single bureau it was found that the unexpended balances, the accumulations of a quarter of a century, amounted in 1870 to \$36,000,000.

By a provision of law, offered by Mr. Dawes, chairman of the Committee on Appropriations, and approved July 12, 1870, it was enacted that all balances of appropriations contained in the annual bills, and made specifically for the service of any fiscal year, and remaining unexpended at its close, shall be applied only to the payment of expenses incurred during the year, or to the fulfilment of contracts properly made within that year. And balances not needed for such purposes shall be carried to the surplus fund, and at the end of two years from the date of the law by which they were authorized shall be covered into the Treasury. In carrying this law into effect, two years afterward, over \$174,000,000 of accumulated unexpended balances were covered into the Treasury at one time, and the temptation to extravagance which this great fund had offered was removed. By an act of June 20, 1874, the law was made still more stringent, and the old abuses which grew out of unexpended balances may be said to have been wholly suppressed.

In the same connection should be noticed a legislative device which has often been employed to cover up the actual amount of appropriations, under clauses by which unexpended balances are reappropriated without specifying the amount. The act of 1870 greatly reduced the scope of this pernicious habit. But indefinite reappropriations by Congress of balances which, under the

law of 1870 and 1874, cannot be used without renewed authority, have recently reappeared in our annual bills. The just and safe method is to appropriate specifically the expenditures which Congress is willing to authorize, so that the law shall itself show, as far as possible, both the object and the full amount of the appropriation.

One of the vicious party devices too often resorted to for avoiding responsibility for extravagance in appropriations is to cut down the annual bills below the actual amount necessary to carry on the government, announce to the country that a great reduction has been made in the interest of economy, and, after the elections are over, make up the necessary amounts by deficiency bills. This device has not been confined to any one party; for it requires not a little courage to make increased appropriations just before a Congressional election. But it is due to the Republican party to say that, during the last few years of their control in the House, the deficiency bills were smaller in the amounts appropriated than in any recent period of our history, having been reduced to \$4,000,000 for the fiscal year 1875, \$2,387,000 for the year 1876, and \$834,000 for 1877, — the last year for which the Republicans made the appropriations. This last sum was the smallest amount of deficiency in any year for more than a quarter of a century.

In contrast with this statement is the fact that, in the first year for which the Democratic House managed the appropriations, the deficiencies were \$2,500,000; the second year, \$15,213,000; and for the third (the current fiscal year), \$3,500,000 of deficiencies have already been appropriated, and a large deficiency must yet be provided for.

Notwithstanding all the efforts that have been made to specify and limit the objects of appropriations, the custom prevailed until 1874 of appropriating considerable sums to each department under the head of "Contingent Expenses," the disbursement of which was left to the discretion of the heads of bureaus and executive departments. But in one of the annual bills of 1874 all these appropriations were carefully classified; and definite amounts were granted for different specific purposes, so that the sums left to be expended at the discretion of bureaus of departments were greatly reduced. This practice has since been followed in making up the annual bills.

In further illustration of reckless methods of appropriation,

I cite two items in the legislation of Congress at the last session.

By the act of July 19, 1848, three months' extra pay was granted to the officers and soldiers of our volunteer army who were engaged in the war with Mexico, the purpose of the act being to pay each such soldier, on his discharge from the army, a sum necessary to cover the time that it would be likely to take him to return home and secure employment. About \$50,000 of this extra pay is still due, and a bill was introduced to appropriate a sufficient amount of money to complete the payment. An amendment was added to the bill, which so enlarged the provisions of the original act of 1848 as to grant three months' extra pay to all officers and soldiers of the regular army, and all officers, petty officers, seamen, and marines of the navy and revenue marine service, who were at any time employed in the prosecution of the Mexican war. This gratuity had never been asked for, and the provision probably passed without much notice of its real character. As estimated by the accounting officers of the Treasury Department, the amount appropriated by this act, thus enlarged, is \$3,500,000, while the sum actually due was only \$50,000.

The other instance marks the introduction of a still more dangerous kind of legislation. A bill was passed on the last day of the late session, creating an irredeemable debt of \$250,000, the annual interest of which is to be paid to the trustees of a "Printing-House for the Blind," at Louisville, Kentucky, an establishment chartered by the State of Kentucky. The act puts the appropriation in the form of a national obligation, which cannot be repealed without the repudiation of a portion of the public debt.

Perhaps the most reprehensible method connected with appropriation bills has resulted from a change of one of the rules of the House, made in 1876, by which any general legislation germane to a bill may be in order if it retrenches expenditures. The construction recently given to this amended rule has resulted in putting a great mass of general legislation upon the appropriation bills, and has so overloaded the committee in charge of them as to render it quite impossible for its members to devote sufficient attention to the details of the appropriations proper. If this rule be continued in force, it will be likely to break down the Committee on Appropriations, and disperse the

annual bills to several committees, so that the legislation on that subject will not be managed by any one committee, nor in accordance with any general and comprehensive plan.

It is of the first importance that one strong, intelligent committee should have supervision of the whole work of drafting and putting in shape the bills for the appropriation of public money. That committee ought, every year, to present to Congress and the country a general and connected view of what we may fairly call our budget, showing, not only the aggregate of expenditures, but the general distribution of revenue to the several objects to be supported. To accomplish this work thoroughly and comprehensively is all that any one committee can do; and any attempt to load general legislation upon their bills will be disastrous not only to general legislation, by making it fragmentary and incomplete, but especially so to the proper management of our fiscal affairs. This unwise rule furnished the temptation to the Democratic caucus to tack upon the two appropriation bills which failed at the last session of Congress the political legislation which has caused the extra session, and has done more to revive the unfortunate memories of the rebellion than any political event of the last ten years. The true policy is to separate all financial questions as far as possible from mere partisan politics, and bring to their discussion and management the best intelligence of all parties.

# THE DEMOCRATIC PARTY AND PUBLIC OPINION.

SPEECH DELIVERED IN CLEVELAND, OHIO,

OCTOBER 11, 1879.

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FELLOW-CITIZENS, — The distinguished gentlemen who have preceded me have covered the ground so completely and so admirably that I have a very easy task. I will pick up a few straws here and there over the broad field, and ask you for a few moments to look at them.

I take it for granted that every thoughtful, intelligent man would be glad, if he could, to be on the right side, believing that in the long run the right side will be the strong side. I take it for granted that every man would like to hold political opinions that will live some time, if he could. It is a very awkward thing indeed to adopt a political opinion, and trust to it, and find that it will not live over night. It would be an exceedingly awkward thing to go to bed alone with your political doctrine, trusting and believing in it, thinking it is true, and, waking up in the morning, find it a corpse in your arms. I should be glad, for my part, to hold a political doctrine that would live all through the summer, stand the frost, stand a freeze in the winter, and come out alive and true in the spring. I should like to adopt a political doctrine that would live longer than my dog. I should be glad to hold a political doctrine that would live longer than I shall live, and that my children after me might believe in as true, and say: "This doctrine is true to-day, and it was true fifty years ago when my father adopted it."

Every great political party that has done this country any good has given to it some immortal ideas that have outlived all the members of that party. The old Federal party gave great, permanent ideas to this country, that are still alive. The old Whig party did the same. The old, the very old Democratic

party did the same,—the party of Andrew Jackson, Benton, and Calhoun. But the modern Democratic party has given this country in the last twenty years no idea that has lived to be four years old. I mean an idea, not a passion. The Democratic party has had passions that have lasted longer than that. They have had an immortal appetite for office. That is just as strong to-day as it was twenty years ago. Somebody has called the Democratic party “an organized appetite”; but that is not an idea; it is of the belly, and not of the heart nor of the brain. I say again, they have given to this country no great national idea or doctrine that has lived to be four years old; and if we had in this park, as in a great field, herded together all the ideas that the party has uttered and put forth in the last twenty years, there would not be found a four-year-old in the lot,—hardly a three-year-old,—hardly a two-year-old. They have adopted a doctrine just to last till election was over; if it did not succeed, they have dropped it to try another; they have tried another until it failed, and then tried another; and it has been a series of mere trials to catch success. Whenever they have started in a campaign, they have looked at all the political barns to see how the tin roosters were pointing, to learn from the political weathercocks which way the wind was likely to blow; and then they have made their doctrines accordingly. This is no slander of the Democratic party. As my friend, Mr. Foster,<sup>1</sup> has said, this is true not so much of the body of the party as of the leaders. What a dance they have put the good, sound, quiet, steady-going Democrat through during the last twenty years! They made him denounce our war for a long time; and then, when it was all over, they made him praise it. They made him vote with a party that called our soldiers “Lincoln’s hirelings” and “Lincoln’s dogs”; and this very day one of the men who did that is parading up and down this State, praising the Democratic party because it has two soldiers at the head of its ticket, and sneering at us because Mr. Foster was not a soldier in the field.

That party has taken both sides of every great question in this country for the last twenty years. They are in favor of the war — after it is over. They are in favor of hard money,—or they will be next year, after it is an accomplished fact. They

<sup>1</sup> Hon. Charles Foster, in 1879 the Republican candidate for Governor of Ohio.



were opposed to greenbacks when greenbacks were necessary to save the life of the nation, and when they thought it would be popular to oppose greenbacks; but the moment they found it was unpopular, they faced the other way, and declared that the greenback was the best currency the world ever saw.

