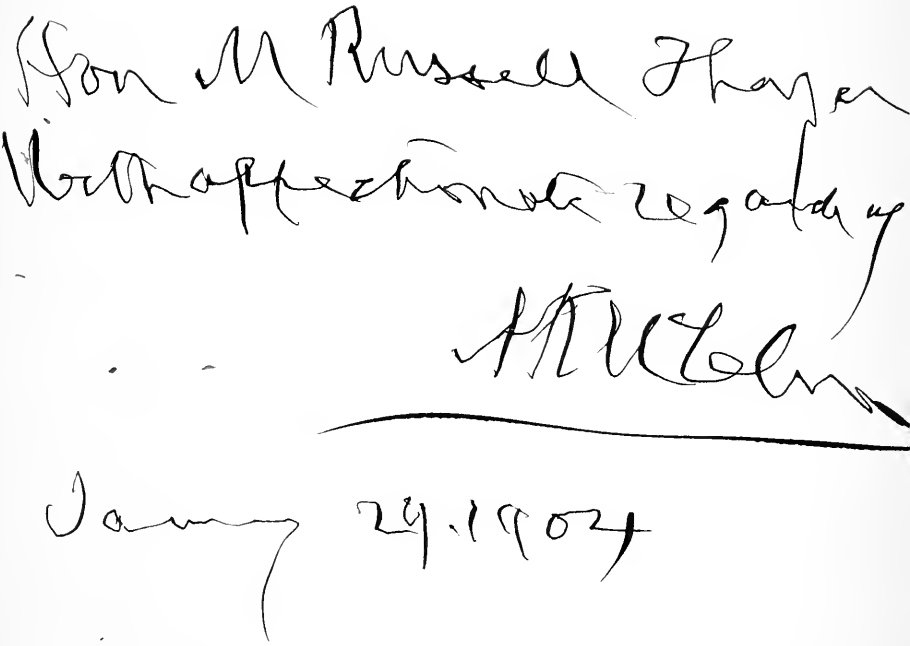

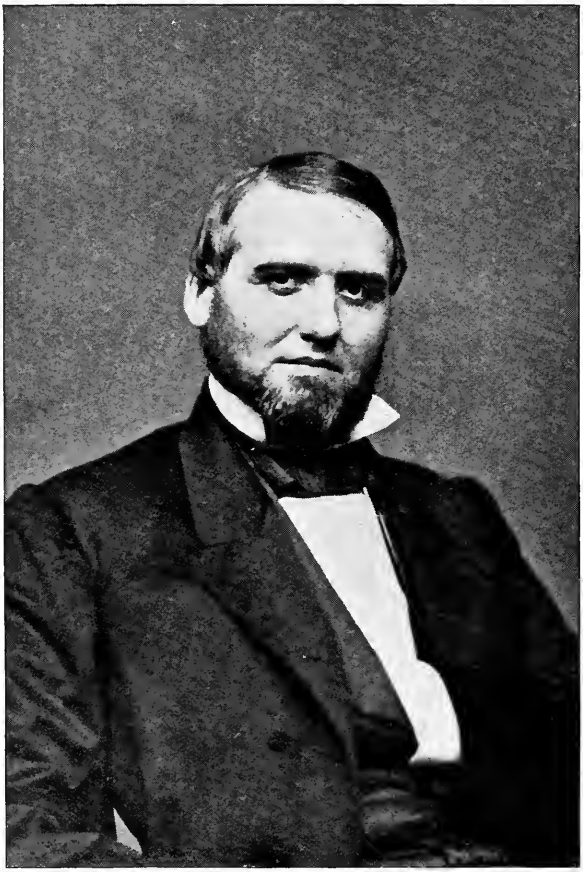

A. K. McClure, 1860.

ADDRESSES:

Literary, Political, Legal and Miscellaneous.

....BY....

A. K. McCLURE, LL. D.

Edited, with Introduction, by

C. W. McKEEHAN.

VOLUME II.

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INTRODUCTION.

A. K. McCLURE AT 19.

The second volume of Mr. McClure's addresses presents his attainments as a public speaker in every possible phase, and no apology need be offered for presenting them. The two legal arguments with which the volume opens are the only addresses of that character which have been preserved. The great interest felt in the legal issues involved in those cases induced a stenographic report of the arguments on both sides, and as legal arguments are seldom prepared in full by lawyers it is not surprising that only two of his many addresses in the court have been preserved.

Both of these arguments were delivered before the Supreme Court of Pennsylvania, and are on subjects which involved not only great legal questions, but which also enlisted an unusual degree of popular interest. The one relating to the rights, duties and penalties of citizenship was delivered before the Supreme Court soon after the war, and as the legal point at issue was a new one before the courts of either State or nation, and as it affected the right of franchise in very large circles in this and other States, popular interest in the dispute was very general and earnest. It is entirely safe to say that this argument is the most exhaustive presentation of the mutual relations between our free government and its subjects that has ever been presented in any of our American courts.

The other legal argument given affected alike the interests of the bench, the bar and the press, although the immediate question involved was the right of a Judge to debar two prominent attorneys for criticism published in a newspaper of which they were the editors after the final judgment of the court, and on a case in which the debarred attorneys were not professionally interested. It attracted very general attention and wide-spread interest, not only throughout the members of the legal profession and the editors and publishers

of the State, but also amongst Judges as the powers of Judges to enforce their decrees were also interwoven with the issue. These cases are fully explained in the preface to the arguments, so that the reader, familiar with the facts upon which the issue was predicated, can appreciate the forcefulness with which they were presented.

The list of miscellaneous addresses is quite varied in the scope of the subjects discussed. The one portraying the crime against citizenship was delivered under circumstances which can hardly be appreciated by the reader of to-day. At that time Mr. McClure had withdrawn from all active participation in politics, and was devoting himself exclusively to the practice of his profession in Philadelphia. At the first election held under the amended constitution of the United States that conferred the right of franchise upon colored voters, there were intense prejudices cherished in this city against the voters of the newly enfranchised race, and it was not confined by any party lines. While one of the great parties was almost if not quite united in opposition to colored suffrage, the other great party, and the one that had been most potent in securing the freedom of the slaves and that had battled most earnestly for the recognition of the rights of freedmen, was most reluctant to accept universal suffrage without regard to race in this city and State.

The prejudice against the African race in the North was even stronger than in the South. The laws of caste were then, as now, equally severe in both sections, but the prejudice of race was very much stronger in the North against the negro than in the South. There was a bond of sympathy between slave-masters and their families and their slaves that greatly tempered the feeling of the Southern people toward their servants. They were the nurses or personal servants of the family, their devotion was generally thoroughly faithful, and the Southern man or woman would not hesitate to ride by the side of a slave in the car or elsewhere because it exhibited master and servant, but in the North where no such relations existed, the prejudice of race was even stronger than in the South, and when the right of suffrage was conferred upon the colored race the popular prejudice against it was not confined to any political faith.

At the first election held in Philadelphia after the right of suffrage had been conferred upon colored citizens there was much turbulence in several localities, and in the riots which occurred for no other offence on the part of the colored men than offering to exercise their unquestioned lawful right of suffrage, Catto, Chase

and Gordon, three prominent colored citizens and one a professor and teacher, were killed on the streets in the presence of the multitude, and a number of others were wounded. This brutal ebullition of passion inspired solely by the prejudices of the white man against the black man, called out a public meeting to denounce the murderous assaults made upon colored voters, and to demand equal protection for voters of every race. It was this occasion that called out Mr. McClure's pointed and pungent address, and that meeting and the healthy and heroic sentiments expressed by the speakers, made such an impression upon the community that violence was never thereafter known on the race issue at Philadelphia elections. It is a most disgraceful blot upon the good name of Philadelphia that not one of these brutal murderers was ever brought to punishment.

