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THE LOUISIANA CASE.
Equality of Man and Social Equality of Race

SPEECH

OF

HON. JOHN S. HAGER,

OF CALIFORNIA,

IN THE

SENATE OF THE UNITED STATES,

WEDNESDAY, FEBRUARY 17, 1875.

PRO PATRIA.



WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1875.

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S P E E C H
OF
H O N . J O H N S . H A G E R .

The Senate having under consideration the following resolution, reported from the Committee on Privileges and Elections by Mr. MORTON on the 5th instant :

Resolved, That P. B. S. Pinchback be admitted as a Senator from the State of Louisiana for the term of six years, beginning on the 4th of March, 1873"—

Mr. HAGER said :

Mr. PRESIDENT: It is with great hesitation and reluctance that I rise to address the Senate at this late hour at night after this prolonged setting, upon a question that has been so ably and so thoroughly discussed by others who have preceded me. The subject, however, with all its correlative issues, is of paramount importance, and one that is entitled to our serious and I may say melancholy reflection. It relates to events of greater significance and magnitude, next to the firing upon Fort Sumter, than any that have occurred in the history of our Government since the formation of the Federal Constitution.

Although the pending resolution relates to the admission of a Senator from the State of Louisiana, it is understood the whole subject relating to Louisiana affairs is before the Senate. I shall therefore not confine myself strictly to this resolution, but will speak generally upon the so-called Louisiana case. When the news first reached us of the invasion of a sovereign State, of the investment of its State-house, of the forcible ejection of persons, claiming to be elected members, from the legislative chamber, and finally of the organization of one branch of the Legislature by the Army of the United States, there was a spontaneous outburst of indignation from one end of the Union to the other. Why has this marked interest been manifested in this Hall among the people and by the press throughout the entire country? Not because it is a mere question of party politics, but because it involves great questions appertaining to constitutional liberty and our republican form of government.

I am glad that this interest has been manifested. It indicates that

there is yet a spirit in the land not dead to the calls of liberty and country; that sentiments of patriotism yet predominate over all considerations of party. I have observed too, sir, with gratification the calm and temperate discussion of the independent and in many instances of the party press. So long as the weight and power of the press is true and devoted to the country, there is yet hope for the country, whether it be amid the calamities of civil war or whether it be amid usurpations in times of peace. We have had rebellion in hot blood against the flag in the open field, and we have had and now have a more dangerous rebellion in cold blood against the Constitution. One was war, open war, and was met and overthrown by war; the other, more insidious and more inexcusable, can only be overthrown by the slow process of public opinion, often too slow to arrest the danger. That public opinion will yet accomplish it, I have no doubt, for in this enlightened age no sovereign is so ensconced behind his battlements but what that public opinion will make itself heard, and no President, and no Congress, and no party is so enshrouded in the panoply of power but what it will make itself felt.

Mr. President, who stands to-day before the American people as responsible for the events that have occurred in Louisiana which have so convulsed the country? Not the President of the United States, for, as we must infer from his late message, he disclaims them as having been done by his knowledge or authority; not the General of the Army, for he was not consulted and had no part or lot in the matter; not the major-general in command of the Southern Division, including Louisiana, for the order went not through him; not the Congress, for Congress has not declared war against the sovereign State of Louisiana. Who then is responsible? All that we know is that the Army with General Sheridan, sent secretly with sealed instructions, in command, executed and the Secretary of War "and all of us," as he telegraphed to Sheridan, approved. That is all the information as to authority that we have. Who gave the orders? Who invested Kellogg with the authority to direct the movements of the Army of the United States? Whoever he may be, let it be avowed before the American people and let the responsibility rest where it properly belongs. Be the responsibility where it may, it must be sustained and justified by law, or it must be denounced as a usurpation.

It will not do for Senators to shirk or blink the true issue by telling us that murders have been committed and lawlessness prevails in Louisiana, and that there have been unlawful combinations for political or other purposes. The public mind is not to be thus diverted. If any principle of the Constitution has been violated, does it follow as a logical sequence, as we must infer from the remarks of some Senators, that it may be justified by the recitals of crimes and murders committed in that State. A thousand homicides,

murders, if you will, will not justify unlawful assaults upon the life of the nation. No injustice to the living, white or black, can excuse or justify usurpation or violation of the Constitution.

About a year ago it was my privilege to be honored by taking a seat in this Chamber. This Louisiana case, in one of its phases, was then pending before the Senate upon the report of the Committee on Privileges and Elections, made February 20, 1873, which has been so often referred to and quoted from—it was the business of this Committee to inquire substantially as to the form of government that was existing in Louisiana. That report during the progress of this debate I for the first time have read and made myself to some extent familiar with. Although it be a thrice-told tale, as has been said, it unfolds a story that cannot be too often repeated. I believe, sir, that it discloses the first fatal error; the first great departure in government; the foundation, the origin of the evils the fruits of which we are reaping this day; and at the risk of being tedious I desire to refer not extensively but briefly, chronologically rather than in detail, to certain portions of that report.

In 1872, on the 4th of November, under the laws and constitution of the State, an election took place in Louisiana. The administration of that State, the governor and all the officers, so far as I know, were republican. It was a republican administration of the State government. Warmoth, elected as a republican and at the time, I believe, acting with the republican party, was governor; and the election was entirely under the control of persons acting with and claiming to be of that party. After it took place an extra session of the Legislature was called by Governor Warmoth to meet on the 9th day of December. Between the issuance of the call for the meeting of the Legislature and the day on which it was to assemble important events transpired in Louisiana, as contained in this report of the committee and to which I will briefly refer in chronological order.

On December 3 was the dispatch which has been read so often of the Attorney-General:

DEPARTMENT OF JUSTICE,
December 3, 1872.

S. B. PACKARD,
United States Marshal, New Orleans, Louisiana:

You are to enforce the decrees and mandates of the United States courts no matter by whom resisted, and General Emory will furnish you with all necessary troops for that purpose.

GEORGE H. WILLIAMS,
Attorney-General.

I find no predicate for this dispatch in the report of the committee. I am unable to determine why the Attorney-General should have sent this dispatch to the officer to inform him that he was to do that which the law required him to do. It was the duty of the marshal, as I understand it, to enforce all lawful decrees and mandates of the United States courts whenever conveyed to him in legal form.

I can only infer that it was in anticipation of some unusual, some extraordinary events that were about to ensue.

December 5 following December 3, almost as soon as the dispatch could reach Louisiana, Captain Jackson, of the United States Artillery, arrived in New Orleans at two o'clock at night with two batteries of artillery.

REPORT OF COMMITTEE.

Captain Jackson testifies that he took possession of the State-house at about two o'clock on the morning of the 6th, with instructions to take and hold it under the direction of the United States marshal, and to act in obedience to his orders. He further testifies that he was not stationed in the State-house to prevent riots, but to hold the building, and that if a riot had occurred in front of the building he would not have interfered.

Who gave this order does not appear by the records or by anything that is disclosed in this report. Why was it so timely, connected with this dispatch, that an officer of the Army went at night with two batteries of artillery? That same night, December 5, Judge Durell issued his void order to Marshal Packard to take possession of the State-house, as follows :

Now, therefore, in order to prevent the further obstruction of the proceedings in this cause, and, further, to prevent a violation of the order of this court, to the imminent danger of disturbing the public peace, it is hereby ordered that the *marshal of the United States for the district of Louisiana shall forthwith take possession of the building known as the Mechanics' Institute, and occupied as the State-house for the assembling of the Legislature therein, in the city of New Orleans, and hold the same subject to the further order of this court, and meanwhile to prevent all unlawful assemblage therein under the guise or pretext of authority claimed by virtue of pretended canvass and returns made by said pretended returning officers in contempt and violation of said restraining order; but the marshal is directed to allow the ingress and egress to and from the public offices in said building of persons entitled to the same.*

E. H. DURELL.

I will simply in this connection read what the committee say in regard to that order. The order, which is pronounced by the committee to be a void order, made by Judge Durell is spoken of by the committee thus :

It is impossible to conceive of a more irregular, illegal, and in every way inexcusable act on the part of a judge. Conceding the power of *the court* to make such an order, the judge *out of court* had no more authority to make it than had the marshal. It has not even the form of judicial process. It was not sealed, nor was it signed by the clerk, and had no more legal effect than an order issued by any private citizen.

That was an order that under the telegram of the Attorney-General the marshal was bound to execute in case he obeyed his superior officer I suppose. This order issued as I say on December 5. On December 6, Captain Jackson took possession of the State-house about two o'clock in the morning. On December 6, the same day, Durell's injunction to restrain the action of the legal canvassing board was issued, which is quoted in this report at page 24, and is as follows :

Injunction.—Issued December 6, 1872.

Circuit court of the United States, fifth circuit and district of Louisiana.

WM. PITT KELLOGG

*vs.*HENRY C. WARMOTH, JACK WHARTON, FRANK H. HATCH, DURANT } No. 6830.
Da Ponte, John McEnery, and The New Orleans Republican }
Printing Company. }*The President of the United States, greeting :*

Whereas it has been represented to us in our said circuit court on the part of William P. Kellogg, by his bill of complaint lately exhibited against you and each of you, touching certain matters and things therein set forth :

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said above-named defendants, your attorneys, and each of you, are hereby commanded and strictly enjoined under the penalty of the law that you absolutely refrain and desist during the pendency of this cause, until the further order of this court, from in any manner, either directly or indirectly, considering or pretending to consider or canvass any statement, certificate, or return of any supervisor or assistant supervisor of registration, or any officer having any duties to perform about or concerning an election held on the 4th day of November, 1872, in the State of Louisiana, or relating to any votes or ballots cast at said election, except in the presence of John Lynch, Jacob Hawkins, James Longstreet, and George E. Bovee, a board of returning officers for said election, or from submitting or allowing to be submitted, or from aiding or assisting in the submission to the said defendants, Frank H. Hatch, Jack Wharton, Durant Da Ponte, or any other person or persons whatsoever, other than the said Hawkins, Bovee, Lynch, and Longstreet, any paper, document, affidavit, statement of votes, return of officers of election, or other proof in any manner relating to said election, and from allowing any other person or persons whatsoever, other than those in this order excepted, whether pretending to act as returning officers or in any other capacity, to inspect, consider, have access to, canvass, or tamper with any paper, document, affidavit, statement of votes, return, or written proof relating to said election, or to the fairness and correctness thereof, that may have heretofore or may hereafter come into his hands or possession, and which by law should properly be laid before, submitted to, or considered by such returning officers of election in making a canvass thereof; and that the said defendant, H. C. Warmoth, be further enjoined and inhibited from altering, suppressing, mutilating, destroying, or secreting any such document, proof, or paper.

And that he further desist and be enjoined from in any manner interfering with, obstructing, or hindering the said Lynch, Longstreet, Bovee, and Hawkins, or either of them, from full and complete access to, as well as custody of, such documents, proof, or paper.

And that he further desist and be enjoined from in any manner interfering with, obstructing, or hindering the said Lynch, Longstreet, Bovee, and Hawkins, or either of them, from full and complete access to, as well as custody of, such documents, papers, and proofs relating to said election as he may or shall have in his possession, custody, or control, or as they shall or may demand, either by refusing to deliver such documents or proofs to them, or either of them, or by any suit or proceeding instituted with the intent to hinder, delay, or obstruct them in the performance of their duty as returning officers; and that he be further restrained and enjoined from issuing any commissions to any persons based upon any calculation, deduction, or pretended canvass of ballots cast at said election, or make, publish, sign, or deposit in the office of the secretary of state, or in any other public office, or cause to be so deposited, any document, statement of persons elected to any offices or positions of trust at said election, and from giving any effect to the same if already filed and deposited, unless the same be with the concurrent action and lawfully given consent of the said Lynch, Hawkins, Bovee, and Longstreet, or a majority thereof, or of a sufficient number of them to constitute a majority of a board of returning officers.