I should like to ask that good, old, quiet Democrat how he has felt when they have told him to vote against the war one year and then praise it the next; how he felt when they told him to curse greenbacks, and then to wheel right round on his heel and march the other way; and still he voted the Democratic ticket all the time. They told him, for example, that the proposition to let the negro have his freedom was an outrageous thing, that must not be listened to, and he voted the Democratic ticket. A little while after, they came round and said: "We will enforce all the amendments of the Constitution,—the negro amendment among the rest,—and we are among the best friends that the negro ever had." And yet he voted with them every time, facing first one way and then the other. When we proposed to give the ballot to the negro, they said: "Why, he is of an inferior race. God made him to be a hewer of wood and a drawer of water. He is inferior to us. He is of bad odor, and bad every way, of low intelligence, and we will never, never allow him to vote." What do they say now? They are cooing and billing with every negro that will listen to them, and asking him to vote the Democratic ticket. They are saying to him: "My friend, the Democratic party was always a good friend of the negro. The Democratic party knows the negro better than the Republicans do. We have been nearer to you. We know your habits. We understand your character, and we can do you more good." Yes, they have been nearer to you. The fellow that flogs you with a cat-o'-nine-tails has to be pretty near to you. He has a warm feeling for you. The man who brands your cheek with a red-hot iron gets up a good deal of warmth toward you.

But, my friends, the curious thing is, how a steady-going, consistent Democrat can have followed all these crooks and turns and facings-about of his party for all these years, and not have got dizzy by turning so frequently. They shouted for hard money, and he voted the Democratic ticket. They shouted for soft money, and he voted the Democratic ticket. They said the three amendments to the Constitution were void and should

not be enforced, and he voted the Democratic ticket. They walked right out to the next great election, bringing Horace Greeley in their arms, and saying, "We will carry out all the amendments to the Constitution, we will be the best friend of the negro in the world;" and he voted the Democratic ticket.

Now, my friends, there has not been a leading doctrine put forward by the Democratic party in all these years that it has not itself abandoned; there has not been a leading prophecy made by it which has not proved false. I do not believe there is a fair-minded Democrat here to-night who does not rejoice in his soul that his party has for the last twenty years abandoned its leading doctrines. Are you sorry, my Democratic friend, that slavery is dead? I believe you are not. Then you are glad that we outvoted you when you tried to keep it alive. Are you sorry that Rebellion and Secession are dead? If you are not, then you are glad that you were outvoted and overwhelmed when you tried to keep the party that sustained them alive. Are you glad that our war was not a failure? If you are, you are glad that we voted you down in 1864, when your central doctrine was that the war was a failure, and must be stopped. If you are glad of so many things, will you not be glad when we have voted down your party next Tuesday, and elected Charles Foster Governor of Ohio?

There are two great reasons why the people of this State are going to do it. One is, that they do not intend to allow any more fooling with the business of this country. For the last four years the chief obstacle in the way of the restoration of business prosperity, and the full employment of labor, has been the danger threatened by the politicians in Congress. Business has waited to awaken. Prosperity has been trying to come. General Ewing<sup>1</sup> tells us that it is Divine Providence and a good crop that brought the revival of business this year. I remind General Ewing that we had a bountiful crop last year, and business did not revive. I remind him that the year before we had a great harvest and plenty, and prosperity did not come.

Do you know that, when we commenced this campaign, General Ewing began to preach his old sermon of last year, — his gospel of gloom and darkness and distress and misery? and

<sup>1</sup> General Thomas Ewing, the Democratic candidate for Governor of Ohio in 1879.

some of his friends said, "But see here, General Ewing, the furnaces are aflame, the mills are busy, and it will not do to talk that these people are all in distress." And for a week or two he denied that there was any revival of business. He denied it flatly. But every mill roared in his ears, and every furnace and forge flashed in his eyes, the truth that there was a revival of business; and then for about four days he undertook to say that it was a campaign dodge of the Republican party,—that they had started up a few iron-mills until election to affect the election. But that would not work; for Democratic States began to start their iron-mills, business in the old Rebel States began to revive, and Mr. Ewing's second explanation failed. Then he undertook, and is yet undertaking, to explain this prosperity away. I lately heard a gentleman tell an incident that illustrates this futile attempt of Mr. Ewing's. England wanted Garibaldi to marry some distinguished English lady, so as to ally free Italy to England; they got it well talked up in diplomatic circles; but finally some unfortunate fellow suggested a fact that disturbed their calculations. It was that Garibaldi was married; that he had a young, healthy wife, likely to outlive him. The old diplomatists, not to be balked by any obstacles, said, "Never mind, we will get Gladstone to explain her away." Gladstone is a very able man, but when he attempts to explain away so real a thing as a woman, and a wife at that, he undertakes a great contract. Thomas Ewing is not any abler than Gladstone, and his attempt to explain away the prosperity of our country will be more disastrous than the attempt of Gladstone would have been, if he had made one. Everywhere he goes it meets him.

Pig-iron in this country, the lowest form of the iron product, has risen in price almost thirteen dollars a ton since resumption came; and all industries depending upon it have risen in proportion. My only fear, and I say it to the business men around me to-night, is that the revival of business is coming too fast,—that we may overdo it and bring a reaction by and by. But that prosperity has come, and, if we do not abuse it, has come to stay, I have no doubt. I do not claim that the resumption of specie payments has done it all; I admit that the favorable balance of trade, that the operation of our tariff laws, that our own great crops and the failure of crops in Europe, have done much to secure and aid this revival of business; but there

is an element in this revival distinctly and markedly traceable to the resumption of specie payments, and I ask your indulgence while I state it.

All over this country there was hidden away in stocking-feet, in tills, in safes, capital that the owners dared not invest. Why? Because they did not know what Congress would do; whether it would vote their prosperity up or down; whether the wild vagaries of fiat money would rule, or whether the old dollar of the Constitution and the fathers, the hundred-cent dollar, the dollar all round, should come to be our standard; and so they waited. But the moment our government, in spite of the Democratic party, in spite of the fiat-money party, in spite of all croakers of all parties, resolved to redeem the great war promises of the nation, and lift our currency up to the level of gold the world over, that moment the great needed restoration of confidence came; and when it came, capital came out of its hiding-places and invested itself in business. And that investment, that confidence, that stability, gave the grand and needed impetus to the restoration of prosperity in this country.

Now, what has been the trouble with us? The year 1860 was one shore of prosperity, and 1879 the other; and between those two high shores has flowed the broad, deep, dark river of fire, and blood, and disaster, through which this nation has been compelled to wade, and in whose depths it has been almost suffocated and drowned. In the darkness of that terrible passage we carried Liberty in our arms; we bore the Union on our shoulders; and we bore in our hearts and on our arms what was even better than Liberty and Union,—we bore the faith and honor and public trust of this mighty nation. And never until we came up out of the dark waters, out of the darkness of that terrible current, and planted our feet upon the solid shore of 1879,—never, I say, until then could this country look back to the other shore and feel that its feet were on solid ground, and then look forward to the rising uplands of perpetual peace and prosperity that should know no diminution in the years to come.

I rejoice, for my part, that the party to which I belong has not been fighting against God in this struggle for prosperity. I rejoice that the party to which I belong has not had its prospects hurt by the coming of prosperity. Can you say as much, my Democratic friend, for your party? Would it not be better

for you at the polls next Tuesday if the blight had fallen upon our great corn crop, — if the Colorado beetle had swept every potato-field in America, — if the early frost had smitten us all? Do you not think Mr. Ewing could then have talked more eloquently about the grief, suffering, outrage, and hard times brought upon you by the Republican policy of resumption? I should be ashamed to belong to a political party whose prospects were hurt by the blessing of my country.

But so it was all through the war. Just before an election in Ohio, any time during the war, a great victory over the Rebellion hurt the Democratic party in this State; and Democrats walked about our streets looking down their noses in sadness and gloom, recognizing that their ballots would be fewer on election day, because of the success of our arms; and if our soldiers were overwhelmed in battle, — if five thousand of your children were slaughtered on the field by the enemies of the republic, — the Democrats in Ohio walked more confidently to the polls on election day, and said, "Did n't I tell you so?" There is something wrong with a party about which these things can be truthfully said; and you know that they are the truth.

Now, I leave all that with this single reflection, — that it is to me and to my party a matter of pride and congratulation that, in all the darkness of these years, we have not deceived you by any cunning device to flatter your passions or your hopes. We told you, "These are hard times; we are in the midst of suffering; and there is no patent process by which you can get out of it. You cannot print yourselves rich. You have got to suffer and be strong. You have got to endure and be economical. You have got to wait in patience and do justice, keep your pledges, keep your promises, obey the laws, and by and by prosperity will come with its blessings upon you." We have now nothing to take back. We rejoice that we were true to you in the days of darkness, and we congratulate you that you have stood by the truth until your hour of triumph has come.

I said there were two reasons why I thought we should triumph next Tuesday. I have stated one; I will now speak briefly of the other.

I mean to say that the great audiences that have gathered everywhere in Ohio during this campaign have had more than finance in their hearts. They have thought of something as

much higher than finance, as liberty is more precious than cash. They have been moved—and I ask all Democrats to hear it with patience—by what I venture to call the new rebellion against liberty and this government. I do not mean a rebellion with guns, for I think that was tried to the heart's content of the people that undertook it. Not that, but another rebellion no less wicked in purpose, and no less dangerous in character. Let me try, in a few words,—if it be possible to reach all this vast audience,—to make you understand what I mean by this new rebellion.