Mr. McClure's address to the Grangers, although given more than twenty years ago, is just as pertinent and logical to-day as it was then. The Granger movement at that time was battling for cheap money, and was almost wholly absorbed in what was known as the Greenback movement of that time. The Greenback movement was simply the beginning of the cheap money tide that has hindered substantial business, and at times impaired public and private credit ever since the war. What was Greenbackism a quarter of a century ago is the free silver craze now. It is the mad effort of people oppressed by debt to escape from their obligations as cheaply as possible, and the illogical idea is popularly accepted by those who feel the pinch of hard times as the proper method of relief. The Greenback theory has been long exploded, but it has its logical sequence in the free silver theory of to-day that is struggling to make a fifty cent dollar under the utterly absurd idea that cheap money would benefit the working or debtor classes. In point of fact they are those who would most suffer, and the wholesome advice given in this address could be as profitably studied to-day in resisting the surges of cheap silver money, as at the time it was delivered.

The address on The Sovereignty of the People was called out by a decision of the Supreme Court of the State prohibiting the convention that had framed the new constitution from creating election officers to hold an election in Philadelphia. The tone of the opinion was strongly against the reforms proposed by the new fundamental law, and the criticism made by Mr. McClure was certainly warranted by the existing political conditions. The address on Lincoln as Commander-in-Chief was delivered before the Loyal Legion in New York, and has attracted great attention all over the

country. While that phase of Mr. Lincoln's public record has never been especially discussed before, no one has ventured to dispute Mr. McClure's declaration that Lincoln was the actual Commander-in-Chief from the first defeat at Bull Run until Grant was appointed Lieutenant General.

The address delivered at Curtin's tomb, the Farewell address to the Senate, and the Clover Club welcome exhibit the exquisite sentiment which pervaded many of Mr. McClure's utterances, and they are well worth preserving as such. The addresses classed as Humorous and Satirical are so clearly explained in the preface to them that no extended reference need be made to them in this introduction. They are all strongly tinged with partisanship, but are well worth preserving as relics of the political struggle inspired by the revolt against the rule of Grant when President. They are among Mr. McClure's boldest utterances, and will be read with unusual interest by all who have any recollection of the fierce partisan conflicts of that day.

The eulogy on Curtin, given in the Appendix, is one of the most carefully prepared of all Mr. McClure's public utterances. The theme to him could not but be one of unusual inspiration as he had been a devoted friend of Curtin for nearly half a century, and perhaps one of the closest in his political and personal confidence. Upon the whole this second volume presents Mr. McClure in almost every phase of oratory, and as such it will be valued by the many who appreciate the sincere and heroic efforts he ever gave in defence of his convictions.

C. W. McKEEHAN.

March 1, 1895.

LEGAL ARGUMENTS.

Legal Arguments.

Mr. McClure's active practice at the bar embraced five years in Chambersburg and five years in Philadelphia. During that period he devoted himself assiduously to his profession, but ever confessed a want of taste for its labors. He never entirely separated himself from his favorite newspaper work, and he was a frequent voluntary contributor to the editorial columns of nearly all the prominent daily newspapers of this city. There are two important legal cases in the argument of which he bore a most conspicuous part and they were of such popular interest at the time that the whole of the arguments were reported in full and published, thus preserving two of his ablest legal achievements. The case involving the broad question of citizenship, with its rights, duties and penalties, excited the liveliest interest both in the profession and throughout the whole country, as the act of Congress disfranchising deserters affected thousands of voters in every State of the North. The argument in support of the constitutionality of the act of Congress, delivered by Mr. McClure before the Supreme Court of the State, was declared by the Chief Justice who presided, and who disagreed with the speaker in rather violent terms during the argument, and decided the issue against him, as one of the ablest legal arguments ever delivered in that Court.

The following is a history of the case: By the act of Congress of March 3, 1865, it was provided that all

deserters from the army might be relieved from the penalty of desertion upon proclamation of the President calling them to return to service, if they promptly obeyed said proclamation; but if they persisted in such desertion beyond the period named by the President, they should be deemed and taken to have voluntarily relinquished and forfeited their citizenship, which would deprive them of the right of suffrage in Pennsylvania, and the record of the provost marshal of the district, showing any person to be a deserter, was made conclusive evidence of such desertion in the absence of proof to the contrary. The constitutionality of this act was questioned by many, and the result was that vexatious suits multiplied after elections, some of which were brought against election officers for admitting the votes of deserters, and others were brought by deserters against election officers for refusing their votes. In order to reach a judicial determination of the important question that was agitating the whole country, a case stated was made up for the Court of Common Pleas of Franklin county to October term, 1865, in which Henry Riley, a deserter, was made plaintiff, and Benjamin Huber, an election officer, was made defendant. It was admitted in the statement of the case, that Henry Riley was a citizen, was liable to military service, that he had been drafted into it to fill the quota of his township, that he was served with copy of a draft notice, but that he refused to report to the provost marshal, and had not furnished a substitute. It was admitted also that the record of the provost marshal's office marked him as a deserter, and the fact was undisputed. It was admitted that he had offered his vote in Hamilton

township, Franklin county, where he was a qualified elector under the laws of the State, on the 10th day of October, 1865, and that Benjamin Huber, judge of the election, had rejected his vote because he was a deserter from the military service. The case stated was signed by F. M. Kimmel, J. McDowell Sharpe and William S. Stenger, as attorneys for the plaintiff, and by McClure & Stewart, and Stumbauch & Gehr, as attorneys for the defendants. On the 14th of March, 1866, the court, after hearing the parties by their counsel, entered judgment in favor of the defendant for one dollar with cost of suit. The case was appealed to the Supreme Court of the State and was argued by Mr. Sharpe for the defendant in error and by Mr. McClure for the plaintiff, at the May term of 1866 at Harrisburg. The Court sustained the judgment of the court below and the opinion was written by Justice Strong, who was sustained by Chief-Justice Woodward and Justice Thompson, and Justices Read and Agnew united in a dissenting opinion. We give Mr. McClure's closing argument for the plaintiff in error.

THE BENCH, THE BAR, THE PRESS.

The argument delivered by Mr. McClure in the celebrated Steinman-Hensel disbarment case, was his last appearance before any court as attorney. It involved the rights of both the press and the bar, and Mr. McClure was called into it only a short time before the argument, to take the place of the late Chief-Justice Black, who was leading counsel, and had suddenly decided to sail for Europe. Mr. McClure was then called because of his ripe experience in his many important libel

suits, and his argument showed that he relied more upon the logic of facts and precedents than upon the statutes. The law of the case had been most thoroughly presented by Mr. Rufus E. Shapley, who argued the strictly legal aspects of the issue with great ability; but the closing argument of Mr. McClure exhibits a measure of originality and forcefulness in treating a dry legal problem that was as convincing as it was novel. Instead of trying the case by the statutes and the decisions of courts, he tried it by the individual records of the Judges themselves, and made each of them present practical and positive teaching in support of his plea. The history of the case is as follows:

Andrew J. Steinman and William U. Hensel were editors and publishers of the Lancaster, Pa., *Intelligencer*, in 1880, and both were members of the Lancaster bar. On the twentieth of January, 1880, the Lancaster *Intelligencer* published a criticism on the Court for the acquittal of Michael Snyder, a saloon keeper, who had been twice indicted and acquitted for keeping a disorderly house. In this article the *Intelligencer* said: "Logically the last acquittal, like the first, was secured by the prostitution of the machinery of justice to serve the exigencies of the Republican party, but as all the parties implicated, as well as the Judges, belonged to that party, the Court is unanimous, for once, that it need take no cognizance of the imposition practiced upon it, and the disgrace attaching to it." On the following day Judge Patterson, who had presided at the last Snyder trial, sent a verbal message to Messrs. Steinman and Hensel asking them to appear in court, and when they appeared he interrogated

them as to the authorship of the article. They declined to make any answer other than that they were the editors of the paper, "and as such, and only as such, were responsible for the article." The Judge at once issued rules upon them to show cause why they should not answer for contempt, and also to show cause why they should not be disbarred, and the rules were made returnable on the thirtieth of January. The respondents answered in form, stating that they had made the publication "solely in their capacity as publishers of a newspaper, out of court, and while acting in good faith, without malice and for the public good," and that they were ready to answer before a jury for any abuse of their rights according to the laws of the land. They had not been of counsel in the case, and the publication was made after the case had been finally disposed of by the court. Judge Patterson, with whom sat President-Judge Livingston, heard the case on the thirtieth of January, 1880, and Rufus E. Shapley delivered an exhaustive argument against making the rules absolute. No attorney appeared on the other side, and on the third of April, Judge Patterson delivered an elaborate opinion closing with the dismissal of the rule for contempt, but striking the names of Messrs. Steinman and Hensel from the bar because they were "guilty and convicted of misbehavior in their office of attorney in this court." A writ of error was taken to the Supreme Court and Attorney-General H. W. Palmer, John B. McPherson, of Harrisburg, and Samuel H. Reynolds, of Lancaster, appeared in the case *amici curiæ*. The case was argued at the May term of the Supreme Court at Harrisburg, for the defendant in error, by Mr.

Reynolds alone, as Attorney-General Palmer was ill, and by Rufus E. Shapley and Mr. McClure on behalf of the plaintiffs. The opinion of the court was delivered by Chief-Justice Sharswood without dissent from any of its members, reversing the court below, and restoring Messrs. Steinman and Hensel as members of the Lancaster bar. We give Mr. McClure's closing argument for the plaintiff in error.

CITIZENSHIP:

ITS RIGHTS, DUTIES AND PENALTIES.*

May it please the Court: I shall not devote any part of my argument to the second point raised in the paper book of the defendant in error. I do not apprehend that this learned Court can decide the act of Congress disfranchising deserters to be an *ex post facto* law. Henry Riley was regularly drafted on the nineteenth of July, 1864, and was, by the express terms of the act of Congress, subject to the rules and regulations governing persons in the military service from that date. He was a deserter from the day he was required to report, and persisted in the crime of desertion every day and hour thereafter. On the third of March, 1865, Congress authorized the President to relieve him from the penalty—which might be death—by proclamation, if he would return within a specified time and discharge the manifest duty he owed to the government, and the same act provided that if he should "not return to said service" within the period named, for thus repeating and persisting in the crime of desertion, and rejecting the proffered pardon of the government, it pronounces upon him the fearful but just judgment that he "shall be deemed and taken to have voluntarily relinquished and forfeited" his great birth-right of citizenship. If he offended by refusing to report originally, surely he much more offended when he repeated the refusal in the face of pardon tendered for the past.

* Delivered before the Supreme Court at Harrisburg, May term, 1866.

STRONG, J. Does the case stated show that there was a proclamation?

MR. MCCLURE. It does not.

REED, J. I suppose that this court can take notice of that.

MR. MCCLURE. I think that the court should take notice of a public proclamation of the President, made in pursuance of law, as it would of the law itself.

The government of the United States is one of limited powers, derived directly from the fountain of all power—the People. Our organic law is ordained in their name, and its purposes are declared with marked distinctness in the preamble. In delegating powers to the general government they made express reservations, and reversed the rule that obtained in the Articles of Confederation, reserving to the States limitations in the exercise of the powers delegated.

I apprehend that there is no term that is so widely misunderstood and so erroneously applied as the term "limited powers," in its application to our government. For three-quarters of a century our history was unmarked by any great test of the powers of the national authority, and the popular fallacy that our nationality was limited even in its powers of self-preservation, had during that time been solemnized by partisan deliverances, maintained by some of our ablest statesmen who looked to our ultimate dismemberment, and entered into the education of those who were in time to became the makers and expounders of our laws.

While it is confessed by all that the powers of the general government are limited, it is equally true they are not limited in any sense where they are delegated either expressly or by implication, excepting the natural and proper limitations which forbid the exercise of any power under the Constitution to invade any right or reservation of the same instrument. It stands a monument

of the sublimest wisdom. It is in all things consistent with itself, and its symmetry is but perfected in its administration. A careful study of the well-considered language of the Constitution, of the exercise of the delegated powers, and the uniform manner of their construction by the judicial and other departments of the government, consistently define the limitations of powers as distinguishing merely between the delegated and the reserved powers of the people. The limitation is in the powers reserved, and not in the exercise of powers delegated.

When the people created a nationality for themselves and their posterity, they well understood the magnitude of their task. They had been tossed in the violent throes of revolution. They had experienced the want of a national sovereignty, not only before the adoption of Articles of Confederation, but equally so thereafter. They had no nationality. Their Confederation but relieved the States of certain and delicate powers, and yet left with the States the power to defeat the exercise of them. They therefore ordained the organic law in order to invest their nationality with every essential attribute of sovereignty.

If we turn to the first step taken in framing the Articles of Confederation and from thence to the first step taken in framing the Constitution, we can at once see the supreme necessity that fashioned the very foundation stone of our national structure. In forming the Confederation in 1778, the first article defining powers declares that "each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this Confederation, expressly delegated to the United States in Congress assembled;" and throughout all the articles, the most scrupulous care is manifested to guard against the exercise of supreme or questionable powers by the general government. But when the

Constitution was framed, the want of supreme power in the national government had been learned by bitter experience—by the difficulties in raising armies and maintaining credit more particularly—and the first article vests all legislative powers in Congress. Another article defines specific powers, including the right to raise and support armies, and closes with a sweeping delegation of power to "make all the laws which shall be necessary for carrying into execution the foregoing powers." And lest some constitutional quibbler should not learn of the failure of limited powers in the exercise of delegated authority under the Confederation, and attempt to defeat the purpose of the Constitution and the laws of the United States, the concluding article provides that "laws which shall be made in pursuance thereof, * * * shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the Constitution or laws of any such State to the contrary notwithstanding."

Had my learned friend (Mr. Sharpe) been living under the Articles of Confederation, instead of the more enlightened provision of the Constitution, his arguments would have been in happy accord with the fundamental law; but the nation has moved on from the feeble infancy of the Confederacy to the full manhood of a mighty nationality, supreme in its powers, perfect in its attributes of sovereignty, and competent to give complete effect to all its lawful mandates. The Confederation was but a national suicide. Its powers were but the instruments of death in time of peril. It could demand and apportion revenues, but could not enforce collection. It was therefore bankrupt. It could declare war, but could not compel military service from the people. It could define offenses and penalties, but could not carry its laws into operation. It had no coercive authority. It could not legislate directly upon persons and many of its enactments were silently disregarded, others were slowly and reluctantly obeyed

and still others were openly nullified. It was, therefore, the wisdom gathered by the saddest experience—an experience that well nigh lost the cause of Independence for want of power to fill the shattered ranks of the patriots, and which left the country at the close of the war without even the semblance of credit, for want of power to enforce the collection of revenue—that dictated the enlarged powers to the general government, and unlimited authority in the exercise of any delegated power under the Constitution. In short, from a mere Confederation created to serve the necessities of a revolution, the master-piece of Independence was left to be perfected after the cloud of war, by the creation of our Constitution; and the controlling purpose of its framers was to found a nationality that could, by the exercise of its legitimate and lawful authority, defy domestic and foreign foes, and maintain its own existence and the unity of the States and Territories committed to its supreme guardianship.