And it is further ordered that the said defendants, Jack Wharton, Frank H. Hatch, Durant Da Ponte, and the New Orleans Republican Printing Company, until the final hearing of this cause, or until the farther order of the court, be severally and respectively enjoined and restrained to the same extent, effect, and manner as said complainant has in his bill of complaint prayed they may severally and respectively be restrained.

And that writs of injunction in due form of law issue against the said defendants in accordance with the terms of this order.

And that the restraining order heretofore issued and allowed in this cause continue in full force and effect until the court shall otherwise order.

Witness the Honorable Salmon P. Chase, Chief Justice of the Supreme Court of

the United States, at the city of New Orleans, this 6th day of December, in the year of our Lord 1872.

[SEAL.]

F. A. WOOLFLEY, *Clerk.*

Upon this order to restrain the canvassing board and upon the action of this judge and his decrees and what followed the regularity of the proceedings in setting up a government for Louisiana depends, and what say the committee in regard to this order? On page 17 of the report we read as follows :

Viewed in any light in which your committee can consider them, the orders and injunctions made and granted by Judge Durell in this cause are most reprehensible, erroneous in point of law, and are wholly void for want of jurisdiction; and your committee must express their sorrow and humiliation that a judge of the United States should have proceeded in such flagrant disregard of his duty, and have so far overstepped the limits of Federal jurisdiction.

No words of mine are necessary to give force to this opinion of the committee :

On December 6, the same day, the Lynch board pretended to have canvassed the returns. We will see what the committee say in regard to that :

On the 6th of December, 1872, the Lynch board—Bovee, (who was then acting as secretary of state in place of Herron,) Lynch, Longstreet, and Hawkins—pretended to have canvassed the returns of the election, and certified to the secretary of state that Kellogg had been elected governor; Antoine, lieutenant-governor; Clinton, auditor; Field, attorney-general; Brown, superintendent of education; and Deslondes, secretary of state; and also certified a list of persons whom they had determined to be elected to the Legislature.

There is nothing in all the comedy of blunders and frauds under consideration more indefensible than the pretended canvass of this board.

The following are some of the objections to the validity of their proceedings :

1. The board had been abolished by the act of November 20.
2. The board was under valid and existing injunctions restraining it from acting at all, and an injunction in the Armstead case restraining it from making any canvass not based upon the official returns of the election.
3. Conceding the board was in existence, and had full authority to canvass the returns, it had no returns to canvass.

The returns from the parishes had been made, under the law of 1870, to the governor, and not one of them was before the Lynch board.

It was testified before your committee by *Mr. Bovee himself, who participated in this canvass by the Lynch board, that they were determined to have a republican legislature, and made their canvass to that end. The testimony abundantly establishes the fraudulent character of their canvass.* In some cases they had what were supposed to be copies of the original returns, in other cases they had nothing but newspaper statements, and in other cases where they had nothing whatever to act upon, they made an estimate based upon their knowledge of the political complexion of the parish of what the vote ought to have been. *They also counted a large number of affidavits purporting to be sworn to by voters who had been wrongfully denied registration or the right to vote, many of which affidavits they must have known to be forgeries. It was testified by one witness that he forged over a thousand affidavits, and delivered them to the Lynch board, while it was in session.* It is quite unnecessary to waste time in considering this part of the case; for no person can examine the testimony ever so cursorily without seeing that this pretended canvass had no semblance of integrity.

Farther on we read as follows :

But for the interference of Judge Durell in the matter of this State election, a matter wholly beyond his jurisdiction, the McEnery government would to-day have been the de facto government of the State. Judge Durell interposed the Army of the United States between the people of Louisiana and the only government which has the semblance of regularity, and the result of this has been to establish the Kellogg government, so far as that State now has any government. For the United States to interfere in a State election, and by the employment of troops set up a governor and Legislature without a shadow of right, and then to refuse redress of the wrong upon the ground that to grant relief would be interfering with the rights of the State, is a proposition difficult to utter with a grave countenance.

This is the language of the committee, and upon the acts here enumerated hinges the legality of the election and of the organization of the Legislature in Louisiana which elected Mr. Pinchback, the applicant for a seat in the Senate. The persons declared elected by this Lynch board as set forth by the report of this committee have been the State officers and the Legislature of Louisiana for the past two years, sustained as they have been by the Army of the United States. Now although we have the act of Congress of May 31, 1870, still in force, as follows :

SEC. 23. *And be it further enacted*, That whenever any person shall be defeated or deprived of his election to any office, *except* elector of President or Vice-President, *Representative or Delegate in Congress*, or *member of a State Legislature*, by reason of the denial to any citizen or citizens who shall offer to vote, of the right to vote, on account of race, color, or previous condition of servitude—

and further providing that such person may have his right of action in the Federal courts; yet in express violation of its provisions, in the case of Antoine, lieutenant-governor, *vs.* Warmoth, Judge Durell issued his restraining order to prevent the organization of the senate and house of representatives except as he indicated in his orders, and in his orders he enumerated by names the persons that might convene and the persons who should not convene as members of the Legislature of Louisiana, and made that a part of his restraining order. I will omit this restraining order on account of its length and merely read what the committee say in regard to it. The opinion of the committee is on page 43 of the report and is as follows :

Here was a restraining order, having the force of an injunction, issued for no purpose under heaven except to control the organization of the Legislature and compel the seating of those members who had been returned and certified to by the Lynch board, and exclude those who had been certified to by the De Feriet board.

When we consider that the act of Congress under which this proceeding was instituted by express words excludes members of the State Legislature from the right to maintain any proceedings in a Federal court to obtain their seats, even when they have been defeated and deprived of their rights, because citizens have been denied the right to vote on account of race, color, or previous condition of servitude; and that the State-house was held by Federal troops under the unlawful and void order of Judge Durell, hereinbefore set forth, which order commanded the marshal to prevent "all unlawful assemblage therein under the guise or pretext of authority claimed by virtue of pretended canvass and returns made by said De Feriet board," we can comprehend the full force and effect of the additional restraining order in the Antoine case.

Indeed, it is impossible not to see that this bill was filed, and the restraining order thereon was issued, for the sole purpose of accomplishing, what no Federal court has the jurisdiction to do, the organization of a State Legislature.

And your committee cannot refrain from expressing their astonishment that any judge of the United States should thus unwarrantably have interfered with a State government, and know no language too strong to express their condemnation of such a proceeding.

I do not think that any language I could use would be stronger in condemnation of the action of the judge in pronouncing that decree than the committee use themselves.

While these proceedings were progressing before Judge Durell let us look at the moving power behind the throne. We find while they were in progress in Louisiana the United States marshal was

telegraphing to the Attorney-General of the United States, and the collector of the port (Casey) was telegraphing to the President. The correspondence is here recorded. I will present these telegrams to the Senate without remark in the order of their dates, as follows:

NEW ORLEANS, December 6, 1872.

President GRANT:

Marshal Packard took possession of State-house this morning at an early hour with military posse, in obedience to a mandate of circuit court, to prevent illegal assemblage of persons under guise of authority of Warmoth's returning board, in violation of injunction of circuit court. Decree of court just rendered declares Warmoth's returning board illegal, and orders the returns of the election to be forthwith placed before the legal board. This board will probably soon declare the result of the election of officers of State and Legislature, which will meet in State-house with protection of court. *The decree was sweeping in its provisions, and if enforced will save the republican majority, and give Louisiana a republican Legislature and State government,* and check Warmoth in his usurpations. Warmoth's democratic supporters are becoming disgusted with him, and charging that his usurpations are ruining their cause.

JAS. F. CASEY.

NEW ORLEANS, December 6, 1872.

Attorney-General WILLIAMS,
Washington, D. C.:

Returning board provided by election of seventy, under which election was held, and which United States court sustains, promulgated in official journal this morning result of election of Legislature. House stands seventy-seven republicans, thirty-two democratic; senate twenty-eight republicans, eight democratic. Board counted ballots attached to affidavits of colored persons wrongfully prevented from voting, filed with chief supervisor.

S. B. PACKARD,
United States Marshal.

NEW ORLEANS, December 9, 1872.

Hon. GEO. H. WILLIAMS,
Attorney-General, Washington D. C.:

Returning board has officially promulgated in official journal this morning the result of the election for State officers. Kellogg's majority 18,861.

S. B. PACKARD,
United States Marshal.

NEW ORLEANS, December 9, 1872.

Hon. GEO. H. WILLIAMS,
Attorney-General:

Governor Warmoth has been impeached by vote of 53 to 6. Warmoth's legislature returned by his board has made no pretense of a session.

S. B. PACKARD,
United States Marshal.

NEW ORLEANS, LOUISIANA, December 9, 1872.

Hon. GEO. H. WILLIAMS,
Attorney-General:

Senate, by vote of 17 to 5, have resolved into high court of impeachment. Senator Harris elected president of the Senate. Lieutenant-Governor Pinchback being now governor.

S. B. PACKARD,
United States Marshal.

NEW ORLEANS, December 9, 1872.

Hon. GEO. H. WILLIAMS,
Attorney-General, Washington, D. C.:

Lieutenant-Governor Pinchback qualified and took possession of the governor's office to-night. Senate organized as high court of impeachment, Chief Justice Ludeling presiding, and adjourned to meet Monday next. It is believed that all the democrats members of General Assembly will qualify and take seats to-morrow.

S. B. PACKARD,
United States Marshal.

Hitherto nothing appears to justify or warrant Federal interference in the local government in Louisiana. The President had not been called upon for Federal protection; but after the mischief had been done he was called upon to protect the creature called a government set up by Federal authority, as follows:

NEW ORLEANS, December 9, 1872.

We have the honor to transmit to your excellency the following concurrent resolution of both houses of the General Assembly and to request an early reply:

Whereas the General Assembly is now convened in compliance with the call of the governor, and certain evil-disposed persons are reported to be forming combinations to disturb the public peace, defy the lawful authority, and the State is threatened with violence: Therefore,

Be it resolved by the senate and house of representatives of the State of Louisiana in General Assembly convened, That the President of the United States be requested to afford the protection guaranteed each State by the Constitution of the United States when threatened with domestic violence, and that the presiding officers of the General Assembly transmit this resolution immediately, by telegraph or otherwise, to the President of the United States,

Adopted in General Assembly convened this 9th day of December, A. D. 1872.

P. B. S. PINCHBACK,

Lieutenant-Governor, and President of the Senate.

CHAS. W. LOWELL,

Speaker of the House of Representatives.

Next in order we have—

NEW ORLEANS, December 9, 1872.

President GRANT:

Having taken the oath of office and being in the possession of the gubernatorial office, it devolves upon me to urge the necessity of a favorable consideration of the request of the General Assembly as conveyed in the concurrent resolution of this day telegraphed to you requesting the protection of the United States Government. Be pleased to send the necessary orders to General Emory. This seems to me a necessary measure of precaution, although all is quiet here.

P. B. S. PINCHBACK,

Lieutenant-Governor, Acting Governor of Louisiana.

NEW ORLEANS, LOUISIANA, December 11, 1872.

HON. GEORGE H. WILLIAMS,

Attorney-General:

I have the honor to acknowledge the receipt of your dispatch. May I suggest that the commanding general be authorized to furnish troops upon my requisition upon him for the protection of the Legislature and the gubernatorial office? The moral effect would be great, and in my judgment tend greatly to allay any trouble likely to grow out of the recent inflammatory proclamation of Warmoth. I beg you to believe that I will act in all things with discretion.

P. B. S. PINCHBACK,

Lieutenant-Governor, Acting Governor.

NEW ORLEANS, December 11, 1872.