Fellow-citizens, what is the central thought in American political life? What is the germ out of which all our institutions were born, and have been developed? It is the principle that the freely expressed will of the majority shall be the law of all,—that all shall obey. This is American doctrine, and pre-eminently New England doctrine. When the *Mayflower* was about to land her precious freight upon the shore of Plymouth, the Pilgrim fathers gathered in the cabin of that little ship on a stormy November day, and, after praying to Almighty God for the success of their great enterprise, drew up and signed what is known in history as the "Pilgrim Compact." That compact closes with the declaration, "unto which we promise all due submission and obedience." Likewise Roger Williams and the Associates of Providence, in their compact of 1636, promised in all civil things to subject themselves in active and passive obedience to all such orders or agreements as should be made for the public good of the body, in an orderly way, by the major consent of the inhabitants, masters of families incorporated together into a township. [Here there was great applause.] Ah, fellow-citizens! it does honor to the heads and the hearts of a great New England audience here, on this Western Reserve, to applaud these grand and simple sentiments of the fathers. They said, in effect: "No standing army shall be needed to make us obey. We will erect here in America a substitute for monarchy, a substitute for despotism, and that substitute shall be the will of the majority as the law of all." And that germ, planted on the rocky shores of New England, has sprung up, and all the trees of our liberty have grown from it into the beauty and glory of this year of our life.

Over against that there grew up in the South a spirit in absolute antagonism to the "Pilgrim Compact." That spirit, engen-

dered by the institution of slavery, became one of the most powerful and despotic of all the forces on the face of this globe. Let me state, even as an apology for that tyranny, if you and I owned a powder-mill in the city of Cleveland, we should have a right to make some very stringent and arbitrary rules about that powder-mill. We should have a right to say that no man should enter it who had nails in the heels of his boots, because a single step might explode it, and ruin us all. But that would be an absurd law to make about your own house, or about a green-grocer's shop.

Now, the establishment of the institution of slavery required laws and customs absolutely tyrannical in their character. Nails in the heels of your boots in a powder-magazine would be safety compared with letting education into slavery. It was an institution that would be set on fire by the torch of knowledge, and the South knew it; and therefore they said: "The shining gates of knowledge shall be shut everywhere where a slave lives. It shall be a crime to teach a black man the alphabet,—a crime greater still to teach him the living oracles of Almighty God; for if once the golden rule of Christ finds its way into the heart of a negro man, and he learns the literature of liberty, our institution is in danger." Hence the whole Southern people became a disciplined, banded, absolute despotism over the politics of their section. They had to be. I do not blame them; I only blame the system that compelled them to be so. Hence, before the war they were the best disciplined politicians in this world. They were organized on the one great idea of protecting their Southern society, with slavery as its foundation.

Do you know the power of discipline? Here is a vast audience of ten or fifteen thousand people in this square, and you are not organized. One resolute captain, with one hundred resolute, disciplined soldiers, such as stormed the heights of Kenesaw, could sweep through this square, and drive us all out hither and thither at his pleasure. And that is nothing against our courage. It is in favor of their discipline. The clinched fist of Southern slaveholders was too much for the great, bulky, undisciplined strength of the North. They went to Washington consolidated for one purpose, and they called all their fellows around them from the North, and said, "Give way to our doctrine, and you have our friendship and support; go against us, and we rule you out of place and power." The result

was that the Southern politicians absolutely commanded and controlled their Northern allies. They converted the Northern Democrats into doughfaces of the most abject pattern; and you know here to-night, if there be a Democrat who listens to me, that the Republican party was born as a protest against the tyranny of that Southern political hierarchy that made slaves of all Northern Democrats. To a great extent the Republican party was made up twenty-five years ago of Democrats that would no longer consent to be slaves.

Now, why am I going into this long recital concerning the past? For this purpose. After the war was over and reconstruction completed, this same Southern political hierarchy came back to Washington, and to-day they are as consolidated as the slaveholding politicians of 1860 and 1861 were. To-day they hold in their grip absolutely all the Northern members of their party. The Northern doughface has again appeared in American politics, and he is found wherever a Democratic Congressman sits. I say without offence, it is the literal truth that this day there is not in all this country an absolutely free and independent-minded Democratic member of either house of your Congress at Washington.

Now, let me go back for a moment and return to this point with a reinforcement.

Are you aware that there is one thing that can kill this country, and kill it beyond all hope? That one thing is the destruction or enslavement of its voting population. The voting population is the only sovereign in the United States. You talk about the States as sovereign States, or even as sovereign nations. A corporation is not a sovereign. The corporation that we call Ohio was made by the people, and they are its sovereigns. Even the grand corporation that we call the United States was created also by the people, who are its superiors and its only sovereigns. Now, therefore, if anything happens in this country to corrupt, enslave, or destroy the voters of the United States, that is an irreparable injury to Liberty and the Union. If in Europe they slay a sovereign, one man is killed and another can be found to take his place; but when they slay our sovereign, there is no heir to the throne,—our sovereign has no successor.

Well, now, that is rather general, but I ask you to come down to particulars. Let me make this statement to you: in



1872, only seven years ago, in the eleven States that went into rebellion there were cast, at a free and fair election, 759,000 Republican votes and 650,000 Democratic votes. There is liberty for you! There are a million and a third of free voting citizens casting their ballots for the men of their choice! This country has been growing in population the last seven years, but let me tell you what calamity has happened to us. In those same eleven late Rebel States there have disappeared apparently from the face of the earth four hundred thousand American voters. Fellow-citizens, that is an awful sentence which I have just spoken in your hearing. I repeat it. In eleven States of this Union there have disappeared apparently from the face of the earth four hundred thousand American voters. Where have they gone? They are all Republicans. Have they gone to the Democratic party? No; for the Democratic party in those States has also lost some of its voters. What has happened? I will tell you. That spirit of Southern tyranny, that old spirit of despotism born of slavery, has arisen and killed freedom in the South. It has slain liberty in at least seven of the eleven States of the South.

It happened in this wise. In 1872, in five States of the South we had an overwhelming and a fair majority of Republican votes. For example, in the State of Mississippi, at the Congressional election of 1872, there were thrown 80,803 Republican votes, and there were thrown 40,500 Democratic votes. That was a fair test of the strength of the two parties. Five Republicans and one Democrat were elected to Congress from the State of Mississippi. Six years passed, and in 1878 there were just 2,056 Republican votes cast in the State of Mississippi. How many Democratic votes? Thirty-five thousand. The Democratic vote had fallen off 5,000, the Republican had fallen off 78,000 votes. Where had the 78,000 Republican voters gone? I will tell you. The Rebel army, without uniforms, organized itself as Democratic clubs in Mississippi, and, armed with shot-guns and rifles, surrounded the houses of Republican voters, with the muzzles of their guns at their heads, in the night, and said, "You come out and vote, if you dare; we will kill you when you come." And all over the State of Mississippi the Democratic party, being the old Rebel army, deployed itself among the cabins of the blacks, and killed liberty everywhere throughout that State.

Why, in a district of Mississippi where, in 1872, fifteen thousand Republican votes were polled, and eight thousand Democratic, there were but four thousand votes polled for a Rebel general, and twelve scattering votes polled for other people. Not one Republican vote was put in a box in all the district. So it was in Alabama. So it was in Louisiana, in part. So it was in the two Carolinas. The result was four hundred thousand voters substantially annihilated. And the further result was this: thirty Democratic Rebels elected to the House of Representatives in Republican districts, where Liberty had first been slain; and to-day there are thirty members of Congress, not one of whom has any more right to sit there and make laws for you and me, than an inhabitant of that jail has a right to go there and make laws for us. They were not created Congressmen by virtue of law, but by virtue of murder, assassination, riot, intimidation; and on the dead body of American Liberty they stand and make laws for you and me. That gives them the House. That gives them the Senate. That gives the old slave power and the old Rebel power its grip again on the country, and it makes what we call the Solid South. I am talking plain talk. I am talking words that I expect will be read by every gentleman in Congress whom I am to-night denouncing. I expect to meet those gentlemen and make good every word I say.

Now, what purpose has this Solid South in thus grasping power and killing liberty? This: they are determined to make their old "lost cause" the triumphing cause. Who is their leader to-day? By all odds the most popular man south of Mason and Dixon's line is Jefferson Davis of Mississippi. He is to-day their hero and their leader; and I will give you my proof of it.

Do you know that our friend General Rice<sup>1</sup> has been making a great deal of small capital out of the fact that he introduced an Arrears of Pensions Bill for soldiers? You all know what kind of a bill that was. It was a bill granting arrears of pensions to our soldiers; but it also granted arrears of pensions to all Rebel soldiers who had fought in the Mexican war. We had made a law that the name of a man who had taken up arms against his country should be stricken from our pension rolls, and he should receive no money out of our treasury. That law

<sup>1</sup> The Democratic candidate for Lieutenant-Governor in Ohio in 1879.

Mr. Rice's bill repealed in so far as it related to soldiers of the Mexican war, and he knew and was told plainly that his bill included Jefferson Davis as one of the pensioners to be helped; and even in that Rebel Congress there were many Democrats who could not quite be brought up to the point of voting to pension Jefferson Davis: hence Mr. Rice's bill hung in the committee, and was not reported. Then a Republican member of the House moved to discharge the committee from the consideration of the whole subject. He introduced a bill that did not have Jefferson Davis in it, but had only our soldiers in it; and that bill, not Mr. Rice's, passed. But when that bill reached the Senate, a Democrat moved to add the Rice section, which covered all Rebel pensioners under its provisions; and then it was that Mr. Hoar of Massachusetts called the attention of the United States Senate to the fact that that amendment would include Jefferson Davis, and he moved an amendment to the amendment, that it should not be so construed.

What followed? Immediately there sprang to his feet our Ohio Senator. I blush for my State when I repeat it. Allen G. Thurman rose to his feet and said, the Democratic legislature of Ohio had instructed him to vote to pension the soldiers of the Mexican war, and they did not instruct him to make an exception against Jefferson Davis, and therefore he should vote against Mr. Hoar's amendment. Thereupon Mr. Hoar spoke against the amendment that would pension Jefferson Davis, and the moment he did it there sprang up all over that chamber champions and defenders of Jefferson Davis. The tomahawks literally flew, or rather metaphorically flew, everywhere at the head of any Republican who dared to suggest that the government ought not to pension Davis. Mr. Lamar of Mississippi, an eloquent and able Senator, rose in his place, and said that from the days of Hampden to the days of Washington a purer patriot and a nobler man than Jefferson Davis of Mississippi had not lived on this earth. Man after man exhausted his eloquence in defending and eulogizing the arch-rebel, who plunged this country into oceans of blood. I give you this history to show the spirit that animates the men who rule in Congress to-day.