Let us turn to the great chart of our liberties as created by the fathers of the Republic, and see how they conferred the attribute of sovereignty upon the general government. In words as brief as they are sublime, a preamble tells the whole story of the want of a supreme nationality. It says:—"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, to provide for the common defense, promote the general welfare, and to secure the blessings of liberty to ourselves and our posterity, do ordain and establish the Constitution for the United States of America." The Union had been imperfect, because the States possessed, under the Confederation, a sovereignty to which the Confederation was subordinated. They, therefore, declared "a more perfect union" as the first object of the Constitution, and after the establishment of justice, to "insure domestic tranquility" was deemed the next important duty. Discord

had prevailed throughout the States under the Confederation because each was the arbiter of its own rights and wrongs, and prejudice and interest were ever at war with the common welfare. Instead of starting out with the reserved rights of States and the confession of their sovereignty, as did the Articles of Confederation, they vested "all legislative powers herein granted" in Congress. Instead of restrictions being the rule as in the Confederation, they are the exception. After plenary powers are conferred to maintain a nationality, we find certain limitations imposed upon Congress, but they do not apply to the exercise of any authority delegated, and they are immediately followed with like restrictions upon the States. One supreme authority is created. No State is recognized as a sovereignty in the sense that would allow it to question the paramount authority of the general government in the exercise, in its own way under the Constitution, of the supreme governmental power.

Congress is expressly empowered to levy and collect taxes, to borrow money, to regulate commerce, to coin money and provide for the punishment of counterfeiters, to declare war, to raise and support armies, to provide and maintain a navy, to make rules for the government and regulation of the land and naval forces, and, finally, to avoid all possible misunderstanding, Congress is authorized "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all the powers vested by the Constitution in the Government of the United States, or in any department or officer thereof."

Next we have restrictions upon the powers of Congress, but they do not relate to the powers conferred. They relate to immigration, the writ of *habeas corpus*, *ex post facto* legislation, taxation, the use of public moneys and titles of nobility. Then follow restrictions upon the States, which divest them of every attribute of sovereignty

that is essential in the national government. When the structure of the Constitution was reared, which had thus delegated powers to Congress—first specially and then by general unlimited authority to pass all necessary laws to carry them into effect—so careful were the authors lest the dregs of the Confederation might interpose to restrict and cripple it, that the Constitution and the laws made in pursuance thereof, are declared "the supreme law of the land, and the judges of every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." Even the express reservation of the States, or the people, of powers not delegated to the government, appears in an amendment, which does not limit any power of the general government, or lead to any other than the natural construction that would have been given had the section not been inserted. But the reservation embraces only powers not delegated expressly or by implication, while the Articles of Confederation reserved all powers not "expressly delegated."

The power of Congress "to raise and support armies" has but a single express limitation, and that prevents the appropriation of money to support armies "for a longer period than two years." This is a wise restriction. The appropriation of public money must originate in the popular branch of Congress, and that is chosen every two years. The people have, therefore, reserved to themselves the right to review the war-making power at every Congressional election, and arrest war by electing members who will refuse the necessary appropriations if the war does not meet their approval. But, beyond this limitation, the exclusive power to raise armies is vested in Congress, and there can be no unwarrantable exercise of power in the premises unless some other provision of the Constitution is violated.

Because for three-quarters of a century this government has never had occasion to exercise its extreme powers, is no reason why we should hesitate to sanction them. The life of the government has never been periled until the late rebellion aimed to dismember the Union by the sword. We have had profound peace ever since the establishment of the government, with the exception of a few years of war with England in 1812, and Mexico in 1846, neither of which so taxed the resources of the nation as to call for the exercise of extraordinary powers. It is not unnatural, therefore, when the government is compelled in self-defense to call into requisition its full powers, many should question its authority. The experience of the past, and to some extent the teachings of the present, lead to such conclusions. The men who conceived and inaugurated the rebellion had for years sought to limit the powers of the government, by insisting upon constructions of our organic law which would make it but an instrument of death. Many honestly followed them, and all who sympathized in any degree with their purposes gave a ready assent. A liberal and just construction, being without precedent, was readily antagonized by the treacherous, the cowardly, the venal and the weak; but when the law-making power of the nation was called upon to act for the safety of the Republic, it assumed that it had power to raise armies, and legislated so as to exercise its power.

The power to raise armies cannot admit of limitation short of some positive restriction of the Constitution itself. How Congress shall raise armies, is left for Congress to decide. It is expressly empowered "to make all laws necessary" to do so. It surely will not be insisted that, when treason was assailing the life of the nation, Congress could provide for raising volunteers or conscripting men, and be powerless to enforce obedience to its call. To raise armies means more than to call for a given number

of troops. Quotas on paper will not defend a nation against the desperate foe in the field, armed, disciplined, and attacking the government and its people with murderous purpose. The men must not only be called, but they must be had. Congress must not only ask them to come, but it must coerce those who refuse to come, and if it cannot do it in one way, it must do it in another way. If it cannot enforce obedience by courts-martial it must do it in some more summary manner. It is expressly authorized "to make rules for the government and regulation of the land and naval forces," and it is no longer a question that the government may hold a man as in the military service as soon as he is drafted. It was held by Judge Washington, in the case of Houston *vs.* Moore (9th Wheaton), that it is competent for Congress to declare men to be in the service as soon as they are drafted, and the act of Congress does so declare them. This learned court has therefore to deal with Henry Riley, in the case before it, as a man in the military service of the government, and subject to the rules and regulations prescribed by Congress for the government of the military forces of the country. The fact that it involves the political franchise of thirty thousand men who have been citizens of Pennsylvania, as is stated by the gentleman who preceded me (Mr. Sharpe), so far from requiring the court to hesitate to enforce the penalty imposed by Congress, should rather demand of the courts to seek earnestly for powers within the government, to teach faithless citizens the fundamental doctrine so well expressed by Blackstone, that "allegiance is the tie or ligament which binds every subject to be true and faithful to his sovereign in return for protection which is afforded him." Had there been thrice thirty thousand deserters in Pennsylvania instead of thirty thousand, we should in all probability be without government, liberty or law to-day; and if thirty thousand can with impunity

refuse allegiance in the hour of peril to our common institutions, certainly an indefinite number might do the same. Mr. Sharpe did well to render thanks to the God of battles for victory and peace, when pleading for the escape of the skulking deserter, for he could not thank the man whose cause he represents with so much earnestness and ability for the civil and religious blessings we all enjoy.