President GRANT:

Parties interested in the success of the democratic party, particularly the New Orleans Times, are making desperate efforts to array the people against us. Old citizens are dragooned into an opposition they do not feel, and pressure is hourly growing; our members are poor and adversaries are rich, and offers are made that are difficult for them to withstand. *There is danger that they will break our quorum. The delay in placing troops at disposal of Governor Pinchback, in accordance with joint resolution of Monday, is disheartening our friends and cheering our enemies.* If requisition of Legislature is complied with all difficulty will be dissipated, the party saved, and everything go on smoothly. If this is done, the tide will be turned at once in our favor. The real underlying sentiment is with us, if it can but be encouraged. Governor Pinchback acting with great discretion, as is the Legislature, and they will so continue.

JAS. F. CASEY,

Collector.

NEW ORLEANS, 11, 1872.

Hon. GEORGE WILLIAMS:

If President in some way indicate recognition, Governor Pinchback and Legislature would settle everything. Our friends here acting discreetly.

W. P. KELLOGG.

NEW ORLEANS, 11, 1872.

President GRANT:

Democratic members of Legislature taking their seats. Most, if not all, will so in next few days. *Important that you immediately recognize Governor Pinchback's legislature in some manner*, either by instructing General Emory to comply with any requisition by Governor Pinchback, under joint resolution of Legislature of Monday, or otherwise. This would quiet matters much. I earnestly urge this and ask a reply.

JAMES F. CASEY.

NEW ORLEANS, December 12, 1872.

President GRANT:

The condition of affairs is this: The United States circuit court has decided which is the legal board of canvassers. Upon the basis of that decision a Legislature has been organized in strict conformity with the laws of the State, Warmoth impeached, and thus Pinchback, as provided by the constitution, became acting governor. The chief justice of the supreme court organized the senate into a court of impeachment, and Associate Justice Tallifero administered oath to Governor Pinchback. The Legislature, fully organized, has proceeded in regular routine of business since Monday. Notwithstanding this, Warmoth has organized a pretended Legislature, and it is proceeding with pretended legislation. A conflict between these two organizations may at any time occur. A conflict may occur at any hour, and in my opinion there is no safety for the legal government without the Federal troops are given in compliance with the requisition of the Legislature. *The supreme court is known to be in sympathy with the republican State government.* If a decided recognition of Governor Pinchback and the legal Legislature were made, in my judgment it would settle the whole matter. General Longstreet has been appointed by Governor Pinchback as adjutant-general of State militia.

JAMES F. CASEY.

DEPARTMENT OF JUSTICE,
December 12, 1872.

Acting Governor PINCHBACK.

New Orleans, Louisiana:

Let it be understood that you are recognized by the President as the lawful executive of Louisiana, and that the body assembled at Mechanics' Institute is the lawful Legislature of the State, and it is suggested that you make proclamation to that effect, and also that all necessary assistance will be given to you and the Legislature herein recognized to protect the State from disorder and violence.

GEO. H. WILLIAMS,
Attorney-General.

Thus the fraud and usurpation were recognized by the Attorney-General.

Now for a moment we will refer to what the report discloses as to the other side representing the people and not the Federal officials:

NEW ORLEANS, December 11, 1872.

THE PRESIDENT OF THE UNITED STATES:

Under an order from the judge of the United States district court, investing James Longstreet, Jacob Hawkins, and others with the powers and duties of returning officers under State election law, and charging them with the duty of completing the legal returns and declaring the result in accordance therewith, those persons have promulgated results based upon no returns whatever, and no evidence except *ex parte* statements. They have constructed a pretended General Assembly, composed mainly of candidates defeated at the election, and those candidates, protected by United States military forces, have taken possession of the State-house and have organized a pretended Legislature, which to-day has passed pretended articles of impeachment against the governor; in pursuance of which the person claiming to be a lieutenant-governor, but whose term had expired, proclaimed himself acting governor, broke into the executive office under the protection of United States soldiers, and took possession of the archives. In the mean

time the General Assembly has met at the city hall, and organized for business with sixty members in the house and twenty-one in the senate, being more than a quorum of both bodies. I ask and believe that no violent action be taken, and no force used by the Government, at least until the supreme court shall have passed final judgment on the case. A full statement of the facts will be laid before you and the Congress in a few days.

H. C. WARMOTH,
Governor of Louisiana.

NEW ORLEANS, 12, 1872.

His Excellency U. S. GRANT,
President United States :

Claiming to be governor-elect of this State, I beg you, in the name of all justice, to suspend recognition of either of the dual governments now in operation here until there can be laid before you all facts, and both sides, touching legitimacy of either government. The people denying the legitimacy of Pinchback government and its Legislature simply ask to be heard, through committee of many of our best citizens on eve of departure for Washington, before you recognize the one or the other of said governments. I do not believe we will be condemned before we are fully heard.

JNO. MCENERY.

NEW ORLEANS, December 12, 1872.

SIR: As chairman of a committee of citizens appointed under authority of a mass-meeting recently held in this city, I am instructed to inform you that said committee is about leaving here for Washington to lay before you and the Congress of the United States the facts of the political difficulties at present existing in this State, and further earnestly to request you to delay executive action in the premises until after the arrival and hearing of said committee, which is composed of business and professional men, without regard to past political affiliations.

THOMAS A. ADAMS,
Chairman.

His Excellency U. S. GRANT,
President of the United States.

These appeals from Governor Warmoth and Governor-elect McEnery and from the citizens of Louisiana were spurned and treated with contempt, as the following will show :

DEPARTMENT OF JUSTICE,
December 13, 1872.

Hon. JOHN MCENERY,
New Orleans, Louisiana :

Your visit with a hundred citizens will be unavailing so far as the President is concerned. His decision is made and will not be changed, and the sooner it is acquiesced in the sooner good order and peace will be restored.

GEO. H. WILLIAMS,
Attorney-General.

Finally we have the following :

WASHINGTON, December 14, 1872.

General W. H. EMORY, U. S. A.,
Commanding New Orleans, Louisiana :

You may use all necessary force to preserve the peace, and will recognize the authority of Governor Pinchback.

By order of the President :

E. D. TOWNSEND,
Adjutant-General.

And thus the government was established under the decrees made by Judge Durell, which by the committee are pronounced void and without authority of law, and this government has been maintained in place, and is all the government the people of Louisiana have had for two years past.

Now what does the committee say of these proceedings? I will read from the opinion of the majority, which is reported on page 44.

The committee making the majority report were composed of Messrs. CARPENTER, LOGAN, ALCORN, and ANTHONY, still members of this body, all of the republican party, and I believe in good standing in that party, and is as follows:

OPINION OF MAJORITY OF COMMITTEE.

It is the opinion of your committee that but for the unjustifiable interference of Judge Durell, whose orders were executed by United States troops, the canvass made by the De Feriet board, and promulgated by the governor, declaring McEnery to have been elected governor, &c., and also declaring who had been elected to the Legislature, would have been acquiesced in by the people, and that government would have entered quietly upon the exercise of the sovereign power of the State. But the proceedings of Judge Durell and the support given to him by United States troops, resulted in establishing the authority *de facto* of Kellogg and his associates in State offices, and of the persons declared by the Lynch board to be elected to the Legislature. We have already seen that the proceedings of that board cannot be sustained without disregarding all the principles of law applicable to the subject, and ignoring the distinction between good faith and fraud.

Your committee are therefore led to the conclusion that, if the election held in November, 1872, be not absolutely void for frauds committed therein, *McEnery and his associates in State offices*, and the persons certified as members of the Legislature by the De Feriet board, *ought to be recognized as the legal government of the State.* Considering all the facts established before your committee, there seems no escape from the alternative that the *McEnery government must be recognized by Congress or Congress must provide for a re-election.*

Now, if this Senate should be disposed to follow the recommendation of the committee, the election of Mr. Pinchbaek must be declared illegal, for he was not elected by the legal Legislature, as certified by the De Feriet board, but by the Kellogg usurpation.

I will also read from the opinions of the minority Senator Trumbull's opinion on page 61. He says:

The history of the world does not furnish a more palpable instance of usurpation than that by which Pinchbaek was made governor, and the persons returned by the Lynch board the Legislature of Louisiana.

I also quote from Senator MORTON'S minority opinion, pages 76, 77:

The conduct of Judge Durell, sitting in the circuit court of the United States, cannot be justified or defended. He grossly exceeded his jurisdiction, and assumed the exercise of powers to which he could lay no claim. The only authority he had in the matter grew out of the act of Congress of 1870 to enforce the fifteenth amendment, and the act amendatory of that, passed in 1871, which gave to the courts of the United States jurisdiction in all cases in law and equity arising under the former act. Under the first act two classes of cases might arise: first, actions to enforce the rights of those who had been illegally denied the right to vote upon the ground of race, color, or previous condition of servitude; and second, actions to enforce the rights of those who had been deprived of office by reason of the denial to persons of the right to vote on account of race, color, or previous condition of servitude; and suits in equity ancillary or in aid of these rights of action would come within the jurisdiction of the circuit court of the United States, among which would be a suit to perpetuate testimony. But the pretense that in a suit to perpetuate testimony the court could go beyond the natural and reasonable jurisdiction to decide who constituted the legal returning board under the laws of Louisiana, and to enforce the rights of such as it might determine to be members of that board and to enjoin others who were not, is without any foundation in law or logic.

In the Antoine case, Judge Durell not only assumed to determine who constituted the legal returning board, but to prescribe who should be permitted to take part in the organization of the Legislature and to enjoin all persons from taking part in such organization who were not returned by the Lynch board as elected; and this assumption of jurisdiction was made in the face of the express provision in the act of 1870 that its benefits should not extend to candidates for electors for Congress, or for the State Legislature. His order issued in the Kellogg case to the United States marshal to take possession of the State-house for the purpose of preventing unlawful assemblages, under which the marshal called to his aid a portion of the Army of the United States as a *posse comitatus* can only be characterized as a gross usurpation.

Such is the opinion of Senator MORTON, who is still present here in the Chamber and also in good standing in the republican party.

Senator Hill substantially agreed with the majority except as to the proposed remedy. We thus have the unanimous opinion of the entire committee as to the usurpation of Judge Durell in promulgating his decrees which was the foundation upon which the government was constituted and the Legislature was organized. To the government and Legislature thus brought into existence the applicant for a seat in this Chamber is indebted for his election.

Thus stands the record among the archives of the Senate on the report of a committee, which was instructed to inquire into the facts of this case. As I say they report that this government was established by the void decrees of this Federal judge sustained by the Army of the United States and the Attorney-General. It was a government that was conceived, according to my interpretation, in the telegram of the Attorney-General of December 3 and brought into being by a prearranged combination and interference by the Federal officials at New Orleans not native or to the manner born. Bovee testifies they "were determined to have a republican Legislature and made their canvass to that end." Casey telegraphs to the President:

Durell's decree is sweeping, and if enforced will save the republican party and give Louisiana a republican Legislature and State government.

A telegram of that character to the President of the country and of the whole country requires no comment. Casey calls on the President to recognize the government thus established and to sustain the action had by the Army; Packard calls on the Attorney-General for like purposes; and by both it is granted. The Army sustained and yet sustain the usurpation.

Sir, can despotism in the destruction or formation of governments go further than this? Yet these men are all in office, Casey, Packard, and the Attorney-General. A decent respect for the opinions of mankind required that Durell should abdicate, and a decent respect for the opinions of mankind required he should resign his office to escape impeachment. The Attorney-General not only remains in office, but has been nominated to the highest judicial position in the gift of the Government, no doubt the reward of merit. Durell is out of office—parties, like republics, are sometimes ungrateful—but perhaps he too is destined to be elevated or at least nominated to some more exalted position as his reward for valuable services rendered. And at some future day some eulogist of his party, equally gifted with those who have preceded me, will perhaps rise here in his place to pronounce his panegyric, and with like force and emphasis apply to him *clarum et venerabile nomen*.