Now let me say a word more that connects what I am saying with the old story of the days before slavery was dead. I have been sixteen years a member of the House of Representatives, and in all that period I have never once known — and my friends

here on the stand can testify to the same in their experience — the members of the Republican party to bind themselves in a caucus to support any bill before Congress. I have seen it tried once or twice, but I have always seen dozens of Republicans spring to their feet, and say, "We are free men, and we will vote according to the interests of our constituents and the dictates of our consciences, and no caucus shall bind us." But the moment the Democratic party got back into power again, that moment they organized the caucus, — the secret caucus, the oath-bound caucus; for in the recent extra session they actually took oaths not to divulge what occurred in caucus, and to be bound by whatever the caucus decreed. And I have known man after man, who had before sworn by all the wicked gods at once that he would not be bound to vote for a certain measure, walk out of the caucus like a sheep led to the slaughter, and vote for the bill that he had cursed. They brought forward bills at the extra session so full of manifest errors that, when we pointed them out, they would admit in private that they were errors which ought to be corrected, but they would say, "We have agreed to vote for it without amendment, and we will." We pointed out wretchedly bad grammar in bills, and they would not even correct this grammar, because the caucus had adopted it. Now, therefore, gentlemen, the Congress of the United States is ruled by a caucus. It has ceased to be a deliberative body. It is ruled by a secret caucus, and who rules the caucus? Two thirds of its members are men who fought this country in war, who tried to destroy this nation, and who to-day look upon Jefferson Davis as the foremost patriot and highest political leader in America. Therefore, the leadership which rules you is the rebellion in Congress.

Well, now, what of that? This is not all. They look over the field of 1880 and see that they have in their hands the Solid South, and that they lack only one thing more. They lack thirty-seven electoral votes to add to their one hundred and thirty-five; and if they can get them they have captured the offices of the government and have captured the Presidency. Then the South will have the whole control of this republic in its hands.

Now, how are they going to get the thirty-seven electoral votes? There are two States that can supply them, New York and Ohio. If they can get those two States next year, they

have indeed captured the government. [A voice, "They can't have them!"] This good friend says they can't have them. They cannot get them in this audience. This is not the place to capture the State of Ohio for Rebel brigadiers. They cannot capture it in any of the great agricultural counties of Ohio, for they are sound and true to the Union, and loyal to their heart's core. They cannot go into the central parts of patriotic New York and capture the thirty-seven votes. But I will tell you, fellow-citizens, what they hope to do, and there is one way in which they may succeed. Let me stop and say one single word to you about the great cities.

Thomas Jefferson said that great cities were the sores — the cancers — on the body politic. A city of the size of Cleveland has its troubles. A great city in this country, like the city of New York, has passed the bounds of safety. The ablest orator that Rome ever produced, in describing the political party led by Catiline, said that all the bankrupts, all the desperadoes, all the thieves and robbers and murderers, gathered round Catiline; and, finally, in a horrible figure of tremendous power, declared that the party of Catiline was "the bilge-water of Rome." What a figure that is, my friends! What do you mean by "bilge-water"? That water which leaks stealthily through the planks of your ship, and down below the decks; and in the darkness, out of sight, out of reach, it reeks and stagnates and stinks, breeds pestilence and brings death upon all that are on board. Cicero said that that party which gathered in Rome was "the bilge-water of Rome"; and into the bilge-water in the cities of Cincinnati and New York the Democratic party desire to insert their political pumps and pump out the hell-broth that can poison and corrupt and ruin the freedom of both these great cities, and gain them to the Solid South. That is the programme. If they can get control of the elections, they will make both those cities strongly enough Democratic to overwhelm all the votes that the green lanes of our country can grow.

Now what is in the way of that? Just two things. The United States has passed a law to put a Democrat at one side of the ballot-box in the great cities, and a Republican at the other side; and it empowers those two men, not to control the election, but to stand there as eyes of the government and look, — look first to see that the ballot-box is empty when they be-

gin, and then into the face of every man who votes; and, if he comes twice to vote, record it, have him brought before the judge, and sent to the penitentiary for his crime. The two men are to stay there until the polls are closed, and not allow the ballot-boxes to be sent off and the vote to be counted in secret by partisan judges, but cause it to be opened and the votes to be counted in the light of day, recorded, and certified to by the Republican and Democratic officers, so that the purity of the ballot-box shall not be outraged and freedom shall not be slain.

No juster law than that was ever passed on this continent. It saved New York from the supremest of crimes. It elicited, even from a Democratic committee of which A. V. Rice was a member, the highest possible encomium in 1876. And he and S. S. Cox, of New York, in an official report to Congress, recommended to all parts of the country the admirable election law of Congress that brought into unison and co-operation the officers of the State and the officers of the nation, in keeping a pure ballot and a free election in the great cities. That is what the Democratic party said of this law in 1876. But their masters of the caucus had not then given out their decree. They have now given it; the decree from the secret caucus, the decree from their old slave-masters, has now gone forth: "Take those two men away from the ballot-box; wipe out the election law, so that the Tweeds of New York and the Eph Hollands of Cincinnati may have free course to do the work and 'fix' 1880 in their own way." That is the programme of the Rebel brigadiers in Congress.

I understand that General Ewing said here, the other night, that he was amazed to hear Republicans talk as though they were afraid of a few Rebel brigadiers. It was not so surprising, he said, that our friend Foster should be afraid of them (throwing a slur at him because he was not in the army), but he was surprised that General Garfield should be alarmed at the brigadiers. I am here to answer General Ewing. As to who is afraid of brigadiers, let him boast who has the first need to boast. But there are some things that I am afraid of, and I confess it in this great presence. I am afraid to do a mean thing. I am afraid of any policy that will let the vileness of New York city pour its foul slime over the freedom of the American ballot-box and ruin it. And the man that is not afraid of that, — I am ashamed of him.

Now, how to get those two men away from the ballot-box is the Rebel problem. If they get them away, the Solid South has triumphed; if they get them away, "the lost cause" has won, and Jefferson Davis is crowned the foremost man in America. If they get them away, good by for a generation to come to the old "Pilgrim Compact" and the doctrine of the right of the majority to rule.

Now, how did they undertake to get them away? In this way. They said to us: "At last we have the control of the treasury. No money can be used to support the government unless we vote it by an appropriation. Now, we tell you that we will never vote one dollar to support the government until you join us in tearing down that election law, and taking away those two witnesses from the polls." That is what they told us.

Then we answered them thus: "Eighteen years ago you were in power in this Congress, and the last act of your domination was to tell us that, if we dared to elect Abraham Lincoln President, you would shoot our government to death; and we answered, 'We are free men, begotten of freedom, and are accustomed to vote our thoughts; we believe in Abraham Lincoln, and will elect him President.' And we did. And then eleven great States declared that they would shoot the Union to death; and, appealing to the majesty of the great Northland, we went out into a thousand bloody battle-fields, shot the shooters to death, and saved this Union alive. For eighteen years you have been in exile, banished from power, but now, by virtue of murder and assassination and the slaying of liberty, you have come back; and the first act you do on your return is, not courageously to dare us out to battle, but, like assassins, cowards, murderers, you come to us and say, 'With our hand on the throat of your government, we will starve it to death if you do not let us pluck down the sacred laws that protect the purity of elections.' And by the sacred memories of the war, we reply, 'You shall not starve this government to death, nor shall you tear down this law. The men that saved it in battle will now feed it in peace. The men that bore it on their shields in the hour of death will feed it with the gift of their hands in the hour of its glory.'" And they said, "You shall try it." Then they passed their iniquitous bill. They took the bread of the government, spread upon it the poison of the bilge water of New York and Cincinnati, and they said to the government, "Eat

this or starve." They carried the bill through the House and through the Senate, and it went to an Ohio Republican who sits in the seat of great Washington, whose arm is mailed with the thunderbolt of the Constitution; and he hurled his veto against the wicked bill, and killed it. Five times they tried the bill, and five times he killed with the power of the Constitution the wickedness they sought to perpetrate. And then, like cowards as they were, they passed all the appropriations but six hundred thousand dollars, and said, "We will come back to this subject next winter, and we will never give it up until we conquer you; and in the mean time," they said, "we will appeal to the people at the ballot-box." They are now making that appeal. And so are we. That is what we are here for to-night. And it is that appeal that awakens this people as it has never been awakened before since the days of Vallandigham and Brough, especially Brough. In the presence of this people, in the heart of this old Reserve, I feel the consciousness of our strength and the assurance of our victory.

Now, fellow-citizens, a word before I leave you, on the very eve of the holy day of God,— a fit moment to consecrate ourselves finally to the great work of next Tuesday morning. I see in this great audience to-night a great many young men,— young men who are about to cast their first votes. I want to give you a word of suggestion and advice. I heard a very brilliant thing said the other day by a boy in one of our northwestern counties. He said to me, "General, I have a great mind to vote the Democratic ticket." That was not the brilliant thing. I said to him, "Why?" "Why," said he, "my father is a Republican, and my brothers are Republicans, and I am a Republican all over; but I want to be an independent man, and I don't want anybody to say, 'That fellow votes the Republican ticket just because his dad does,' and I have half a mind to vote the Democratic ticket just to prove my independence." I did not like the thing the boy suggested, but I do admire the spirit of a boy who wants to have some independence. Now, I tell you, young man, do not vote the Republican ticket just because your father votes it. Do not vote the Democratic ticket, even if he does vote it. But let me give you this one word of advice, as you are about to pitch your tent in one of the great political camps.