The power of Congress to raise and support armies having been derived from and delegated by the people, let us inquire under what circumstances they gave the power, and also how they exercised the same power themselves. I have already referred to the Articles of Confederation, and their failure to meet the necessities of the government. Had they been stringent and centralizing in their aim, as might have been reasonably the case, considering that they were created in the midst of civil war, and had the Constitution which followed been a change from the centralizing to the popular policy, I might be unable to demonstrate so clearly the plenary powers conferred on Congress. But just the reverse is the truth of history. In war the people of the revolution tested a government of limited powers to exercise its authority expressly delegated, and they were more than satisfied with the experiment. They met after peace and independence had been won, and declared it necessary "to form a more perfect Union," "establish justice," "insure domestic tranquillity," etc., by withdrawing the limitations upon the general government and clothing it with supreme authority in all things pertaining to nationality. They had exercised the power to raise and support armies themselves. They had just passed through seven years of fearful war. They had suffered every exaction its grim visage could frown upon them. They had felt the powers of conscription.

WOODWARD, C. J. We never had any conscription law in this country.

MR. MCCLURE. If that be true, then the people conscripted themselves without law. There was no general government empowered to make such a law, but conscription was, nevertheless, enforced.

STRONG, J. We had a government, a Confederacy, but it was only advisory.

WOODWARD, C. J. There certainly was no draft in the War of 1812.

MR. MCCLURE. Certainly there were drafts made both during the Revolution and the War of 1812, but they were made by the States. The government never was authorized by Congress to draft until 1863. In 1812 the government called upon the States for their quotas, to be filled by volunteers or by draft as the States might elect.

WOODWARD, C. J. Yes, in 1812; but I think no State ever drafted.

THOMPSON, J. There was no Federal draft, but there were State drafts in 1812.

(Mr. Cessna here handed the court an original copy of a call for volunteers by Governor Snyder during the War of 1812, which ordered a draft for such counties as should fail to fill their quotas within a specified time.)

MR. MCCLURE. We get the policy of conscription from the people themselves.

WOODWARD, C. J. How is that?

MR. MCCLURE. The people did not part with the power to raise armies by the Articles of Confederation, and it was therefore reserved to themselves. Congress was empowered only "to agree upon a number of land forces, and to make the requisition upon each State for its quotas." How the requisitions should be filled was for the people, in the exercise of their reserved powers to determine, and they, in several instances, resorted to conscription. After conscripting themselves in the exercise of the power to raise armies, they delegated the power to Congress under the Constitution, without any limitation.

WOODWARD, C. J. That is all in a circle. It is not certain that the people delegated the power to conscript.

MR. MCCLURE. They did not in express terms, but they raised armies in that way when the power belonged to them—enforced conscription upon themselves—and while conscription and war were still fresh in their recollection, they parted with the entire power to raise armies, without reserving any rights.

WOODWARD, C. J. Having the powers to conscript themselves, and having delegated certain powers to the general government, does it necessarily follow that they delegated the power to conscript? The power in the people is not the point in the controversy.

MR. MCCLURE. I regret that the learned Chief-Justice does not understand me as I desire to make myself clearly understood. Your Honor will not deny that originally all power was in the people themselves. In framing the Articles of Confederation, they parted with but a portion of their powers, gave no unlimited powers to Congress even in the exercise of delegated authority, and expressly reserved to themselves all powers not in terms delegated. The Confederacy fixed quotas and called upon the States for troops; the power to raise armies being then in the people and not in the general government. The people, therefore, adopted such measures as they deemed proper to raise armies, and one mode they enforced was the draft upon themselves. Thus did they exercise the power to raise armies. Immediately after the war, they parted with the power to raise armies—they delegated it to Congress without prescribing how it should be exercised, or forbidding the use of any means Congress might deem essential to carry it into effect. They had just experienced conscription, and they authorized Congress to exercise the very power they had enforced by conscription.

STRONG, J. I scarcely think that all this is relevant to the question at issue.

MR. MCCLURE. I submit that the question has been raised by the court, and I certainly have no desire to pursue it. It seems to me needless to discuss the constitutional power of the government to raise armies by conscription, when this court had already affirmed the constitutionality of the conscription law of March 3, 1863, in the case of Kneedler *vs.* Lane.

WOODWARD, C. J. The constitutionality of the conscription law was never affirmed by the court.

MR. MCCLURE. I have before me what purports to be the opinion of this court, in Kneedler *vs.* Lane, 9th Wright, 295, by which final judgment was rendered, and it affirms the constitutionality of the conscription law in the clearest terms.

REED, J. This court did certainly assert the constitutionality of the conscription law.

WOODWARD, C. J. On the contrary it has decided it unconstitutional in regular form.*

STRONG, J. The court has certainly decided that the conscription law is constitutional, Mr. McClure, and you can proceed with your argument.

MR. MCCLURE. But let us follow the people a step further in the exercise of the power to raise armies. They

*It is but fair to the Chief-Justice, as the argument makes no explanation of the disagreement of the Judges here given, to state that in the case of Kneedler *vs.* Lane the court decided in Pittsburg, on the ninth of November, 1863, on granting a preliminary injunction to restrain the provost-marshal from forcing Kneedler into military service, that the conscription act was unconstitutional. On the sixteenth of January, 1864, the case came up for a final hearing and judgment, and the court, on the same case, pronounced the law constitutional. Chief-Justice Lowrie who had delivered the opinion of the court on the ninth of November, 1863, had in the meantime been succeeded by Justice Agnew, and the conviction of the court was thus changed by the change of the members composing it. Chief-Justice Woodward doubtless held, therefore, that the doctrine of *stare disces* made the first decision the law of the State, which judges could not, or certainly should not, reverse. It should not be overlooked, however, that the preliminary injunction on an *ex-parte* hearing, as is common upon bills in equity praying for immediate relief, Chief-Justice Lowrie, in

not only called men into the service by conscription, but they proscribed them as aliens for not responding to the call of the country This they did in many, and perhaps a majority, of the States. Indeed I believe that there was not a single State that did not pass laws of some kind forfeiting either citizenship or property, or both, for refusal to aid the country in war. Even after the war South Carolina and Georgia passed laws forever disfranchising those who had refused to join in the Revolution. In the majority of the States these laws were enforced long after the adoption of the Constitution. In some States they required trial and conviction precedent to forfeiture of property and citizenship. In other States they disfranchised by laws proscribing them for treason without trial, and in others they allowed trial in some cases and in others they refused it. After the adoption of the Constitution, Massachusetts passed a law disfranchising for a term of years, and in some instances for life, those who had participated in Shay's rebellion. They did not require trial, but their guilt was a matter of proof when the ballot was offered.

Pennsylvania, too, has no doubtful record as to the manner in which the people, in the exercise of the power to raise armies, enforced obedience to their own mandates. On the eighth of May, 1778, the Supreme Executive Council—the body of delegates by which the people governed themselves—passed "an act for the attainder of divers traitors" (those who refused military service in

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delivering the opinion of the court, expressed his regret that the government had not been represented, and said: "I cannot be sure that I have not overlooked some grounds of argument that are of decisive importance. But the decision now to be made is only preliminary to the final hearing, and it is hoped that the views of the law officers of the government will not then be withheld" (9th Wright, 240). The decision, therefore, that Chief-Justice Woodward declared to be the only decision of the court "in regular form" was declared to be a "decision" that was "preliminary to the final hearing." On the final hearing, and final judgment, the court affirmed the constitutionality of the conscription law, vacated the orders previously made in the case, and the motions for injunction were overruled.

the war against the King), requiring certain persons to report themselves for trial on or before the twenty-fifth of June next ensuing, "on pain that every of them stand and be attainted of high treason to all intents and purposes, and shall suffer such pains and penalties and undergo all such forfeitures, as persons attainted of high treason ought to do." In pursuance of this law, the Council made public proclamations, and those who failed to comply with the provisions of the law, forfeited citizenship forever and their property was confiscated. Registers were appointed to keep a record of traitors and their property, and rewards were paid for discovering forfeited estates. To this day we have preserved, as a monument of the stern patriotism of our forefathers in Pennsylvania, the list of hundreds of men whose names come down to us, as Henry Riley's appears to-day, branded with the infamy of deserting the cause of our common inheritance.