For two years this State government, this usurpation, has remained

in power and the people of Louisiana have been without remedy here or elsewhere. For two years this record has remained before the Senate showing that Louisiana has been deprived of her sovereignty, yet not a voice of the dominant party has been raised here in her behalf. Perhaps I should except one, the Senator from Wisconsin not now in his place, [Mr. CARPENTER.] He offered a remedial measure and supported it with an argument of great power and eloquence; but he might say to his compeers of the dominant party in this Chamber with Coriolanus:

Alone I did it.

And alone he stands as the only one of the dominant party upon this floor who has raised a voice in behalf of down-trodden Louisiana.

Sir, if the action of the Administration in Louisiana, unveiled as it is by this report, is to stand as a precedent unrebuked and without remedy; in Louisiana to-day, in Arkansas to-morrow; in State after State over the whole Union, and finally in the Congress itself, how long will it be before some one bolder than the rest, some American Maximinus or some American Napoleon, shall seize upon all, and concentrating all and consolidating all shall stamp his heel on all that we regard as sacred and valuable and in the place of our republican institutions establish an overshadowing despotism.

After every appeal to the Executive and to Congress for relief had failed, on the 14th of September last the people of Louisiana rose in their majesty and by force—say by revolution—drove the usurpers from place and installed those in office who they believed were elected by the people. Sir, I do not stand here to justify or condemn their act, or to draw refined ethical distinctions between usurpation and revolution. Our fathers rose in rebellion against Great Britain and proclaimed to the world that governments derived their just powers from the consent of the governed, and that when any form of government became destructive of certain ends enumerated, it was the duty of the people to alter and to abolish it. Perhaps, too, they remembered the injunction—

Who would be free themselves must strike the blow.

At all events it illustrated how weak was the creature called government set up by Federal power and the void decrees—I was going to say, of a corrupt judge—I will say of a pliant and degraded judge. It illustrated how strong were the people and how strong was public sentiment against that government. It was swept away like chaff before the whirlwind; it was the power of the majority against the minority, of the people against the usurpers, and it showed to the world how weak was the government thus set up as against that power. But again the Executive interfered, the Army was interposed, and again the people submitted and bowed their heads to Federal authority.

If it be true, as reported by the committee, that the government of 1872 was established by usurpation, will any Senator of the dominant party tell us how Louisiana is to regain her liberty, her autonomy, the control of her government? Do Kellogg and the Federal officers enjoy a perpetuity? Are they to remain in place forever? With the returning board under his control, with the Army at his command, how is Kellogg to be dislodged from power? Louisiana complains to-day for the usurpation of 1872, not of her own citizens, but of Federal officers, the collector, the marshal, the judge, the Attorney-General, and the Army of the United States, as the disturbers of her peace, the usurpers of her government, the oppressors of her people, and the plunderers of her citizens. As the committee say, if she had been left to herself the McEnery government would have been installed and the people would have acquiesced. They would then have had a majority and not a minority government. A government of the people and not a usurpation. Did not the Attorney-General know what would follow when he sent his telegram of December 3? Did he not know that the void decrees of Judge Durell would follow when he sent that telegram? Did not the Attorney-General know that the proceedings before Judge Durell were void, and that the government thereby established was a usurpation? If he did not he is unfit to hold the office he now occupies. Officers of the Army, as we are told, are not presumed to know much about law, but the same cannot be said of the head of the Department of Justice, and I presume he knew what the effect of these orders were. I presume when he was telegraphing responsively to communications from Packard and from Kellogg that he knew what had transpired, and that these void decrees were being enforced. Is not the President now fully advised in regard to this Kellogg government and how it has been inaugurated and maintained in place? In his late message, January 13, 1875, he says:

It has been bitterly and persistently alleged that Kellogg was not elected. Whether he was or not is not altogether certain, nor is it any more certain that his competitor, McEnery, was chosen. The election was a gigantic fraud, and there are no reliable returns of its result. Kellogg obtained possession of the office, and in my opinion has more right to it than his competitor.

On the 20th of February, 1873, the Committee on Privileges and Elections of the Senate made a report in which they say they were satisfied by testimony that the manipulation of the election machinery by Warmoth and others was equivalent to 20,000 votes; and they add that to recognize the McEnery Government "would be recognizing a government based upon fraud, in defiance of the wishes and intention of the voters of the State." Assuming the correctness of the statements in this report, (and they seem to have been generally accepted by the country,) the great crime in Louisiana, about which so much has been said, is that one is holding the office of governor who was cheated out of 20,000 votes against another whose title to the office is undoubtedly based on fraud and in defiance of the wishes and intentions of the voters of the State.

The President refers to the same report from which I have been so largely quoting.

Did he read all that report?

I regret that the President overlooked that portion of the report

which I have read this evening—especially that on the twenty-seventh and twenty-eighth pages—of forged affidavits, and of the fraudulent manner in which the returns were gotten up. Those things are entirely omitted, also the conclusions of the committee; and yet the President says that there were frauds, as the committee say, to the extent of 20,000 votes. The majority of the committee also say that the McEnery government ought to have been installed in office and would have been if the Government had not interfered, and that the people would have acquiesced in it as the rightful government.

The usurpation of 1872 is the first that has occurred in times of peace in the history of our country where a sovereign State has been invaded and a government set up by Federal and military power. It is without precedent, and the cases that have been referred to are not parallel with this; none but itself can be its parallel; and if it ever becomes the duty of some future Gibbon to write the history of our decline and fall, it will stand a memorable monument to guide the researches of the historian.

The events that have transpired since, in the last election in Louisiana, are the natural results of the usurpations to which I have referred, and the same instruments have been used for their accomplishment. In the election of 1874 there was the same manipulation of the returns, by the same set of men, the falsification of the vote by the returning board, and the voice of the people was again set aside. Kellogg again appears as the agent and manager, supported by Federal authority. I shall not attempt to recapitulate the history of this last election. I propose merely to speak of these events so far as they are national. The important question to my mind is, even if we admit the first election or the second election were void for fraud, can the President with the Army invade a State and set up a government? It must not be forgotten that the day the Legislature assembled the State-house was invested and under guard, and none were admitted except by Federal authority. The proceedings that took place have been detailed so often that it is hardly necessary to refer to them. Wiltz organized the house temporarily. He was elected as its speaker. He called upon De Trobriand to quell some disturbance that had taken place in the lobby. That is made use of here and by the President, in his late message, as a point against the democratic party. It is said in the message "the first call upon the military was made by the democrats." In such matters there should be neither democrats nor republicans. Wiltz as speaker did first call on De Trobriand. But it must not be forgotten the State-house was under guard of the United States Army, and that none were permitted to enter therein but by the permit of the guard. Even members of Congress, the committee of the House sent there to investigate and report, could not enter the State-house or the legislative chamber except by the per-

mission of United States officers. There was, therefore, no one else to call upon but the United States military officer, who allowed them to enter and who had the control of the State-house at the time. The State authorities and police were displaced by the military, and had no power or authority to interfere.

Next De Trobriand, without being invited by the speaker, marched in with his sword by his side and his platoon of soldiers and marched out those persons who were there claiming to be elected by the people, and then he proceeded to organize that branch of the Legislature. Now, by what authority did he take possession of the State-house? By what authority did he remove persons claiming to be elected members, and by what authority did he proceed to organize that branch of the Legislature? It was a house of representatives *de facto*, all that Louisiana has had, all that the President has sustained in Louisiana for the past two years. It was peaceably assembled. At the time De Trobriand entered it was an organization effected and peaceable, and it was dissolved by military force. Can despotism go further than this? By what authority did the United States interfere with the Army? Who will explain? Whether or no the speaker was regularly elected, whether or not the yeas and nays were called, are questions for Louisiana and her authorities to decide, and not for the Federal Government. Whether it was a house *de facto* or a house *de jure*, who must decide? The rule must be the same in every State of the Union. The President or the Army has no more authority to organize or to interfere in the organization of the Legislature in Louisiana than in Pennsylvania, Indiana, or any other State of the Union.

Now, in regard to the pretext for Government interference in Louisiana, we have the report of the House committee, a committee that was sent there to investigate this very matter, composed of two members of the republican party and one Democrat. The report of that committee is a complete refutation of the allegations which have been made on this floor against the people of Louisiana, and in substance is as follows:

First. That there was no intimidation of negroes, but that there was intimidation of the white voters by Federal power.

Second. That the election was remarkable for its fairness.

Third. That the conservatives had a large majority.

Fourth. That the action of the returning board was unfair and illegal.

Fifth. The stories about oppression, &c., of the white-leaguers were fictions.

This report is the best evidence that we have, better than any mere rumor, better than any newspapers or telegrams that have been received and referred to, and the only *quasi* official evidence that has

been brought before us. And it is corroborated and sustained by the clergy and the laity and the better class of the people of Louisiana generally.

If this organization thus effected by Wiltz had been an organization of the republican party, no De Trobriand and no Sheridan would have interfered. I put that on record before the American people, that no officer of the Army of the United States would have interfered with the organization had it been an organization effected in the same way by the republican party.

In regard to the subsequent acts of Sheridan, I have nothing to add to that which has been said by others. I have no desire to pluck one laurel from his brow. But if the report from the committee of the House be true, his dispatches in denunciation of the people of Louisiana are inexcusable, and will stand among the most infamous and despotic acts perpetrated in times of peace to be found recorded in our history, which the brightest page in his military career can never obliterate, which no ignorance of law can excuse, and humanity and decency will never forget. If I had been told that Sheridan's acts were intended to add insult to injury, to rekindle the dead embers of civil war and again plunge the South into scenes of blood and violence, I could understand it. If such was the design, it has most signally failed, and I am glad of it. I am glad that the people of Louisiana have submitted to usurpation and even indignity. Their forbearance has enlisted the sympathy of the people of the whole country, and will yet lead to their deliverance and emancipation.

Now, sir, I would ask, does any Senator pretend to deny the truth of the report made by the Senate Committee on Privileges and Elections, that the government of Louisiana as organized in 1872 was brought into existence by the void decrees of Judge Durell, sustained by the Attorney-General and the Army of the United States, and that it was a usurpation? So far as I remember I cannot recall that one Senator has precisely placed himself upon that ground and made that denial here. Does any Senator pretend that there is any constitutional authority to justify the recent investment of the State-house of Louisiana and the forcible ejection from the legislative chamber of persons claiming to be members, and the organization of the house by the officers and military of the United States? So far as I know, not one. If in the Constitution there be any warrant or authority for the proceeding, let it be produced. The President does not pretend to justify it. I believe my colleague [Mr. SARGENT] did attempt to justify it to some extent and to maintain that the President had such authority to interfere, but against his position I quote the President himself. We must infer the President does not approve of the

military interference in Louisiana. On page 5 of his late message of January 13, in reference to this matter, the President says :

Respecting the alleged interference by the military with the organization of the Legislature of Louisiana on the 4th instant, I have no knowledge or information which has not been received by me since that time and published. My first information was from the papers of the morning of the 5th of January. I did not know that any such thing was anticipated, and no orders nor suggestions were ever given to any military officer in that State upon that subject prior to the occurrence. I am well aware that any military interference by the officers or troops of the United States with the organization of the State Legislature or any of its proceedings, or with any civil department of the Government, is repugnant to our ideas of government. *I can conceive of no case, not involving rebellion or insurrection, where such interference by authority of the General Government ought to be permitted or can be justified.* But there are circumstances connected with the late legislative imbroglio in Louisiana which seem to exempt the military from any intentional wrong in that matter. Knowing that they had been placed in Louisiana to prevent domestic violence and aid in the enforcement of the State laws, the officers and troops of the United States may well have supposed that it was their duty to act when called upon by the governor for that purpose.