Your life is full and buoyant with hope now, and I beg you,



when you pitch your tent, pitch it among the living, and not among the dead. If you are at all inclined to pitch it among the Democratic people, let me go with you for a moment while we survey the ground where I hope you will not shortly lie. It is a sad place, young man, for you to put your young life. It is to me far more like a graveyard than a camp for the living. Look at it! It is billowed all over with the graves of dead issues, of buried opinions, of exploded theories, of disgraced doctrines. Here are the tombs of Squatter Sovereignty, the Dred Scott Decision, Slavery, the Rebellion, State Sovereignty, Secession, and opposition to the war. You cannot live in comfort in such a place. But before I leave this graveyard I must point out to you a new-made grave, a little mound,—short. The grass has hardly sprouted over it, and all around it I see torn pieces of paper with the word “fiat” on them; looking down in curiosity, and wondering what the little grave is, I read: “Sacred to the memory of the Rag Baby; nursed in the brain of fanaticism; rocked by Thomas Ewing, George H. Pendleton, Samuel Cary, and a few others throughout the land. But it died on the 1st of January, 1879, and the one hundred and forty millions of gold that God made, and not fiat power, lies upon its little body to keep it down forever.”

O, young man, come out of that camp! That is no place in which to put your young life. Come out, and come over into this camp of liberty, of order, of law, of justice, of freedom, of all that is glorious under these night stars.

Is there any death here in our camp? Yes! yes! Three hundred and fifty thousand soldiers, the noblest band that ever trod the earth, died to make this camp a camp of glory and of liberty forever. But there are no dead issues here. There are no dead ideas here. Hang out our banner under the blue sky this night until it shall sweep the green turf under your feet! It hangs over our camp. Read away up under the stars the inscription we have written on it, lo! these twenty-five years. Twenty-five years ago the Republican party was married to liberty, and this is our silver wedding, fellow-citizens. A worthily married pair love each other better on the day of their silver wedding than on the day of their first espousals; and we are truer to liberty to-day and dearer to God than we were when we spoke our first word of liberty. Read away up under the sky, across our starry banner, that first word we

uttered twenty-five years ago! What was it? "Slavery shall never extend over another foot of the territories of the Great West." Is that dead or alive? Alive, thank God, forevermore! And truer to-night than it was the hour it was written! Then it was a hope, a promise, a purpose. To-night it is equal with the stars, — immortal history and immortal truth.

Follow the glorious steps of our banner. Every great record that we have made, we have vindicated with our blood and with our truth. It sweeps the ground, and it touches the stars. Come here, young man, and put in your young life where all is living, and where nothing is dead but the heroes that defended it. I think these young men will do that.

Gentlemen, we are closing this memorable campaign. We have got our enemies on the run everywhere; and all you need to do in this noble old city, this capital of the Western Reserve, is to follow them up and finish the campaign by snowing the Rebellion under once more. We stand on an isthmus. This year and next is the narrow isthmus between us and perpetual victory. If you can win now, and win in 1880, then the very stars in their courses will fight for us. The census will do the work, and will give us thirty more free men of the North in our Congress that will make up for the rebellion of the South. Stand in your places, men of Ohio! Fight this battle, win this victory, and then one more puts you in safety forever!

## ZACHARIAH CHANDLER.

REMARKS MADE IN THE HOUSE OF REPRESENTATIVES,

JANUARY 28, 1880.

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THE following Resolutions were received from the Senate, pending which Mr. Garfield made these remarks.

“ IN THE SENATE OF THE UNITED STATES, January 28, 1880.

“ *Resolved*, That the Senate received with profound sorrow the announcement of the death of Zachariah Chandler, late a Senator of the United States from the State of Michigan, and for nearly nineteen years a member of this body.

“ *Resolved*, That, to express some estimate held of his eminent services in a long public career, rendered conspicuous by fearless, patriotic devotion, the business of the Senate be now suspended, that the associates of the departed Senator may pay fitting tribute to his public and private virtues.

“ *Resolved*, That the loss of the country, sustained in the death of Mr. Chandler, was manifest by expressions of public sorrow through the land.

“ *Resolved*, That, as a mark of respect for the memory of the dead Senator, the members of the Senate will wear crape upon the left arm for thirty days.

“ *Resolved*, That the Secretary of the Senate communicate these Resolutions to the House of Representatives.

“ *Resolved*, That, as an additional mark of respect for the memory of the deceased, the Senate do now adjourn.”

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MR. SPEAKER, — It cannot be too late, however late the hour, to pay our tribute of respect and affection to the memory of Zachariah Chandler.

There is a thought in connection with his life and the history of his State which has been referred to by the gentleman from

New Jersey,<sup>1</sup> and which may be still further developed. It only lacks two years of being a full century since Lewis Cass was born, and he and Zachariah Chandler have filled seventy-three years of that period with active prominent public service. And through all those seventy-three years there has shone like a star, in both their lives, the influence of one great event.

In the stormy spring of 1861, when the foundations of the republic trembled under the tread of assembling armies, I made a pilgrimage to the home of the venerable Lewis Cass, who had just laid down his great office as chief of the State Department, and for an hour I was a reverent listener to his words of wisdom. And in that conversation he gave me the thought which I wish to record. He said: "You remember, young man, that the Constitution did not take effect until nine States had ratified it. My native State was the ninth. It hung a long time in doubtful scale whether nine would agree; but when, at last, New Hampshire ratified the Constitution, it was a day of great rejoicing. My mother held me, a little boy of six years, in her arms at a window, and pointed me to the bonfires that were blazing in the streets of Exeter, and told me that the people were celebrating the adoption of the Constitution. So," said the aged statesman, "I saw the Constitution born, and I fear I may see it die."

He then traced briefly the singular story of his life. He said: "I crossed the Alleghany Mountains and settled in your State of Ohio one year before the beginning of this century. Fifty-four years ago I sat in the General Assembly of Ohio. In 1807, I received from Thomas Jefferson a commission as United States Marshal, which I still preserve, and am probably the only man living to-day who bears a commission from Jefferson's hand." And so, running over the great retrospect of his life, and saddened by the bloody prospect that 1861 brought to his mind, he said: "I have loved the Union ever since the light of that bonfire greeted my eyes. I have given fifty-five years of my life, and my best efforts, to its preservation. I fear I am doomed to see it perish."

But a better fate awaited both him and the Union. Another son of New Hampshire took up the truncheon of power from his failing hand, and with the vigor of youth and liberty maintained and defended the Union through the years of its suprem-

<sup>1</sup> Mr. Robeson.

est peril. Zachariah Chandler, whose birthplace was not more than thirty miles distant from that of Lewis Cass, entered upon duty as Michigan's Senator with the vigor of young and hopeful manhood. And he pushed forward that great work until his last hour, and died in the full glory of its achievement. The State of New Hampshire may look upon this day and these names we celebrate as her special pride and glory.

The great Carlyle has said that the best gift God ever gives to men is an eye that can really see; and that only a few men are recipients of this gift. I venture to add, that an equally rare and not less important gift is the courage to tell just what one sees. Besides having an eye, Zachariah Chandler was endowed in an eminent degree with the courage to tell just what he saw.

If from these seats, Mr. Speaker, every Representative should speak out the very inmost thought of the people he represents, this hall would be luminous with the spirit and aspirations of the American people. The ruling principle of Mr. Chandler's life was this: that what he saw in public affairs he uttered, and having said it stood by it, not with malice or arrogance, but with the sturdiness of thorough conviction. To a stranger he might, perhaps, appear rugged and harsh, even to cruelty; yet his heart was full of gentleness when he had satisfied his sense of duty.

As a political force, Mr. Chandler may be classed among the Titanic figures of history. The Norsemen would enroll him as one of the heroes in the halls of Valhalla. They would associate him with Thor and his thunder-hammer. The Romans would associate him with Vulcan, who made the earth tremble under the weight of his strokes.

He was not an orator in the ordinary sense of fine writing and graceful delivery; but in the clearness of his conceptions, and the courage and force with which he uttered them, he was a most remarkable speaker. What man have we known, who, without specially cultivating the graces of oratory, was able to condense into ten minutes a more enduring speech than the one which he delivered at the extra session of 1879? Under the pressure of his intense mind, an hour of ordinary speech was condensed into a sentence.

Mr. Chandler was emphatically a man with a belief. In the minds of most men the kingdom of opinion is divided into three

territories, — the territory of yes, the territory of no, and a broad, unexplored middle ground of doubt. That middle ground in the mind of Mr. Chandler was very narrow. Nearly all his territory was occupied by positive convictions. On most questions his mind was made up more completely than that of any man whom I have known. His was an intense nature, —

“Dowered with the hate of hate, the scorn of scorn,  
The love of love.”

It is curious to observe that, as a general rule, long service in a legislative minority unfits men for the duties that devolve upon a majority. The business of the one is to attack, of the other to defend; of the one to tear down, of the other to build up. The leaders of the antislavery struggle in this country were, perhaps, the most skilful in assault of any political party in our history. But when, after years of service in the minority, they came into power, but few of their prominent leaders were fit for the constructive work of statesmanship. Mr. Chandler was one of that small number who displayed in constructive legislation abilities fully equal to those which he exhibited as a member of the minority. His administration of the Interior Department was an ample vindication of his high qualities as an executive officer.

This Congress will miss him in its councils. His party and his State will greatly miss him. I know he is sincerely mourned in my own State, where, within three weeks of the time of his death, I had the honor to preside over the largest political assemblage I have seen in many years, called together by his name. That great multitude sat at his feet, and listened with reverence and enthusiasm.