Nor was the lawfulness of this legislation questioned any more than were its wisdom and justice. The general government in its legislation after the adoption of the Constitution, scrupulously reverenced the proscription of faithless men. In 1790, Congress passed an act to establish a uniform rule of naturalization, and lest it should, in the exercise of its supreme power, relieve the men who had deserted it in the Revolution, it concludes with the mandate "that no person heretofore proscribed by any State shall be admitted a citizen as aforesaid, except by an act of the Legislature of the State in which such person was proscribed." This law was passed by the men who had either framed the Constitution, or who had witnessed its birth with the profoundest interest, and well understood its meaning, and it was approved by the great hero-statesman who had presided over the deliberations of the Convention—the immortal Washington. It was manifest that an act of Congress relieving them of the pains and penalties enforced by the State would, in their judgment,

have been the supreme law of the land, any acts of the States to the contrary notwithstanding; but Congress expressly gave its sanction to the forfeitures and left it to the States, while it restored to citizenship those who had been convicted of refusing service to the country, and their citizenship and property thereby forfeited. Congress had, therefore, by the supreme law of the land, yet manifestly by inadvertence, restored to their civil rights certain persons who had been convicted by the States before the adoption of the Constitution, and made aliens of those who had been proscribed. Accordingly, on the fourteenth of April, 1802, Thomas Jefferson, the father of the Democratic tendencies of our government, signed a bill relating to naturalization and citizenship, concluding with this proviso: "That no person heretofore proscribed, by any State, or who has been legally convicted of joining the army of Great Britain during the late war, shall be admitted a citizen as aforesaid, without the consent of the Legislature of the State in which such person was proscribed." This act perfected the work of justice as the people had ordained when they had the power, and Congress then placed the high seal of the supreme law of the land upon the forfeiture of citizenship and property, both by proscription and conviction, and the deserters of the Revolution were made aliens, strangers and wanderers in their own land, without franchise, property or power, and they had to brave the scorn of the people who had won liberty until they found refuge in the grave.

STRONG, J. The Constitution acknowledges the existence of States. It is the creation of the people. It is not essential to the existence of the States that the State government shall have the power to determine who shall and who shall not vote. And when Congress says who shall not vote, it is not involving the rights of the States?

MR. MCCLURE. Yes, I accept both propositions as stated by your Honor. I will, at the proper time, show

the act of Congress disfranchising deserters is not in conflict with the laws of Pennsylvania regulating suffrage. It transgresses upon no State privilege. I do not propose that Congress may regulate suffrage in the States, but regulating suffrage and forfeiting citizenship are two very distinct propositions. Pennsylvania confers the right of suffrage only on those who are by the supreme law made citizens of the United States. But I will notice that point more fully hereafter.

I have shown how the power to raise armies was exercised by the people, especially in our own State, where enforcement of the demand for military service was carried to the forfeiture of citizenship and property by proscription. Even the corruption of blood was affected by proscription in Pennsylvania, and the limitation of appropriations to two years for war purposes, and the denial of the corruption of blood by attainder of treason, are the only express restrictions imposed upon their own policy when they transferred their power to Congress.

Having traced the power to raise armies and the manner of its exercise from its fountain, I now propose to inquire how it has been construed by the judicial tribunals of the government since it has been delegated to Congress.

It is the doctrine of the most eminent expounders of the Constitution that "that whenever the end is required, the means are authorized; whenever a general power to do a thing is given, every particular for doing so is included." Story refers to the power of Congress in the following clear and pointed terms:

To establish a national government, and to affirm that it shall have certain powers, and yet that in the existence of those powers it shall not be supreme, but uncontrollable by any State in the Union, would be but a solecism so mischievous and so indefensible, that the scheme could never be attributed to the framers of the Constitution without manifestly impeaching their wisdom as well as their good faith. The want of such effective practical supremacy was a

vital defect in the Confederation, and furnished the most solid reasons for abolishing it. It would be an idle mockery to give powers to Congress, and yet at the same time declare that those powers might be suspended or annihilated at the will of a single State ; that the will of twenty-five States should be surrendered to the will of one. A government of such a nature would be unworthy of public confidence, and it would be incapable of affording public protection or private happiness.—*Story on the Constitution*, 249.

What is proposed here by the defendant in error, but the power of Congress to raise armies shall be "annihilated at the will of a single State?" This learned court is asked to sanction the mischievous and indefensible solecism, that while Congress has the power to raise armies, yet in the exercise of that power it is controlled by Pennsylvania. And why? Because, forsooth, it disfranchises a deserter; because it takes at its own word one who disowns his citizenship and allegiance.

If the Legislature cannot interpose to limit the action of Congress, on any particular subject, surely the courts of the State cannot do so; and it will not be doubted that the power to raise armies is not only given to Congress in terms, but it is a power the nature of which requires that it must be exercised exclusively by Congress. If it cannot be exercised, it would be no power at all, for every State that chose to cripple the government in time of peril could find some pretext for doing it, and the nation would be at the mercy of any single State.

The same court also held, in the case of McCullough *vs.* State of Maryland, 4th Wheaton, 421, that:

> If a certain means to carry into effect any of the powers expressly given by the Constitution to the government of the Union, be an appropriate measure, not prohibited by the Constitution, the degree of its necessity is a question of legislative discretion, not of judicial cognization.

Again, in the same case and same page, it is held that—

> If the end be legitimate, and within the scope of the Constitution, all the means which are appropriate, which are plainly

adapted to the end, and which are not prohibited, may be constitutionally employed to carry it into effect.

That the end to be attained by the act of Congress imposing the penalty of disfranchisement upon deserters, is legitimate and within the scope of the Constitution, will not be questioned, and unless the means employed are plainly prohibited, they must stand the test of judicial scrutiny. Of their necessity Congress is the sole judge—it is "a question of legislative discretion," says the Supreme Court of the United States, and this learned court must have the clearest evidence that the exercise of this power, in the particular manner in which Congress has seen fit to exercise it, is flagrantly at war with the Constitution itself before it can question the validity of the law. Even if it were an issue in which there is concurrent authority in the general and State governments, so far as the action of the two conflict, the State must yield to the paramount authority of the general government. In Houston *vs.* Moore, 5th Wheaton, 49, the Supreme Court of the United States held as follows:

> But in cases of concurrent authority, where the laws of the States and of the Union are in direct and manifest collision on the same subject, those of the Union being the supreme law of the land, are of paramount authority, and the State so far, and so far only as such incompatibility exists, must necessarily yield.

In support of the position I have assumed, I need not go beyond the decisions of this learned court. In the case of Moore *vs.* Houston, 3d S. and R., the late Chief-Justice Gibson said:

> If the act upon which the proceedings is founded, is in collision with any act of Congress, it is void. The sixth article and second section of the Constitution declares that the Constitution and the laws made pursuant to it, to be the supreme law of the land, binding upon the judges of the State courts, notwithstanding anything to the contrary in the Constitution or laws of any State. It follows, that where an act of Congress and an act of the State Legislature

come in conflict, the latter must give way. A refusal by the State authorities to execute an act of Congress in preference to their own law, would be a step towards the dissolution of the Union.