Whatever Senators may think, the President does not justify interference by the Government.

The President declares in his message he did not give the order for interference. Further, he says on page 7 of the same message :

I have no desire to have United States troops interfere in the domestic concerns of Louisiana or of any other State.

Now, sir, that reads very well in print. It sounds very well in words. When, however, we remember that the President was privy to the usurpation of 1872; when we recall the recent message that he sent to us in regard to Arkansas affairs, we might say with the Latin poet—*Sic notus Ulysses*.

But, sir, notwithstanding the declarations of the President in this message, the deed has been done, the usurpation has been accomplished. Yet no one is censured, no one is recalled, no one reprimanded and no one punished. Senators do not pretend to defend the act, and the Army is still retained in place. As was in substance said by the Senator from New Jersey [Mr. FRELINGHUYSEN] and by others, inasmuch as it has been done, they were not disposed to see it undone.

We have the evidence that an act of despotism and usurpation has been accomplished in Louisiana, and yet the Senators of the dominant party are willing the government thus established should be kept in power, and are unwilling that it should be resolved back into a republican form: one of the people. I do not know that any other Senator has pretended to justify the acts that have been perpetrated in Louisiana unless it be the Senator from New York, [Mr. CONKLING,] who claimed to justify it on the ground that it was intended to quell a riot. If I understood his argument rightly, it was to the effect that the governor of Louisiana, as chief magistrate, had the right to call on the military of the United States to suppress riots, and that De Trobriand entered the State-house, with his sword by his side and his platoon of soldiers with him, rightfully and for the purpose of quelling a riot. When we have the evidence before us that De Trobriand

had possession of the State-house ; that he let nobody in there except by the permit of his authority ; that by a cordon of soldiers the State-house was corraled, and every man therein was there with his consent, it is very strange that De Trobriand would enter his own castle thus guarded and protected to quell a riot among those he had so completely under his control. If that was a riot, about the time the Senator was speaking there was a similar riot in the State-house of Pennsylvania, and equally good reason for Federal interference in the organization of the Legislature of that State. The breaking up of a democratic organization of a Legislature, removing members claiming to be elected, and then reorganizing a republican Legislature in its place may be quelling a riot in political ethics, but it is something new in jurisprudence.

Sheridan, unacquainted with law, has exhibited a disposition to trample laws and constitutions under foot, and asks for unusual and unlimited powers ; and yet he remains in place unrecalled and unrebuked.

Why was Sheridan sent to Louisiana ? Where was the necessity ? McDowell was the general of division in command, an officer of high rank and of recognized ability. The General of the Army, of the very highest rank and of the very highest ability, was close at hand. Why were they not called upon ? It seems that it required some more reckless, more subservient, more despotic officer to perform what was required to be done in Louisiana. Whether it was to give the *coup de grace* to liberty in Louisiana or to accomplish a *coup d'état* for other purposes, the impulse seemed to be—

If it were done, when 'tis done, then 't were well it were done quickly.

When we ask for information and criticise these proceedings, how are we answered ? By high-sounding notes in praise of Sheridan and in denunciation of the people of Louisiana as rebels and murderers ; that they are engaged in slaughtering negroes by the thousand, and that they are yet in a state of *quasi* rebellion against the Government. In that connection we have the report that was sent to us from the Secretary of War, in which we have the communication from Lieutenant Colonel Morrow, of December 24, an officer who was there in Louisiana, better acquainted with the condition of affairs than perhaps any other officer that has communicated information to the Department, and I ask the Secretary to read what I have marked.

The Chief Clerk read as follows :

I now come to the general condition of affairs in the parishes on Red River, and, without the slightest exaggeration, I may say it is bad. Respect and regard for the General Government are expressed by all classes of people, and so is the determination not to be, under any circumstances, brought into collision with the Federal troops ; but there is a universal expression of contempt for the State government, and, so far as language could express it, there is open defiance of its authority. The governor is everywhere and by almost every white man denounced a

"usurper," and the determination is openly expressed by nearly every white man not to submit to his usurpation longer than submission is compelled by the presence and force of Federal soldiers.

Dissatisfaction and discontent are plainly visible in all the acts and conversation of the people, and the result is manifest in almost every department of business. Uncultivated fields, unrepaired fences, roofless and dilapidated dwellings, and abandoned houses meet the eye at every step, and the whole aspect of the country has a look of poverty and neglect. The schools in many parishes are closed for want of money to pay the teachers, and I was told again and again that the school funds had been stolen by the State officials. In one parish a criminal court had not been held in nearly two years, and in other parishes no court, criminal or civil, had been held for a long time. In a community where there are no courts crime finds a genial soil, and the natural result is that the law has fallen into disregard and disrepute. Judges were openly charged with corruption, and money, and not justice, is charged with turning the judicial scale.

The people reported and seem to believe that the machinery of the Federal courts had been used to oppress them for political ends, and that the Federal troops had been used for political purposes. How far this has been the case I have no means of knowing, but I do believe that deputy United States marshals have used United States soldiers in cases where there was no necessity for them, and, from my investigations, in the parishes of Ouachita and Lincoln, I am quite certain that these civil officers discharged their duties in an unnecessarily harsh if not cruel manner. It was represented to me that the marshals are in the habit of prowling through the country in the night time, accompanied by a posse of soldiers, to make arrests of citizens who could be arrested by the marshal unaided, and under any circumstances should be arrested in the open daylight.

The complaints against the State officers were so numerous that a mere enumeration of them would fill a volume. Corruption and jobbing in office; partiality and favoritism in the administration of justice; exorbitant taxes, rising in some instances to 7 and 8 per cent. on the appraised value of the property; a ruined credit; a depleted State and parish treasury; enormous debts, State and parish; and multiplication of officers in the person of favored individuals, are a few of the charges made by the people against their State authorities.

The political condition of the State is the one subject of conversation everywhere, in public and private, and among all classes, except the negro, who feels no interest in it, because he does not comprehend it. The dissatisfaction is wide-spread and deep, and I am firmly convinced that sooner or latter there will be an outbreak of public feeling which will be attended by scenes of fearful violence. The determination to escape from the rule of the present State government is fixed in every mind, and whenever the opportunity presents itself a blow will be struck for the "liberation of Louisiana," to use the expression in common use. A combination or organization among the white men ramifies every parish and neighborhood, and there is a perfect unanimity of sentiment and will be concert of action whenever the time comes to take a decisive stand. Without going into needless details, I give the following as my deep-seated convictions: The present State government cannot maintain itself in power a single hour without the protection of Federal troops. I do not believe that the present State authorities, even with the protection of Federal troops, will be able to collect taxes and perform the functions of government after an early day in the new year. Opposition to them will be made at every turn, and every step they attempt to take will be beset with obstructions. Outside of New Orleans there is no party or organization in the State with sufficient strength or influence to afford the slightest aid. *The State government has not the confidence or respect of any portion of the community.*

I not only do not believe, but I am absolutely certain, that there will not be, at any time, in Louisiana any organized or authorized resistance to the General Government. If the expressions of the people are to be believed, and I do believe them, there is a very sincere desire to live quietly under the protection of the Constitution of the United States and enjoy the blessings of the National Government. But there is no disguising the fact the protection afforded by the Federal Administration to the government of the present State executive is the cause of bitter personal and political feeling in the breasts of nineteen-twentieths of the white inhabitants of the State.

Mr. HAGER. Colonel Morrow's report is the latest and best official information we have as to the true condition of the State of Louisiana. It is dated December 24, 1874, and to it is appended the following:

HEADQUARTERS OF THE ARMY,
Saint Louis, Missouri, January 4, 1875.

This paper is most respectfully forwarded to the Secretary of War with a re-

quest that he submit it for the personal perusal of the President. I know of no officer of Colonel Morrow's rank who is better qualified to speak and write of matters like this, and his opinions are entitled to great consideration. I profess to have some knowledge of the people of that section both white and black, from a long residence among them before the war and several visits since, but I shall not intrude my opinion in the confusion in which the subject is now enveloped.

W. T. SHERMAN,
General.

This is a letter from the General of the Army commending that communication to the special personal consideration of the President. Colonel Morrow does not speak of crimes and murders, but he speaks of roofless and dilapidated buildings, abandoned houses, desolated homes; that judges were openly charged with corruption, and money, not justice, is charged with turning the judicial scale; and that the State government has not the confidence nor the respect of any portion of the community.

In connection with that same subject I have here a document addressed by the Southern Patrons of Husbandry to their brethren, which I should like to have read. I believe it has not yet been referred to.

The Chief Clerk read as follows:

PATRONS OF HUSBANDRY,
OFFICE OF THE STATE GRANGE OF LOUISIANA,
68 Camp Street, New Orleans, January 16, 1875.

At a joint session of the executive committees of the State granges of Louisiana and Mississippi, called at New Orleans by Worthy Master H. W. L. Lewis, on the 16th day of January, 1875, the following appeal to the Patrons of Husbandry throughout the United States was offered and unanimously adopted.

To the Patrons of Husbandry throughout the United States:

After mature and most thoughtful consideration, and after long hesitations in appealing to you on the subject of our domestic governmental disturbances, we can no longer remain silent. The people here do not govern! They are the subjects of satraps. Men rule here who have no sympathy with the people of any race, color, or previous condition. Government has become a speculation, a huge monopoly, and, as patrons, we know that when these things exist with power, the people—especially the farmers—suffer. We are loaded with debt accumulated by these governmental monopolies; taxes are eating up what little property the late unhappy and fratricidal war left us. Capital avoids us or locks itself in the dark cells and coffers of the cautious. Our broad savannas and magnolia-crowned summits are desolations; and the grandest soil on the continent hungers and begs for the trusty, hardy, and worthy sons of the soil in the West and North; but, alas! it hungers and begs in vain, for the Government is against us, and your brothers avoid it as a lazar-house. Give us peace. Give us good government. Give us the rule of our people. Take the military of the General Government from our houses, homes, and legislative halls—and so shed upon us the glorious light of true republicanism, the splendid civilization and true liberty of America.

We assemble on this occasion for the purpose of entering into an extended discussion of this whole subject, and giving to you, brothers throughout the United States, a simple statement of facts, under our obligations as patrons, of all our troubles; but happily we have been forestalled by the sub-committee of the Congress of the United States, whose report has just reached us. Believe us, this report, made by gentlemen of the North, and intelligent Congressmen of both political parties, tells the truth. We refer to it, and trust that every patron to whom this appeal may come will give it an attentive reading.

A. G. CARTER,
Chairman Executive Committee of Louisiana.

L. O. BRIDEWELL,
Chairman Executive Committee of Mississippi.

Official:

WM. H. HARRIS,
Secretary State Grange, Louisiana.

Resolved, That the press of the United States be requested to publish this appeal of

the Patrons of Husbandry of the States of Louisiana and Mississippi to the patrons throughout the United States, and that this resolution be appended to said appeal.

Such are the matters, as related by these documents, of which Louisiana complains; and yet it is boldly asserted by Senators in face of these facts that this exercise of arbitrary power on the part of the Government and military has been in behalf of humanity and as friends of the country. Friends of humanity! Senators, you are staking it on the means of ruin and convulsion. Friends of the country! You are rapidly becoming its iron paricides, cleaving down its institutions for partisan purposes and tearing them limb from limb—not man's in humanity, but in this instance man's humanity to man makes Louisiana's burdens greater than her people can bear.