Reviewing his life and summing up his qualities, we may justly apply to him the words which the Laureate of England applied to Wellington: —

“O iron nerve, to true occasion true!  
O fallen at length that tower of strength  
Which stood four-square to all the winds that blew!”

# NOMINATION OF JOHN SHERMAN.

SPEECH DELIVERED IN THE REPUBLICAN NATIONAL  
CONVENTION, AT CHICAGO,

JUNE 5, 1880.

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MR. PRESIDENT, — I have witnessed the extraordinary scenes of this Convention with deep solicitude. Nothing touches my heart more quickly than a tribute of honor to a great and noble character; but as I sat in my seat and witnessed this demonstration, this assemblage seemed to me a human ocean in tempest. I have seen the sea lashed into fury and tossed into spray, and its grandeur moves the soul of the dullest man; but I remember that it is not the billows, but the calm level of the sea, from which all heights and depths are measured. When the storm has passed and the hour of calm settles on the ocean, when the sunlight bathes its peaceful surface, then the astronomer and surveyor take the level from which they measure all terrestrial heights and depths.

Gentlemen of the Convention, your present temper may not mark the healthful pulse of our people. When your enthusiasm has passed, when the emotions of this hour have subsided, we shall find below the storm and passion that calm level of public opinion from which the thoughts of a mighty people are to be measured, and by which their final action will be determined.

Not here, in this brilliant circle where fifteen thousand men and women are gathered, is the destiny of the republic to be decreed for the next four years. Not here, where I see the enthusiastic faces of seven hundred and fifty-six delegates, waiting to cast their lots into the urn and determine the choice of the republic; but by four millions of Republican firesides, where the thoughtful voters, with wives and children about them, with the calm thoughts inspired by love of home and country, with the history of the past, the hopes of the future, and reverence for the

great men who have adorned and blessed our nation in days gone by, burning in their hearts,—*there* God prepares the verdict which will determine the wisdom of our work to-night. Not in Chicago, in the heat of June, but at the ballot-boxes of the republic, in the quiet of November, after the silence of deliberate judgment, will this question be settled. And now, gentlemen of the Convention, what do we want?

A VOICE. We want Garfield.

Bear with me a moment. "Hear me for my cause," and for a moment "be silent that you may hear."

Twenty five years ago this republic was bearing and wearing a triple chain of bondage. Long familiarity with traffic in the bodies and souls of men had paralyzed the consciences of a majority of our people; the narrowing and disintegrating doctrine of State Sovereignty had shackled and weakened the noblest and most beneficent powers of the national government; and the grasping power of slavery was seizing upon the virgin territories of the West, and dragging them into the den of eternal bondage.

At that crisis the Republican party was born. It drew its first inspiration from that fire of liberty which God has lighted in every human heart, and which all the powers of ignorance and tyranny can never wholly extinguish. The Republican party came to deliver and to save. It entered the arena where the beleaguered and assailed Territories were struggling for freedom, and drew around them the sacred circle of liberty, which the demon of Slavery has never dared to cross. It made them free forever. Strengthened by its victory on the frontier, the young party, under the leadership of that great man who on this spot, twenty years ago, was made its chief, entered the national Capitol, and assumed the high duties of government. The light which shone from its banner illumined its pathway to power. Every slave-pen and the shackles of every slave within the shadow of the Capitol were consumed in the rekindled fire of freedom.

Our great national industries by cruel and calculating neglect had been prostrated, and the streams of revenue flowed in such feeble currents that the treasury itself was wellnigh empty. The money of the people consisted mainly of the wretched notes of two thousand uncontrolled and irresponsible State banking



corporations, which were filling the country with a circulation that poisoned, rather than sustained, the life of business.

The Republican party changed all this. It abolished the Babel of confusion, and gave to the country a currency as national as its flag, based upon the sacred faith of the people. It threw its protecting arm around our great industries, and they stood erect with new life. It filled with the spirit of true nationality all the great functions of the government. It confronted a rebellion of unexampled magnitude, with slavery behind it, and, under God, fought the final battle of liberty until the victory was won.

Then, after the storms of battle, were heard the calm words of peace spoken by the conquering nation, saying to the foe that lay prostrate at its feet: "This is our only revenge, — that you join us in lifting into the serene firmament of the Constitution, to shine like stars for ever and ever, the immortal principles of truth and justice: that all men, white or black, shall be free, and shall stand equal before the law."

Then came the questions of reconstruction, the national debt, and the keeping of the public faith. In the settlement of these questions, the Republican party has completed its twenty-five years of glorious existence, and it has sent us here to prepare it for another lustrum of duty and of victory. How shall we accomplish this great work? We cannot do it, my friends, by assailing our Republican brethren. God forbid that I should say one word, or cast one shadow, upon any name on the roll of our heroes. The coming fight is our Thermopylæ. We are standing upon a narrow isthmus. If our Spartan hosts are united, we can withstand all the Persians that the Xerxes of Democracy can bring against us. Let us hold our ground this one year, and then "the stars in their courses" will fight for us. The census will bring reinforcements and continued power. But in order to win victory now, we want the vote of every Republican, — of every Grant Republican, and every Anti-Grant Republican, in America, — of every Blaine man and every Anti-Blaine man. The vote of every follower of every candidate is needed to make success certain. Therefore I say, gentlemen and brethren, we are here to take calm counsel together, and inquire what we shall do.

We want a man whose life and opinions embody all the achievements of which I have spoken. We want a man who,

standing on a mountain height, traces the victorious footsteps of our party in the past, and, carrying in his heart the memory of its glorious deeds, looks forward prepared to meet the dangers to come. We want one who will act in no spirit of unkindness toward those we lately met in battle. The Republican party offers to our brethren of the South the olive-branch of peace, and invites them to renewed brotherhood on this supreme condition,—that it shall be admitted forever, that in the war for the Union we were right and they were wrong. On that supreme condition we meet them as brethren, and ask them to share with us the blessings and honors of this great republic.

Now, gentlemen, not to weary you, I am about to present a name for your consideration,—the name of one who was the comrade, associate, and friend of nearly all the noble dead, whose faces look down upon us from these walls to-night;<sup>1</sup> a man who began his career of public service twenty-five years ago,—who courageously confronted the slave power in the days of peril on the plains of Kansas, when first began to fall the red drops of that bloody shower which finally swelled into the deluge of gore in the late rebellion. He bravely stood by young Kansas, and, returning to his seat in the national Legislature, his pathway through all the subsequent years has been marked by labors worthily performed in every department of legislation.

You ask for his monument. I point you to twenty-five years of national statutes. Not one great, beneficent law has been placed on our statute-books without his intelligent and powerful aid. He aided in formulating the laws to raise the great armies and navies which carried us through the war. His hand was seen in the workmanship of those statutes that restored and brought back “the unity and married calm of States.” His hand was in all that great legislation that created the war currency, and in the still greater work that redeemed the promises of the government and made the currency equal to gold. When at last he passed from the halls of legislation into a high executive office, he displayed that experience, intelligence, firmness, and poise of character, which have carried us through a stormy period of three years, with one half the public press crying “Crucify him!” and a hostile Congress seeking to prevent success. In all this he remained unmoved until victory crowned

<sup>1</sup> Referring to portraits of Lincoln, Sumner, Wade, Chandler, and others, hanging in the hall.

him. The great fiscal affairs of the nation, and the vast business interests of the country, he guarded and preserved while executing the law of resumption, and effected its object without a jar, and against the false prophecies of one half of the press and of all the Democratic party. He has shown himself able to meet with calmness the great emergencies of the government. For twenty-five years he has trodden the perilous heights of public duty, and against all the shafts of malice has borne his breast unharmed. He has stood in the blaze of "that fierce light that beats against the throne"; but its fiercest ray has found no flaw in his armor, no stain upon his shield. I do not present him as a better Republican or a better man than thousands of others that we honor; but I present him for your deliberate and favorable consideration. I nominate John Sherman, of Ohio.

## LETTER ACCEPTING THE NOMINATION FOR THE PRESIDENCY.

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MENTOR, OHIO, July 12, 1880.

DEAR SIR, — On the evening of the 8th of June last I had the honor to receive from you, in the presence of the committee of which you were chairman, the official announcement that the Republican National Convention at Chicago had that day nominated me as their candidate for President of the United States. I accept the nomination with gratitude for the confidence it implies, and with a deep sense of the responsibilities it imposes. I cordially endorse the principles set forth in the platform adopted by the Convention. On nearly all the subjects of which it treats, my opinions are on record among the published proceedings of Congress. I venture, however, to make special mention of some of the principal topics which are likely to become subjects of discussion.

Without reviewing the controversies which have been settled during the last twenty years, and with no purpose or wish to revive the passions of the late war, it should be said that, while Republicans fully recognize and will strenuously defend all the rights retained by the people, and all the rights reserved to the States, they reject the pernicious doctrine of State supremacy which so long crippled the functions of the national government, and at one time brought the Union very near to destruction. They insist that the United States is a nation, with ample power of self-preservation; that its Constitution, and the laws made in pursuance thereof, are the supreme law of the land; that the right of the nation to determine the method by which its own legislature shall be created cannot be surrendered without abdicating one of the fundamental powers of government; that the national laws relating to the election of Representatives in Congress shall neither be violated nor evaded; that

every elector shall be permitted freely and without intimidation to cast his lawful ballot at such election, and have it honestly counted, and that the potency of his vote shall not be destroyed by the fraudulent vote of any other person.