I have referred to these authorities not to establish the power of Congress, but to demonstrate in what manner and to what extent a particular power may be exercised by Congress when it is admitted to be delegated. The power to raise armies is not questioned, nor is it disputed that in the exercise of that power Congress is the sole judge of the necessity of legislation, and can be restrained only because of an infraction of the Constitution itself.

But it is answered by the able counsel for the defendant in error, that the act of Congress "proposes to inflict and impose pains and penalties upon offenders, before and without trial and conviction by due process of law, and therefore is in direct antagonism to the Bill of Rights."

I am discussing the grave issue involved in this case with a just appreciation of the fact that ours is a government of law, and no supreme necessity can justify its violation. If Henry Riley is not condemned by the law, he cannot be condemned at all. But he is condemned by the law unless the law forbids, in the clearest terms, that he should be condemned as Congress has condemned him. The restriction must not be implication, it must be explicit and expressed. Is the penalty imposed by the act of Congress in this case thus confronted by the Constitution? If so, we have as yet failed to find it, unless the construction put upon certain clauses of that instrument by the opposing counsel is to be accepted as the Constitution itself.

If the Constitution had provided that no citizen should be deprived of life, liberty or property unless convicted by a jury of his peers, the act of Congress would be at war with the Bill of Rights, and would necessarily fall before the supreme restriction of the fundamental law. But it does not thus provide, nor does it provide anything

approaching it, in cases such as the one before this learned court. It does not merely omit to make such provision, but it makes a very different provision—one in language well considered and designed to guard in the clearest terms against such a construction as that given by the counsel on the other side. The Constitution says:

> No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or an indictment or of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense, to be twice put in jeopardy of life or limb; nor shall he be compelled in any criminal case, to be a witness against himself, nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use without just compensation.

This is the only article of the Constitution that refers to the punishment of capital or other infamous offenses in the land and naval forces, and it refers to such cases only to except them from the process of law expressly provided for those not in the military service. Mark how carefully the distinction is made, then follow it to the succeeding section where it is provided that "in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed." Citizens, under ordinary circumstances, are entitled to speedy and public trial by an impartial jury. In such cases, such trial only would be "due process of law," but those who are in "the land or naval forces," are, in express terms, excepted from these guaranteed rights.

What, then, is "due process of law" in the land and naval forces of the nation? The Constitution omits to define it, and the omission was clearly intentional on the part of those who framed it. I have heretofore shown that Mr. Riley was in the land forces of the

government. The law expressly so declares and the right of Congress to do so has been judicially determined. Mr. Riley is, therefore, subject to the rules and articles of war which are but a series of Congressional enactments, or rules and decisions founded thereon. There is no Constitutional restriction whatever for the offense he has committed. As confessed by the record before the Court, he might have been pursued, arrested, tried by a drum-head court, condemned and executed. Such a proceeding would have been "due process of law." The right of all governments to inflict the death penalty for violation of military rules and regulations has never been questioned, and desertion is one of the offenses for which life is often forfeited. But when life should be taken, no code of laws, and no provision of the Constitution could properly determine. The power to enforce obedience, to maintain safety and achieve success in military operations must be plenary, and at times when important or perilous movements are being made, or about to be made, life will be taken for an offense which under ordinary circumstances would be punished but moderately or perhaps entirely overlooked. Due process of law, therefore, in regulating armies is dictated by the necessities of the service, and when the power is conceded to take life, it seems to me that the power to impose the lesser penalty cannot be disputed.

But, it is argued that penalties are imposed in the military service only after trial; that there must be some sort of trial and conviction. It is not necessarily so. Mr. Riley could have had a trial at any time, but he elected not to be tried because he was confessedly guilty. He had no defense as the record here shows. He could have reported at any time to the nearest provost-marshal, and demanded trial. He had been offered pardon if he would return, but he rejected it, and after he had thus forfeited the forgiveness of the government to which he owed his

allegiance and service, he could have returned at any time, suffered such penalty as might have been inflicted, procured his discharge at the close of the war and now be entitled to all of the rights of citizenship. But with the full knowledge of the fact that continued desertion forfeited his citizenship, he elected to become an alien and not to be tried by any tribunal.

WOODWARD, C. J. I do not understand what you mean by "elected."

MR. MCCLURE. He could have reported at any time and demanded trial. Had he been arrested he would have been tried. He therefore elected to become an alien by the rules and articles of war, rather than report for trial and service.

WOODWARD, C. J. This penalty was not provided till his desertion.

MR. MCCLURE. That is true, but he persisted in his desertion every day he remained, and he was no less guilty every day that he continued as a deserter than the day he deserted.

(The proclamation of the President was here read to the court by Mr. Cessna, in answer to an inquiry for it by the court.)

Some months after he had deserted, he was offered pardon if he would return to service within sixty days. He was ordered to return by the highest military authority and he was bound to obey, but he disobeyed, repeated the crime of desertion, and persisted in the crime every day and hour he skulked away from the service.

Due process of law in this case is the law of the land. "The words 'due process of law,'" says the Supreme Court of the United States, 18th Howard, 276, "were undoubtedly intended to convey the same meaning as the words by the 'law of the land' in Magna Charta. Lord Coke in his commentary on these words (2 Just. 50) says they do mean 'due process of law.'" If a

forbidden mode of determining guilt had been adopted by the act of Congress, then it would not be the law of the land, for it would be at variance with the law; but the Constitution disposes of the whole question by authorizing Congress "to make rules for the government and regulation of the land and naval forces." It is empowered to govern them, because it is a supreme necessity, and its rules must be obeyed. If disregarded, it must be able to enforce obedience and may punish even unto death for disobedience. Upon this sweeping delegation of power, as absolute as it is essential, there is no limitation, expressed or implied. Its law, therefore, is the law of the land. It is expressly excepted from the narrow channel marked out for civil authority by the Bill of Rights, and imposes its penalties in its own way, and from its judgment there is no appeal.

Nor is it so violent an innovation upon the rules which obtain at times in the civil tribunals of the country. It is charged as a monstrous abuse of power to entrust an election officer with the decision of the grave question whether a man is disfranchised or not. There is, indeed, nothing startling in that. Considering that election boards have exercised that power unquestioned from time immemorial, my learned friend who preceded me (Mr. Sharpe) need not have been so much shocked at the mere proposition to allow election officers to accept or reject a vote. If he and I should make a wager on an election, and his vote should be challenged, who would determine whether or not he had, by his own act, disfranchised himself? He would not question the right of the board to reject his vote.

THOMPSON, J. That law is unconstitutional.

REED, J. It is certainly good morals.

THOMPSON, J. An unconstitutional act cannot be the law.

MR. MCCLURE. No court has ever declared it unconstitutional. Should an election board do so? If they

cannot decide the question of citizenship, can they determine the validity of a law? Pray, what can an election board decide?

AGNEW, J. Anything which disqualifies is determined by the election board.

MR. MCCLURE. Yes.

AGNEW, J. Suppose a man goes out of the State and his absence disqualifies him, as a voter, the election board will certainly reject his vote.