But it has been frequently asserted during this debate that there has been a great decrease in the negro vote in the South, which is evidence of fraud in the late elections. I would ask does the negro vote belong to the republican party by right of conquest as booty of war? Perhaps the blacks of the South as well as the whites of the North have discovered that it is to their interest to vote with the conservatives. In the South the whites and the blacks are dependent on each other. Their future destiny for good or for evil is necessarily intermingled. The one is the owner of the soil; the other supplies the labor. If they are to live in harmony, there must be accord in feelings as well as in interest. To array the one in hostility to the other is an act of barbarity calamitous to each and to the prosperity of their State.

But, sir, the republican vote of the South has not diminished more than it has elsewhere; and if that be a cause for interposition with Federal authority in Louisiana, the same or greater cause there must be for interference in New York, Pennsylvania, and other States. In the late election the contest was one in which other elements than those of mere politics were involved. It was a movement on the part of the people *pro patria*. It was in behalf of honesty against dishonesty in matters pertaining to government, of reform against corruption and wide-spread demoralization, of well-administered constitutional government against usurpation and lawlessness. The conservative element, non-combatants in party politics, that large class of thinking, intelligent men who vote for country rather than party, supported by the independent press, have availed themselves of opposition organizations and best nominations to set their seal of condemnation upon the dominant party and a corrupt and despotic administration of the Government. The result is that the great republican party, late so powerful, so reckless, and so arrogant, is to-day prostrate not only in Louisiana but also in New York, Indiana, Pennsylvania, and other States, with its pride and its banner humbled in the dust. But the lesson is not understood, and Senators are at a loss to account for

this great change in public sentiment. It was not accomplished by the slaughter of negroes or by fraud North or South, but by—

Freemen casting with unpurchased hand
The vote that shakes the turrets of the land.

Read its causes in the reckless, aggressive legislation of Congress. With a deranged, depreciated paper currency; with the accumulated burden of a great national debt, and a high protective tariff upon the necessaries of life, look at the legislation of Congress. Special privileges, subsidies, bonuses have been bestowed with unsparing hand, contracts have been awarded—even the collection of the revenues farmed out, by which party favorites have been enriched at the expense of the Government without the expenditure on their part of a dollar. Extravagance, speculation, and corruption pervade every Department of the Government, and scarcely a day passes but we hear of frauds, defalcations, and speculations being practiced, and practiced with impunity, by Government officials. Public opinion has reached the conclusion that unless there be some reform of the abuses of the administration of public affairs; unless the usurpation and extravagance of the Government be checked; unless the avalanche of corruption which now is threatening and impending over us be stayed, they will soon come upon us with such crushing force as utterly to destroy and overwhelm us as a nation. A sublime proclamation stands on record. God said, "Let there be light: and there was light." In the recent elections the people said, "Let there be light:" and there is light. *Fox populi, vox Dei*. It is tinging the western and the eastern hills. It may not yet have illumined this Chamber, but there is the dawn of a better day at the other end of the Capitol. It has brought joy and confidence and hope to our despairing people, especially to those of our own race and lineage of the South, who are struggling for wife and child and sacred home against an invasion of Vandal spoilers from the North and a tyranny and oppression on the part of the Government unparalleled in the history of the nation. I trust, sir, that this light is yet destined to illumine the land and bring the nation back to honesty, reason, intelligence, and truth. May God speed the day.

Mr. President, facts and popular sentiment in Louisiana, so far as developed, indicate beyond a reasonable doubt that in the recent election in that State the popular vote was with the conservatives. Equally conclusive does it appear to me that by a combination between the same parties who conceived and effected the usurpation in 1872 the people of Louisiana were prevented from installing in office the officers they elected. The determination is manifest in despite of the popular vote, in despite of Constitution and laws, to establish negro supremacy, and through the negro the supremacy of the republican party in Louisiana. To effect this the white race and its civil-

ization must be made subservient to the black race and its civilization—the black race just emerged from the condition of slaves, and which as a people has never exhibited any administrative capacity for self-government. We may rejoice that the genius of American liberty is no longer destined to bear a fettered companion by her side in the car of triumph; but I am not among those who believe it is the mission of the American Republic to champion this race and place them in the van of civilization to the exclusion of our own race. Better that the republican party should die and that our race and the Constitution live. This black race has been emancipated, made citizens, armed with the ballot, and like all other citizens must work out their destiny according to their capacity. You cannot legislate them into a more exalted condition than nature has placed them in, or the people into a belief in their intellectual equality. You might as well undertake by legislation to remove the distinguishing marks in their physiology that characterize their race from ours, or to legislate the people into a belief in the Darwinian theory of the creation or any particular system of theology or metaphysics.

Sir, I have no prejudices against this race on account of color and previous condition. I acknowledge all their constitutional rights under the late amendments to the Constitution. I have no wish to disturb them. Involuntarily, by the avarice and cupidity of our race, they were sold and purchased in every State of the Union where slave labor was profitable. Upon their emancipation they should have been regarded as wards of the nation and taken care of as such on reservations or colonized, as has been the case with the Indians, although I would wish them a better fate and kinder treatment than has befallen the Indians. Upon their emancipation they were ignorant, uneducated, and incapacitated for governmental purposes; they had no interest in the soil, and were dependent upon the white race even for subsistence.

It was necessary for them as well as the white race, if they were to live in accord and peace, that they should be in harmony. But, sir, other counsels prevailed; they have been the instruments, not the subjects, of reconstruction and legislation. Numerically, if not intellectually, they proved a voting power too available to withstand partisan purposes. But this is not sufficient. The struggle is still pending in the effort by penal laws to force the two races into social relations which set at defiance the laws of nature, our tastes, our reason, and public sentiment even in our families. Is this malice or philanthropy? Is it the behest of party or a sense of duty that dictates this policy? And why is it confined to the African race? There is another race in our midst, the aborigines of the country, more homogeneous as a race, more entitled to our sympathy, once the lords paramount of our vast domain, native to the soil, and yet driven from

their homes and habitations. Is there no tear of sympathy and no philanthropy for the Indian? Is he not also our brother and part of the great human family? Sir, we have evidence that the Indian has attained a higher civilization, a more advanced position in art and science than was ever attained by the negro in his native Africa. To the Indian the Congress has sent balls and bayonets and reservations; to his inferior, the negro, it would send not only political and social equality, but dominion in government. Can this inconsistency be explained? Perhaps it consists in this: The Indian is of no political significance, but the negro, if properly managed, can contribute something to sustain a decaying party.

Sir, as a member of the senate of the State of California, it was my privilege to vote for the thirteenth amendment to the Constitution. I regarded the question of slavery as involved in the war; that it was placed in the wager of battle, and that by the wager of battle it was determined. It was guaranteed and protected by the Constitution, but by the adoption of this amendment, acquiesced in by the South, it was abolished; and I sincerely hoped that there would never thereafter be a great national question to disturb us as a people or prevent us from fulfilling that great destiny which I believe, in the providence of God, lies before us. It was also my privilege to vote against the ratification of the fifteenth amendment, and I then expressed my views at length in regard to that proposition; and as they were reported at the time by the press, in order to show to what extent I prognosticated what would ensue, I will here reproduce some of the views I expressed on that occasion. I ask the Secretary to read what is marked.

The Chief Clerk read as follows:

This suffrage question is not without its difficulties and embarrassments, and is attracting attention in all civilized countries having any pretensions to free institutions. Since the decay of the feudal system there has been a struggle on the part of the people to resist oppression and to gain power. The tendency of modern civilization has been to destroy aristocracies, level ranks, and diffuse power among the people. A writer has justly remarked: The history of European society is the history of the feudal system; the record of its rise and growth is the history of Roman polity and primitive barbarism; the record of its decline and fall is the history of modern social development. Ancient progress was toward extreme social and political inequality; modern progress is toward extreme social and political equality. Submission was the great lesson taught by the former; freedom is the still greater lesson taught by the latter. Monarchies and aristocracies were the flowers of the old seed; democracy is the first fruit of the new. This is true of all homogeneous peoples, peoples of the same race and lineage, and only as to such. Under our system we recognize no distinctions among men of races kindred with our own, but admit all, without regard to station or intelligence, to political and social equality. Perhaps for the first time we present to the world the singular spectacle of a superior race struggling to admit an inferior degraded race to political and social equality, when, too, that race has not capacity sufficient to demand it as a right, or intelligence enough to understand or exercise it if it should be conferred. In England in particular this suffrage question is engaging the attention of publicists, the Parliament, and the press. Much has been spoken and written in regard to impartial manhood suffrage, and arguments used there have been reiterated by our public men in this country, where in fact they have no application.

But in England the people are not struggling for equality of races, but for political, religious, and industrial freedom, which is constitutional with us. There the people have not yet fully attained free school, free church, free press, and free

assembly, which is also constitutional with us. The liberalists there do not contend that all are qualified to enjoy the elective franchise; but, as we gather their ideas from the publications of the day, progression with them tends to the evolution of a preponderating power in the State—well understood and recognized by us—the power of the people; and the result they wish to attain is what we enjoy—self-government by an intelligent people. By the term manhood suffrage they do not intend suffrage should be extended to all classes properly belonging to the *genus homo*; but by manhood is meant the physical, mental and moral, maturity of a nation, and political progress consists in bringing within the pale of the Constitution so much of the national manhood and no more than is qualified. No English reformer is so insane or fanatic as to clamor for extending the elective franchise to all races of men, as, for instance, to their subjects in South Africa, the Hottentot, or to their subjects in Asia, the Hindo, or the native of India. John Stuart Mill, perhaps the most liberal and progressive of all, while he is disposed to disregard all distinctions of sex or color, would yet limit suffrage to those who could read an English book or do a sum in the rule of three.

To ratify this amendment and admit this race without restriction to the enjoyment of the elective franchise and exclude those who participated in the rebellion, is to surrender the greater portion of the Southern States to the dominion of the blacks. For a time they may be controlled by the Congress and its agents as is now the case, but soon leaders of their own race or of ours will appear on the surface, and what will be the result? Necessarily class legislation, in which the majority will legislate to promote its own interest, and the interest of the minority and the general interest will be disregarded. Such are the teachings of history. Suppose, as is aptly put by Mill in discussing this question, the majority are whites and the minority are blacks, or the reverse, is it at all probable the majority would allow equal justice to the minority? Or, as he further says, suppose the majority are Protestants and the minority Catholics, or the majority are English and the minority Irish, or the reverse, would there not be the same danger; or, to bring the matter home to ourselves, if under this amendment Congress should extend suffrage to the Chinese, and they should be in the majority, what would be the result here to our own white race? If the policy of the Congress prevails, the result will be we will have States composed of different races, which, by the inevitable laws of nature and population, can never become homogeneous, either socially or politically, in which the governing power will be controlled by the numerically preponderating race. Which that may be in the Southern States or in our own State remains to be revealed in the future. When the Congress shall abandon the idea of legislating negroes into white men, and of retaining the political control in the late insurgent States by negro suffrage for purposes of party supremacy, reconstruction becomes easy. If the same amount of money spent for these purposes had been expended to encourage emigration from Europe, we might have added to our population at least ten millions of inhabitants of our own race and lineage—worth more to us than the whole African race.

Mr. HAGER. Mr. President, although entertaining these views at that time, I bow to the supremacy of the Constitution and accept the negro as a citizen and a voter and as our equal before the law, I am willing to extend to him words of encouragement, and if he proves himself our equal physically, mentally, and intellectually, I will rejoice. If he outstrips us in the race for supremacy I shall be willing to yield him the palm.

The fourteenth amendment to the Constitution, or so much as it is necessary to cite, is as follows:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The fifteenth, as we all know, is that “the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.”