The best thoughts and energies of our people should be directed to those great questions of national well-being in which all have a common interest. Such efforts will soonest restore perfect peace to those who were lately in arms against each other, for justice and good-will will outlast passion. But it is certain that the wounds of the war cannot be completely healed, and the spirit of brotherhood cannot fully pervade the whole country, until every citizen, rich or poor, white or black, is secure in the free and equal enjoyment of every civil and political right guaranteed by the Constitution and the laws. Whenever the enjoyment of these rights is not assured, discontent will prevail, immigration will cease, and the social and industrial forces will continue to be disturbed by the migration of laborers and the consequent diminution of prosperity. The national government should exercise all its constitutional authority to put an end to these evils; for all the people and all the States are members of one body, and no member can suffer without injury to all. The most serious evils which now afflict the South arise from the fact that there is not such freedom and toleration of political opinion and action that the minority party can exercise an effective and wholesome restraint upon the party in power. Without such restraint party rule becomes tyrannical and corrupt. The prosperity which is made possible in the South by its great advantage of soil and climate will never be realized until every voter can freely and safely support any party he pleases.

Next in importance to freedom and justice is popular education, without which neither freedom nor justice can be permanently maintained. Its interests are intrusted to the States, and to the voluntary action of the people. Whatever help the nation can justly afford should be generously given to aid the States in supporting common schools; but it would be unjust to our people, and dangerous to our institutions, to apply any portion of the revenues of the nation, or of the States, to the support of sectarian schools. The separation of the Church and the State in everything relating to taxation should be absolute.

On the subject of national finances, my views have been so frequently and fully expressed that little is needed in the way of additional statement. The public debt is now so well secured, and the rate of annual interest has been so reduced by refunding, that rigid economy in expenditures, and the faithful application of our surplus revenues to the payment of the principal of the debt, will gradually, but certainly, free the people from its burdens, and close with honor the financial chapter of the war. At the same time, the government can provide for all its ordinary expenditures, and discharge its sacred obligations to the soldiers of the Union, and to the widows and orphans of those who fell in its defence. The resumption of specie payments, which the Republican party so courageously and successfully accomplished, has removed from the field of controversy many questions that long and seriously disturbed the credit of the government and the business of the country. Our paper currency is now as national as the flag, and resumption has not only made it everywhere equal to coin, but has brought into use our store of gold and silver. The circulating medium is more abundant than ever before, and we need only to maintain the equality of all our dollars to insure to labor and capital a measure of value from the use of which no one can suffer loss. The great prosperity which the country is now enjoying should not be endangered by any violent changes or doubtful financial experiments.

In reference to our customs laws a policy should be pursued which will bring revenues to the treasury, and will enable the labor and capital employed in our great industries to compete fairly in our own markets with the labor and capital of foreign producers. We legislate for the people of the United States, and not for the whole world; and it is our glory that the American laborer is more intelligent and better paid than his foreign competitor. Our country cannot be independent unless its people, with their abundant natural resources, possess the requisite skill at any time to clothe, arm, and equip themselves for war, and in time of peace to produce all the necessary implements of labor. It was the manifest intention of the founders of the government to provide for the common defence, not by standing armies alone, but by raising among the people a greater army of artisans, whose intelligence and skill should powerfully contribute to the safety and glory of the nation.

Fortunately for the interests of commerce, there is no longer any formidable opposition to appropriations for the improvement of our harbors and great navigable rivers, provided that the expenditures for that purpose are strictly limited to works of national importance. The Mississippi River, with its great tributaries, is of such vital importance to so many millions of people that the safety of its navigation requires exceptional consideration. In order to secure to the nation the control of all its waters, President Jefferson negotiated the purchase of a vast territory extending from the Gulf of Mexico to the Pacific Ocean.<sup>1</sup> The wisdom of Congress should be invoked to devise some plan by which that great river shall cease to be a terror to those who dwell upon its banks, and by which its shipping may safely carry the industrial products of twenty-five millions of people. The interests of agriculture, which is the basis of all our material prosperity, and in which seven twelfths of our population are engaged, as well as the interests of manufactures and commerce, demand that the facilities for cheap transportation shall be increased by the use of all our great water-courses.

The material interests of this country, the traditions of its settlement, and the sentiment of our people have led the government to offer the widest hospitality to emigrants who seek our shores for new and happier homes, willing to share the burdens as well as the benefits of our society, and intending that their posterity shall become an undistinguishable part of our population. The recent movement of the Chinese to our Pacific coast partakes but little of the qualities of such an immigration, either in its purposes or its result. It is too much like an importation to be welcomed without restriction; too much like an invasion to be looked upon without solicitude. We cannot consent to allow any form of servile labor to be introduced among us under the guise of immigration. Recognizing the gravity of this subject, the present Administration, supported by Congress, has sent to China a commission of distinguished citizens for the purpose of securing such a modification of the existing treaty as will prevent the evils likely to arise from the present situation.

<sup>1</sup> This statement touching the original extent of the Louisiana purchase, which is, to say the least, involved in controversy, was founded by Mr. Garfield upon the map found in the "Statistical Atlas of the United States, based on the Ninth Census, 1870," Plate XV.

It is confidently believed that these diplomatic negotiations will be successful, without the loss of commercial intercourse between the two powers, which promises a great increase of reciprocal trade and the enlargement of our markets. Should these efforts fail, it will be the duty of Congress to mitigate the evils already felt, and prevent their increase, by such restrictions as, without violence or injustice, will place upon a sure foundation the peace of our communities and the freedom and dignity of labor.

The appointment of citizens to the various executive and judicial offices of the government is, perhaps, the most difficult of all duties which the Constitution has imposed on the Executive. The Convention wisely demands that Congress shall cooperate with the executive departments in placing the civil service on a better basis. Experience has proved that, with our frequent changes of administration, no system of reform can be made effective and permanent without the aid of legislation. Appointments to the military and naval service are so regulated by law and custom as to leave but little ground for complaint. It may not be wise to make similar regulations by law for the civil service. But, without invading the authority or necessary discretion of the Executive, Congress should devise a method that will determine the tenure of office, and greatly reduce the uncertainty which makes that service so unsatisfactory. Without depriving any officer of his rights as a citizen, the government should require him to discharge all his official duties with intelligence, efficiency, and faithfulness. To select wisely from our vast population those who are best fitted for the many offices to be filled, requires an acquaintance far beyond the range of any one man. The Executive should, therefore, seek and receive the information and assistance of those whose knowledge of the communities in which the duties are to be performed best qualifies them to aid in making the wisest choice.

The doctrines announced by the Chicago Convention are not the temporary devices of a party to attract votes and carry an election. They are deliberate convictions, resulting from a careful study of the spirit of our institutions, the events of our history, and the best impulses of our people. In my judgment, these principles should control the legislation and administration of the government. In any event, they will guide my conduct until experience points out a better way.



If elected, it will be my purpose to enforce strict obedience to the Constitution and the laws, and to promote, as best I may, the interest and honor of the whole country, relying for support upon the wisdom of Congress, the intelligence and patriotism of the people, and the favor of God.

With great respect, I am very truly yours,

JAMES A. GARFIELD.

TO THE HON. GEORGE F. HOAR,

*President of the Republican National Convention.*

## INAUGURAL ADDRESS.

DELIVERED ON THE EAST PORTICO OF THE CAPITOL,

MARCH 4, 1881.

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FELLOW-CITIZENS, — We stand to-day upon an eminence which overlooks a hundred years of national life, — a century crowded with perils, but crowned with the triumphs of liberty and law. Before continuing the onward march, let us pause on this height, for a moment, to strengthen our faith and to renew our hope by a glance at the pathway along which our people have travelled.

It is now three days more than a hundred years since the adoption of the first written Constitution of the United States, — the Articles of Confederation and Perpetual Union. The new republic was then beset with dangers on every hand. It had not conquered a place in the family of nations. The decisive battle of the war for independence, whose centennial anniversary will soon be gratefully celebrated at Yorktown, had not yet been fought. The colonists were struggling, not only against the armies of a great nation, but against the settled opinions of mankind; for the world did not then believe that the supreme authority of government could be safely intrusted to the guardianship of the people themselves.

We cannot overestimate the fervent love of liberty, the intelligent courage, and the saving common-sense with which our fathers made the great experiment of self-government. When they found, after a short trial, that the Confederacy of States was too weak to meet the necessities of a vigorous and expanding republic, they boldly set it aside, and in its stead established a National Union, founded directly upon the will of the people, and endowed with full power of self-preservation and with ample authority for the accomplishment of its great objects.

Under this Constitution the boundaries of freedom have been enlarged, the foundations of order and peace have been strengthened, and the growth of our people in all the better elements of national life has vindicated the wisdom of the founders and given new hope to their descendants. Under this Constitution our people long ago made themselves safe against danger from without, and secured for their mariners and flag equality of rights on all the seas. Under this Constitution, twenty-five States have been added to the Union, with constitutions and laws, framed and enforced by their own citizens, to secure the manifold blessings of local self-government. The jurisdiction of this Constitution now covers an area fifty times greater than that of the original thirteen States, and a population twenty times greater than that of 1780.

The supreme trial of the Constitution came at last under the tremendous pressure of civil war. We ourselves are witnesses that the Union emerged from the blood and fire of that conflict purified and made stronger for all the beneficent purposes of good government.

And now, at the close of this first century of growth, with the inspirations of its history in their hearts, our people have lately reviewed the condition of the nation, passed judgment upon the conduct and opinions of political parties, and registered their will concerning the future administration of the government. To interpret and to execute that will, in accordance with the Constitution, is the paramount duty of the Executive.

Even from this brief review it is manifest that the nation is resolutely facing to the front, resolved to employ its best energies in developing the great possibilities of the future. Sacredly preserving whatever has been gained to liberty and good government during the century, our people are determined to leave behind them all those bitter controversies concerning things which have been irrevocably settled, and the further discussion of which can only stir up strife and delay the onward march.