Our Government under State and Federal Constitutions is a repre-

sentative government, with a distribution of powers, as we all know, between the Executive, the Legislature, and the judiciary. It is composed of States sovereign to the extent of written compacts, with a Federal Government sovereign to the extent of delegated power, recognizing the source of all power to be with the people and leaving the elective franchise to be settled and determined by the respective States. To what extent are these amendments limitations on the States? To the extent expressed in the amendments. It is for the judiciary, not the Executive or the Congress, to determine if a State law be in contravention of these amendments or not. There the negro is protected in all his constitutional rights. Congress may legislate to provide remedies and to facilitate actions in the courts if any citizen is deprived of any constitutional rights, but Congress has no more right now than before the amendments to annul the legislation of a State than a State has authority to annul acts of Congress. Neither has the President, or the military any more constitutional authority to invade the States than they had before these amendments were made—either to annul or interfere with the elections or to organize or destroy State governments. To do so is a usurpation dangerous to the whole Union and to our republican form of government.

But the Congress is not satisfied with these constitutional guarantees, but is engaged in efforts by legislation to make the white and the black races homogeneous by forcing on them social equality; and I confess that I have heard with abhorrence during the present and at the first session of this Congress utterances within this Chamber in support of this kind of legislation favoring the total obliteration of social distinction between the races.

Now, sir, although it be an old subject, what is the history and character of this negro race for which our own must be degraded and displaced, our country convulsed, and our Constitution invaded and endangered? Historically speaking, we have known something of him for the last four thousand years, from the days of Moses and the Egyptian kings. As he was in his native Africa four thousand years ago, so he remains at this day unchanged and unimproved, still engaged in fetich worship, still practicing human sacrifices, and the kings of Dahomy are at this day floating in their reservoirs of human blood as they were centuries ago. We have seen him on this continent in Hayti attempting to found a state and to build up a government upon the ruins of one of our own race, excluding the white man from all participation in that government, and what find we there. Degeneracy and decay. We have seen him in Jamaica emancipated, outnumbering the whites; and what find we there? The island, once among the most lovely and prolific on the sea, is to-day regressing to its primitive forest and jungle, and the negro is relapsing into his primitive barbarism. We have seen him in Mexico and

Central America in the mixed blood; and there, too, we find degeneracy and decay. On his native continent we have heard of Egyptian and Carthaginian states. On the borders of that same Mediterranean Sea that bounds his native continent we have heard of Syrian, Phœnician, Grecian, Roman states; but who ever yet heard of an African negro state that has emerged from barbarism and risen to any position among civilized nations?

There have been various degrees of progress and civilization among the Aztecs and Incas on this continent, in Japan, China, India, Persia, Arabia; but the African negro in his native Africa remains as unchanged at this day as the African baboon. We search in vain in the dim mists of the past for their philosophers, their mathematicians, their astronomers, their civil engineers, their political economists. We in vain explore their records to find a Plato, a Socrates, a Newton, a Bacon, a Shakespeare. Such is the past; now what will the future reveal?

We are told, and it has been reiterated again and again in this Chamber, that all men are created equal. I admit it. That it is so declared by the great charter of our liberties, the Declaration of Independence. I do not deny it. All men are equal precisely in the sense in which it was intended by the framers of that instrument—equal in the enjoyment of all natural rights; equal to breathe the free air of heaven and to enjoy the light of the sun, moon and stars; equal to earn their bread by the sweat of their brow; equal to partake of the fruits of the earth and the waters of the babbling brooks. In these respects all men are equal. But to say that they are physically, mentally, morally equal is a fallacy that never has been and never will be true. It is not true of our own race. It is not true of Senators in this Chamber. It is not true even of brothers in the same family. One may be a Hercules in strength, another a mere pigmy. One may be a Henry or a Webster, holding senates and assemblies spell-bound by his eloquence, while another is a mere mumbling idiot. One may be a mathematician or astronomer, calculating the dimensions of the sun, moon, and stars, and their distances from each other, while another, with all the education you may bestow upon him, is incapable of demonstrating the simplest problem in mathematics. One may be a poet, soaring on the wings of song, while another is incapable of turning two lines of rhythm. One may be a meek and lowly follower of his divine Master, engaged in works of charity and love, while another is never satisfied unless he is engrossed with scenes of violence and blood. Are these men equal—physically, morally, mentally equal? Is the Laplander of the north of Europe the equal of the intelligent German of Central Europe? Is the Hottentot of South Africa the equal of the Italian of South Italy? Are the Esquimaux of the north, or the

aborigines, the Indians in our midst, the equal of the men I see about me in this Chamber?

But, sir, I shall not undertake to discuss this question theologically or psychologically. I am willing to concede that Adam was the great final consummation of the works of the Almighty, and that He then rested from his labors. I do not dispute it; but how He arrived at this great consummation we have not been informed. Whether it was by gradual advancement or by one act of creation has not been revealed to us.

Paleontology has disclosed foot-prints on the sands of time—stepping-stones—showing that much has been dropped by the wayside and become extinct before the end was reached. In our researches in natural history, in physiology, and in ethnology we find much to attract our attention and to engage our serious reflection. We can do this philosophically without subjecting ourselves to the charge of intention to ridicule any portion of the creation.

When we see the monkey sometimes dressed in our habiliments we are amused and surprised at his displays of watchfulness and intelligence. He looks something like our race but we do not regard him as such. A step higher and we have the ourang and the chimpanzee and the resemblance is yet greater, but we do not receive them as of the human family. Still a step upward and we have the gorilla, and there the resemblance is still stronger. In the gorilla you have the same bodily organization, without the caudal appendage, the same articulations, the same internal viscera, the same venous and arterial circulation of the blood, the same nervous system and vital organs, substantially the same number of bones in the body; and the most skillful anatomist is unable to distinguish his skeleton or the greater portion of it from that of the human race when they are intermingled; but we do not regard him as of the human family.

Now, sir, I do not wish it to be understood that I am making these remarks with any view to compare this portion of the creation with the negro, but rather with the human family generally, while referring to certain physiological and ethnological facts. Leaving the gorilla and advancing upward we reach the savage of Australia and Borneo, the wild man of the interior of those islands, unamenable and unapproachable; without a written or spoken language; uttering an unintelligible muttering gibberish, and fleeing from the face of the white man like the beasts of the forest. Does humanity commence here? Is this the dividing line? When we leave the Australian savage and pursue our investigations further through the different races or species or types of mankind—place the negro where you please, I have no disposition to misplace him—through the Esquimaux and the Digger Indian, the lowest of the race on this continent, through

the Kanaka, the Hottentot, the Arab, the Mongolian, &c., we finally reach the last great consummation, the crowning work of the Almighty when he rested—the Caucasian Adam, the type of man I see about me in this Chamber.

Now, sir, admitting that the human family are all a part of the same brotherhood and of the same creation, must we not admit that there are types, varieties, species of man that we can neither ignore nor conceal? And this distinction pervades the whole animal creation. The newfoundland and the poodle, the greyhound and the spaniel belong to the same family. Are they equal? The thoroughbred, the donkey, the Shetland pony, and the zebra are different species of the same race; the *genus equus*, are they equal? I do not think the donkey is the equal of the horse; nor do I think it possible to legislate them into physical or social equality. You may cross them and you have the hybrid, the mule; but you cannot propagate a race of mules.

You may cross the negro with the white race and you have the mule, or the mulatto, which is a synonymous word, but you cannot propagate a race of mulattoes, you must go back to the original stock, on the one side or the other, or the race will become extinct. Such are the facts and they are as well ascertained as anything that is recorded in physiology. So with the aborigines of this continent. They have disappeared before the approach of civilization, and the white race, like the forest. So with the Kanaka of the Sandwich Islands intermingled with our race; he is rapidly dying out. So too with the admixture of blood in Mexico and Central America—you have but to go there to learn it is limited by inexorable laws. We cannot change the immutable laws of the creation by legislation but must accept of facts as they are. Long back in the past the question was asked, Can the Ethiopian change his skin or the leopard his spots? The answer to-day is the same that it was two thousand years ago. In our Father's house, as we are instructed, there are many mansions; so it might be said in our Father's family there are many races or species of mankind. We cannot change it by legislation. Leave it where God and the immutable laws of the creation have left it, now and forever, for man cannot cover what God has revealed.

But, sir, if we extend social equality to the negro, can we deny it to the Chinese? They are superior as a race to the negro. They have attained a higher civilization and have maintained a government for thousands and thousands of years, and far beyond historic records. We on the Pacific coast have a peculiar interest in this question. We are in that position where western and eastern civilization meet. We have to breast this influx of immigration that is flowing in upon us from Asia. With our new commercial relations and with steam communication with Asia; with these new ideas of political and social equality among all races of men, what is the

future destined to reveal in California and on the Pacific coast China might, without injury to herself, spare from her surplus population a million or ten million men, sufficient to give to that race the control and dominion on the Pacific.

We in California have tried by legislation to prohibit Chinese immigration—especially such as are brought there as coolies and for immoral purposes—and by penal laws have tried to exclude them, in order to protect our people from demoralization and contamination. But we have not succeeded. These laws have been sustained by our tribunals and by the unanimous opinion of the supreme court of our State. But recently a case occurred where some Chinese women, imported, as it was proven, for immoral purposes, were remanded under the laws of California to the vessel that brought them there to be transported back to China. This judgment, on appeal to the supreme court, was unanimously affirmed; yet a Federal judge of the Supreme Court of the United States, who happened to be there at the time, released them on *habeas corpus* because, as he held, their detention was in contravention of the fourteenth amendment of the Constitution; in other words, that that amendment gave the same protection to coolies and prostitutes that it did to decent people, and that no legislation of the State of California could prevail against it. If this be the law, in the course of a few years Chinese coolies and prostitutes may be in dominion in California, and may as thoroughly control the destiny of that State as the negroes now control in South Carolina, provided you extend to that race political and social equality. I presume consistency will require this to be done.

Is it more improbable that political and social equality will be extended to the Chinese in the next ten years than it was ten years ago that it would be extended to the emancipated slaves of the South? They have proved themselves superior as a race to the negro, and have exhibited a better capacity to govern. As far as possible you have placed the negro in the van of civilization in the South, and are struggling by acts of despotism to maintain him there. How long will it be before the Chinese will take the same position on the Pacific? If you recognize universal political and social equality among races and species of man, you cannot deny to him what you require shall be yielded to the negro.

In this respect we have presented to the world a memorable example, for the first time recorded in history, where a superior race has struggled to place an inferior one on social and political equality with themselves; and that too when the inferior race had not the power to enforce it and did not demand it as a right. If it be necessary to control the States of the Pacific for political purposes, will not the same influences now operating in Louisiana demand that suffrage shall be extended to the Chinese?

But, sir, it is sometimes asked, why do you object? Do you fear

the rivalry of these inferior races and that they may outstrip us in the race for supremacy? No; I have no such fears. As soon might you expect the thoroughbred as he nobly leaps from the springing turf should be outstripped in the race by the browsing donkey. As well might you expect that the—

Falcon, towering in her pride of place,
Should by a mousing owl be hawk'd at, and kill'd.

No; I do not fear that they will outstrip us in anything, unless in some of the Southern States the negro or in California the Chinese may outstrip us in number. But with these new ideas as to amalgamation, miscegenation, civil rights, and social equality now prevailing, with juxtaposition and density of population, I fear in the slow revolving years of the future we may present to the world that effete and moribund national condition that we now see exemplified in Mexico and Central America. While we cannot raise them up to our level, they may drag us down.