The supremacy of the nation and its laws should be no longer a subject of debate. That discussion which for half a century threatened the existence of the Union was closed at last in the high court of war by a decree from which there is no appeal, that the Constitution and the laws made in pursuance thereof are, and shall continue to be, the supreme law of the land, binding alike upon the States and upon the people. This decree

does not disturb the autonomy of the States, nor interfere with any of their necessary rights of local self-government, but it does fix and establish the permanent supremacy of the Union.

The will of the nation, speaking with the voice of battle and through the amended Constitution, has fulfilled the great promise of 1776, by proclaiming "liberty throughout the land to all the inhabitants thereof."

The elevation of the negro race from slavery to the full rights of citizenship is the most important political change we have known since the adoption of the Constitution of 1787. No thoughtful man can fail to appreciate its beneficent effects upon our institutions and people. It has freed us from the perpetual danger of war and dissolution. It has added immensely to the moral and industrial forces of our people. It has liberated the master, as well as the slave, from a relation which wronged and enfeebled both. It has surrendered to their own guardianship the manhood of more than five millions of people, and has opened to each one of them a career of freedom and usefulness. It has given new inspiration to the power of self-help in both races, by making labor more honorable to the one and more necessary to the other. The influence of this force will grow greater and bear richer fruit with the coming years.

No doubt this great change has caused serious disturbance to our Southern communities. This is to be deplored, though it was perhaps unavoidable. But those who resisted the change should remember that, under our institutions, there was no middle ground for the negro race between slavery and equal citizenship. There can be no permanent disfranchised peasantry in the United States. Freedom can never yield its fulness of blessings so long as the law or its administration places the smallest obstacle in the pathway of any virtuous citizen.

The emancipated race has already made remarkable progress. With unquestioning devotion to the Union, with a patience and gentleness not born of fear, they have "followed the light as God gave them to see the light." They are rapidly laying the material foundations of self-support, widening their circle of intelligence, and beginning to enjoy the blessings that gather around the homes of the industrious poor. They deserve the generous encouragement of all good men. So far as my authority lawfully extends, they shall enjoy the full and equal protection of the Constitution and the laws.

The free enjoyment of equal suffrage is still in question, and a frank statement of the issue may aid its solution. It is alleged that in many communities negro citizens are practically denied the freedom of the ballot. In so far as the truth of this allegation is admitted, it is answered that in many places honest local government is impossible if the mass of uneducated negroes are allowed to vote. These are grave allegations. So far as the latter is true, it is the only palliation that can be offered for opposing the freedom of the ballot. Bad local government is certainly a great evil, which ought to be prevented; but to violate the freedom and sanctity of the suffrage is more than an evil, — it is a crime which, if persisted in, will destroy the government itself. Suicide is not a remedy. If in other lands it be high-treason to compass the death of the king, it shall be counted no less a crime here to strangle our sovereign power and stifle its voice.

It has been said that unsettled questions have no pity for the repose of nations. It should be said with the utmost emphasis, that this question of the suffrage will never give repose or safety to the State or to the nation until each within its own jurisdiction makes and keeps the ballot free and pure by the strong sanctions of the law.

But the danger which arises from ignorance in the voter cannot be denied. It covers a field far wider than that of negro suffrage and the present condition of the race. It is a danger that lurks and hides in the sources and fountains of power in every State. We have no standard by which to measure the disaster that may be brought upon us by ignorance and vice in the citizen, when joined to corruption and fraud in the suffrage.

The voters of the Union, who make and unmake constitutions, and upon whose will hang the destinies of our governments, can transmit their supreme authority to no successors save the coming generation of voters, who are the sole heirs of sovereign power. If that generation comes to its inheritance blinded by ignorance and corrupted by vice, the fall of the republic will be certain and remediless. The census has already sounded the alarm in the appalling figures which mark how dangerously high the tide of illiteracy has risen among our voters and their children. To the South this question is of supreme importance. But the responsibility for the existence of slavery did not rest upon the South alone. The nation itself is responsible for the extension

of the suffrage, and is under special obligations to aid in removing the illiteracy which it has added to the voting population. For the North and South alike there is but one remedy. All the constitutional power of the nation and of the States, and all the volunteer forces of the people, should be summoned to meet this danger by the saving influence of universal education.

It is the high privilege and sacred duty of those now living to educate their successors, and fit them, by intelligence and virtue, for the inheritance which awaits them. In this beneficent work sections and races should be forgotten, and partisanship should be unknown. Let our people find a new meaning in the divine oracle which declares that "a little child shall lead them"; for our own little children will soon control the destinies of the republic.

My countrymen, we do not now differ in our judgment concerning the controversies of past generations, and fifty years hence our children will not be divided in their opinions concerning our controversies. They will surely bless their fathers and their fathers' God that the Union was preserved, that slavery was overthrown, and that both races were made equal before the law. We may hasten or we may retard, but we cannot prevent, the final reconciliation. Is it not possible for us now to make a truce with time by anticipating and accepting its inevitable verdict?

Enterprises of the highest importance to our moral and material well-being invite us, and offer ample employment for our best powers. Let all our people, leaving behind them the battle-fields of dead issues, move forward, and, in the strength of liberty and the restored Union, win the grander victories of peace. The prosperity which now prevails is without a parallel in our history. Fruitful seasons have done much to secure it, but they have not done all. The preservation of the public credit and the resumption of specie payments so successfully attained by the administration of my predecessors have enabled our people to secure the blessings which the seasons brought.

By the experience of commercial nations in all ages, it has been found that gold and silver afford the only safe foundation for a monetary system. Confusion has recently been created by variations in the relative value of the two metals. But I confidently believe that arrangements can be made between the leading commercial nations which will secure the general use of both metals. Congress should provide that the compulsory coinage

of silver now required by law may not disturb our monetary system, and that neither metal shall be driven out of circulation. If possible, such an adjustment should be made that the purchasing power of every coined dollar will be exactly equal to its debt-paying power in all the markets of the world.

The chief duty of the national government, in connection with the currency of the country, is to coin money and to declare its value. Grave doubts have been entertained whether Congress is authorized by the Constitution to make any form of paper money a legal tender. The present issue of United States notes has been sustained by the necessities of war; but such paper should depend for its value and currency upon its convenience in use and its prompt redemption in coin at the will of the holder, and not upon its compulsory circulation. These notes are not money, but promises to pay money. If the holders demand it, the promise should be kept.

The refunding of the national debt at a lower rate of interest should be accomplished without compelling the withdrawal of the national bank notes, and thus disturbing the business of the country.

I venture to refer to the position I have occupied on financial questions during a long service in Congress, and to say that time and experience have strengthened the opinions I have so often expressed on these subjects. The finances of the government shall suffer no detriment which it may be possible for my administration to prevent.

The interests of agriculture deserve more attention from the government than they have yet received. The farms of the United States afford homes and employment for more than one half our people, and furnish much the larger part of all our exports. As the government lights our coasts for the protection of mariners and for the benefit of commerce, so it should give to the tillers of the soil the best lights of practical science and experience.

Our manufactures are rapidly making us industrially independent, and are opening to capital and labor new and profitable fields of employment. Their steady and healthy growth should still be maintained. Our facilities for transportation should be promoted by the continued improvement of our harbors and great interior water-ways, and by the increase of our tonnage on the ocean.

The development of the world's commerce has led to an urgent demand for shortening the great sea voyage around Cape Horn by constructing ship-canals or railways across the isthmus which unites the continents. Various plans to this end have been suggested, and will need consideration; but none of them has been sufficiently matured to warrant the United States in extending pecuniary aid. The subject, however, is one which will immediately engage the attention of the government, with a view to a thorough protection of American interests. We shall urge no narrow policy, nor seek peculiar or exclusive privileges in any commercial route; but, in the language of my predecessor, I believe it to be "the right and duty of the United States to assert and maintain such supervision and authority over any interoceanic canal across the isthmus that connects North and South America as will protect our national interests."

The Constitution guarantees absolute religious freedom. Congress is prohibited from making any law respecting an establishment of religion, or prohibiting the free exercise thereof. The Territories of the United States are subject to the direct legislative authority of Congress; and hence the general government is responsible for the violation of the Constitution in any of them. It is therefore a reproach to the government, that, in the most populous of the Territories, the constitutional guarantee is not enjoyed by the people, and the authority of Congress is set at naught. The Mormon Church not only offends the moral sense of mankind by sanctioning polygamy, but prevents the administration of justice through the ordinary instrumentalities of law.

In my judgment, it is the duty of Congress, while respecting to the uttermost the conscientious convictions and religious scruples of every citizen, to prohibit within its jurisdiction all criminal practices, especially of that class which destroy the family relations and endanger social order. Nor can any ecclesiastical organization be safely permitted to usurp in the smallest degree the functions and powers of the national government.

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 intrusted 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 to prescribe the grounds upon which removals shall be made during the terms for which incumbents have been appointed.

Finally, acting always within the authority and limitations of the Constitution, invading neither the rights of the States nor the reserved rights of the people, it shall be the purpose of my administration to maintain the authority of the nation in all places within its jurisdiction; to enforce obedience to all the laws of the Union in the interests of all the people; to demand rigid economy in all the expenditures of the government; and to require the honest and faithful service of all executive officers, remembering that the offices were created, not for the benefit of incumbents or their supporters, but for the service of the government.

And now, fellow-citizens, I am about to assume the great trust which you have committed to my hands. I appeal to you for that earnest and thoughtful support which makes this government in fact, as it is in law, a government of the people.

I shall greatly rely upon the wisdom and patriotism of Congress, and of those who may share with me the responsibilities and duties of administration. And, above all, upon our efforts to promote the welfare of this great people and their government, I reverently invoke the support and blessings of Almighty God.



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