Now, Mr. President, it is not the part of wisdom nor does humanity require that, either by legislation or by usurpation, we should place the negro or the Mongolian in dominion over men of our own race and lineage or force them into social relations in violation of the laws of creation and the rational judgment of mankind. Such were not the teachings of the founders of the Republic. They came here from civilized Europe seeking political and religious liberty and social equality. They landed upon this then unexplored continent where before them was wide, unbounded, magnificent wilderness, where sprang and fell the forest leaves, where ebb'd and flow'd the ocean's tide in uninterrupted stillness, where the same sun that looked upon the vast empires they had left, their moldering kingdoms, their solemn temples, their gorgeous palaces, their oppressive aristocracies, here looked upon the still dwelling of utter loneliness where nature sat enthroned in original beauty undisturbed by the tyrannies, the oppressions, and fettered humanities of the lands they had left. They met almost beneath the wide-spreading branches of this primeval forest—for what? To discuss the rights of man, forms of government, and social equality. They founded a state; they framed a constitution. The negro and the Indian were here. Did they recognize them as of their fraternity? Did they take the negro and hug him and press him to their hearts as an equal and a brother? Did they talk of or practice amalgamation or miscegenation? No such fanaticism then prevailed. Why, sir, among the earliest of my recollections in my own home in a northern State, and my friend the Senator from New Jersey, [Mr. FRELINGHUYSEN,] I may also say my friend of former years in our native State, will probably corroborate what I say, whether it was in the public school-room, in the domestic circle, or in the holy sanctuary, the black man and the white man had each their place. State after State was admitted,

constitution after constitution was formed, and yet it was an almost universally recognized principle of constitutional law that the governing power was the white race.

Such were the example and teaching of our fathers. But they went further. They invited friends and relatives they had left in the Old World to join them in the New. They passed naturalization laws to encourage immigration. Did they extend them to the negro or to the Indian? No, they confined them to our own white race; and in our legislation a few days ago to correct mistakes in the revised laws you were reminded of this when we went through the form of restoring the word "white" in the naturalization laws because it had been expunged without authority. All Europe availed themselves of our liberal laws, and ship after ship freighted with men of our own white race have landed upon our shores and added to our population and to our prosperity, and the supply is yet unexhausted. And all Europe is to-day thankful for the blessings that our institutions have conferred upon the human race. Go among the laboring classes of Europe, go to Germany, to Switzerland, to Ireland, tell them you are an American, and see the radiant face, the sparkling eye as group after group gather around you to inquire after friends who, more fortunate than they, have reached this land of abundance and prosperity. Listen, too, if you will to the downtrodden, broken-hearted man as from under the covering cloud of his poverty and his oppressions he pours forth his prayer to the Father of all that ours may be the steady, the radiant course that shall never bewilder or betray. So let us join him in his prayer that it may be. Let the downtrodden and oppressed of all civilized nations still hail our country as the lifeboat of liberty to the world, as the little ark destined of Heaven to bear it through all the dangers of tempest and of deluge. But God forbid, Senators, God forbid that we should extend this invitation to or amalgamate with the semi-civilized hordes of Asia, or with the barbarous tribes of Africa. They will but deteriorate our race and retard our civilization. Now our civilization on luminous wings soars eagle-like to Jove. Fetter it, weight it down, crush it to the earth by an admixture with these inferior races, and it needs no scroll—no prophet's scroll—to predict the Hyperions of this century may become satyrs in the next; that the noble godlike Caucasian North American that I see around me here may a century hence become what the ignoble hybrid Mexican or Central American is to-day.

In saying this, again I must disclaim any intention to reflect on any of God's creatures, either of the black or other races of man. I take them as we find them with no disposition to criticise or inveigh against the wisdom of their development, and fully impressed with our inability to change the laws that control the universe. As I have said, I concede to the negro all that the Constitution guarantees. But I ask you to examine the records of the past and instruct me,

if it be possible, how you will enforce full social equality and an admixture of races without reaping the consequences we see exemplified in Mexico and Central America.

Mr. President, no imperial decree has been promulgated for the preservation of our country. She must rely upon the patriotism, the intelligence, and the devotion of her sons in the day of her prosperity as well as in the hour of her adversity. The warning voice of history of every country and of every age, as has been eloquently remarked, comes to tell us that republics when once lost are lost forever; that though their spirit never dies to others, it never revives when lost to regenerate themselves. Look at the shadows and darkness that have rested for ages on the habitations of the Holy City. Look at despotism worse than either as it has brooded with raven wing upon the very bosom of the buried republics, and let us be warned by their mysterious doom.

Does the same destiny await us? Are we too to fall beneath the assaults of ambition and usurpation, the madness of some factious hour, and our country, now so grand, so full of hope, to be remembered as a delusive meteor which rose full of promise, dazzled with momentary splendor but to leave the world in greater darkness than before?

A thousand years scarce serves to form a state;
An hour may lay it in the dust.

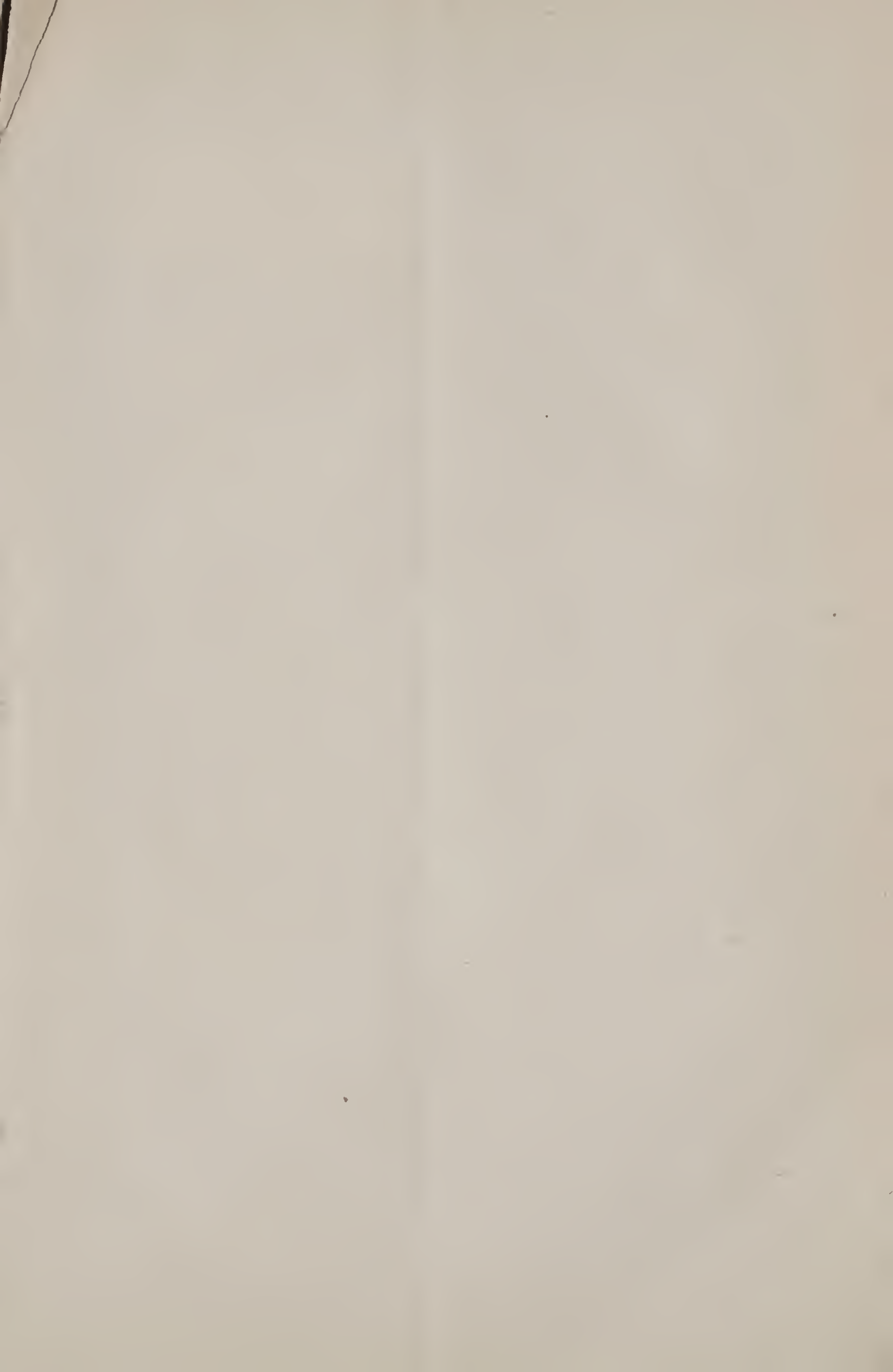
A hundred years have not yet elapsed since our nation's birth, and yet we have almost verified the truth of the lines of the poet. We have undergone the fate of nations—been baptized in the blood and thunder of civil war. But it is not the first time that a nation has been thus scourged and afflicted. To say nothing of ancient times, point me to any modern nation that has risen to any proud distinction among the nations of the earth that has not had its civil war and its rebellions. Look at England, at revolutionary France, at Germany, at Italy, at Spain now in the midst of revolution; all have had their rebellious and civil wars; yet they live, and if they are not homogeneous it is attributable to other causes than animosities engendered by recollections of these calamities. Cannot we of the same race and lineage without giving the ascendancy and dominion to the negro, without this social equality being thrust upon us, once more gather around the same common altar of our country, and hand in hand and shoulder to shoulder go through the great work of elevating our nation to that high position which I believe with good government she is destined to attain.

In the course of this debate Senators have expressed devotion to the country and a determination to cling to the ship of state whether she is to ride the waves in triumph or to be engulfed. When corruption and demoralization are overspreading the land, when we see a growing intolerance of law throughout the country, a disregard for constitutional restraint, and a tendency to despotism at this great

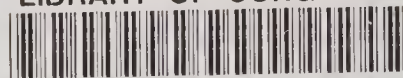
center, when we see legislation for the perpetuity of party rather than country, I would ask, in all solemnity and seriousness, is it not time to port the helm. Under your guidance the ship of state is drifting into turbulent waters and untried seas. The Constitution is overboard and you are without chart or compass. The warning voice of patriotism from all quarters of the land is exclaiming to you to-day in appealing tones, behold those treacherous rocks, that dangerous sea into which you are drifting. But you heed it not. Rather than give up the control of the ship, rather than surrender the political ascendancy you now enjoy, you would dare the breakers. And yet what is party in comparison to country? Parties are ephemeral, rise and fall and pass away. In a few years the places that know us now will know us no more; but I trust our country will flourish in immortal youth, to bless those who may succeed us until the utmost generation of men. Again I would say, port the helm.

Senatoris est civitatis libertatem tueri. Let us bow to the injunction in a spirit of devotion and of love and of reverence for our country. It is the duty of the Senator to preserve the liberties of the State. It is the duty of the Senator to protect the Constitution of the country. Let us never forget to protect it. It comes to us as our heritage from Washington and his compatriots. So let it be preserved, or what remains of it be preserved inviolate. Cling to it with a patriot's love, with a father's enthusiasm and with a Christian's hope. And in these degenerate days, amid the struggles for party supremacy, when blind ambition or treason or ultraism or usurpation would hawk at and tear it, let us, forgetting all and sacrificing all in its favor, inculcate the necessity of its preservation and of a once more harmonious and united country. Do it with that same devotion as of old chaste virgins kept bright the sacred fires upon the altars of Vesta, until shrine and worshiper perished amid the ruins of a shattered empire. Let your devotion, I say, be equal to this, and in the words of Lincoln, "with charity for all and with malice to none," our ship of state will again drift into a silent sea and our glorious Union, like the rock of Megara upon which was placed the lyre of Apollo, will resound with the same voice of sweetness and of harmony from whichever side it may be touched. But if this violation and intolerance of law now so manifest is to continue unchecked, this tendency to usurpation is to pass unrebuked, and our republican institutions shall be once submerged in the rising tide of despotism, you will recover your liberties when the sun shall linger in the evening cloud forgetful of the voice of morning—

When ships are drifting with the dead
To shores where all is dumb.



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