MR. MCCLURE. Certainly. The election board decides everything pertaining to the right of suffrage. They are responsible only for an abuse of their power, and not for an honest error of judgment in accepting or rejecting a vote, any more than is a judge in a court below when reversed by the court of last resort. Indeed, the law clearly contemplated the decision of the most important questions by election boards. One of the board is expressly denominated a judge by the law, and they must of necessity decide not only questions of taxation and residence, but they must pass judgment on the great question of citizenship, when it is raised before them. They decide the question of the blood of the proposed electors when it is in doubt, and thereby are empowered to declare a man disfranchised and a stranger to our citizenship, just as the election board of Hamilton township declared Henry Riley. They decide upon the legality of votes on every ground; for non-payment of taxes, alienage, non-residence, non-age, and may even decide against the solemn oath of the claimant for suffrage on the question of his intentions as to residence, if the facts, in their opinion, warrant it. I submit, therefore, that the disfranchisement of deserters by election boards is no new or startling feature in the history of such tribunals, as they have decided questions of equal moment for a time whereof the memory of man runneth not to the contrary. If the charge of desertion is wrongfully made he can disprove it,

as can a legal voter who is charged with any other act that disfranchises him.

WOODWARD, C. J. He must first be convicted of the offense.

MR. MCCLURE. When felony disfranchised citizens, conviction was necessary, but conviction is, in such cases, necessary to due process of law. In case a man is disqualified as a voter for non-payment of taxes, or alienage, or non-residence, must there be a conviction before the board can reject his vote? As these are not offenses against the penal laws, how are persons to be convicted? If these acts of negligence require conviction by the court before persons can be disfranchised, then we have been acting without warrant of law ever since the formation of the government. The only conviction necessary is the decision of the election board.

If I should now be guilty of contempt of this learned Court, what would be conviction?—Says the late Chief-Justice Black, in the case of Passmore Williamson, 2nd Casey, 19—"Contempt of court is a specific criminal offense. It is punished sometimes by indictment and sometimes in a summary proceeding, as it was in this case. In either mode of trial the adjudication against the offender is a conviction, and the commitment in consequence his execution." This power is a supreme necessity to maintain the dignity, and prevent the obstruction, of the administration of justice, and such conviction is due process of law. It is the law of the civilized world, —the law of the land.

The Constitution provided in the most cautious terms, that persons held to service or labor in one State, under the laws thereof, escaping into another, shall be delivered up on the claim of the party to whom such service or labor may be due. Congress was thereby charged with making all necessary laws to carry the provision into effect. It involved the liberty of those upon whom claim

was made, but Congress denied the right of trial by jury. An irresponsible commissioner was entrusted with the execution of the law, and a premium paid for deciding against the liberty of the person from whom service was claimed, and it was held by the highest judicial tribunal of the nation to be due process of law. Thus were the powers of Congress construed to blacken and degrade our nationality. Are they to be abridged now because they were exercised to preserve and redeem the nationality?

If Henry Riley had been sued for debt in the civil courts when he was wandering in a strange land to escape military service, a copy of the writ left at his house, where his family remained under the protection of the government he refused to defend, would have been sufficient to obtain judgment against him by default, and he could thus have been deprived of his property without hearing or even knowledge. It would have been due process of law. And so it is when the defendant in the civil courts elects not to appear and demand trial, as was the case with Henry Riley in the proceedings which led to the suit now before this court. Judgment is taken for want of an attorney, or for want of an affidavit of defense, and it is not questioned that it is due process of law. In all our judicial proceedings either party may have judgment by neglect or default. He may elect not to avail himself of the advantages of trial, and judgment in such cases is confessedly the law of the land. Even in criminal cases prisoners may waive trial, because guilt is too clear to be controverted, and liberty is yielded to the majesty of the law by the election of the person charged with crime.

If Henry Riley had reported, had been mustered into service, and been absent on any day at morning and evening roll-call, he would have been marked a deserter by his commanding officer, and until he disproved that record he could not have drawn any pay, no matter how long

the government may have been in arrears with him. It would have been due process of law. And had he been in service and reported as absent without leave, he would have been marked as dishonorably dismissed from service, and that record would have remained for all time unless he came forward, demanded trial and reversed the judgment of the military authorities by proving it erroneous. It would have been due process of law. Had the government seen fit to order a captain and two lieutenants on court martial duty to try Mr. Riley, they could have condemned and executed him, and it would have been due process of law. All these summary convictions are sanctioned in the military service, and as he was confessedly in the military service for all the purposes to be considered by this Court, can it be doubted that the government, in obedience to the necessities of the service, could empower a captain, acting as provost-marshal, to mark a defaulting soldier as a deserter, and enforce the record and its penalties against him until he chooses to avail himself of trial and vindicate himself?

The authority to raise armies is part of the same grant that charges Congress with the levy and collection of taxes and I ask the attention of this Court to the manner in which Congress exercises the power to raise revenue. Revenue is, of course, a supreme necessity, but let us look for a moment what is regarded as due process of law in the collection of taxes. In the case of Murray's Lessee *et al. vs.* Hoboken Land and Improvement Company, 18th Howard, 272, we have an instructive lesson on the law of the land in the mere matter of collecting money due the government. In that case an audited account from the Treasury Department against a collector, was treated as a judgment, in accordance with the act of Congress, and property was levied upon and sold by the United States Marshal to satisfy the claim. Naturally enough it was alleged that there was not due process of

law. The mere balancing of an account by a subordinate in the Treasury Department without notice or hearing, and by such warrant proceeding to collect it, would seem to be a summary way of reaching execution not demanded by the exigencies of civil administration in the time of peace. But Congress is empowered to collect revenue, and in the exercise of its power, it decided not to enter into litigation with its subject. It construed due process of law to be the seizing of a defaulter's property on a settled account, notwithstanding the provision of the Constitution that forbids the taking of life, liberty, or property without proper trial. The act of Congress even went so far as to provide that, under certain circumstances, the account between the government and the creditor might be the subject matter of a suit; but it was reserved to the government to allow or deny the judicial investigation as it might deem best.

In the decision of the case Justice Curtis says, page 280, that "proceedings authorized by the act of 1850 cannot be denied to be due process of law, when applied to the ascertainment and recovery of balances due the government from a collector of customs, unless there exists in the Constitution some other provision which restrains Congress from authorizing such proceedings." There being no such express prohibition, the power of Congress was declared to be properly exercised, although it denied any and every form of trial beyond the settlement of an account by a clerk.

Referring to the powers of Congress the learned Judge proceeds, page 281:

> Among the legislative powers of Congress are the powers to lay and collect taxes, duties, imposts and excises; to pay the debts and provide for the common defense, and the welfare of the United States; to raise and support armies; to provide and maintain a navy, and to make all laws which may be necessary and proper for carrying into execution those powers. What officers

should be appointed to collect the revenue thus authorized to be raised, and to disburse it in payment of the debts of the United States; what duties should be required of them; when and how and to whom they should account, and what security they should furnish, and to what remedies they should be subjected to enforce the proper discharge of their duties, Congress was to determine.

The Court then goes back to the broad principles, that the power to lay and collect taxes must carry with it all needful power to enforce its laws in its own way. On this point the Court says:

The power to collect and disburse revenue, and to make all laws which shall be necessary and proper for carrying that power into effect, includes known and appropriate means of effectually collecting and disbursing that revenue, unless some such means should be forbidden in some other part of the Constitution. The power has not been exhausted by the receipt of the money by the collector.

Its purpose is to raise money and use it in the payment of the debts of the government. It may be added that probably there are few governments which do or can permit their claims for public taxes, either on the citizen or the officer employed or their collection or disbursement, to become subjects of judicial controversy, according to the course of the law of the land. Imperative necessity has forced a distinction between such claims and all others, which has sometimes been carried out by summary methods of proceeding, and sometimes by systems of fines and penalties, but always in some way observed and yielded to.

If "imperative necessity" is a warrant for Congress resorting to summary process for the collection of its revenues, how much greater is the necessity for the summary punishment of those who, in the hour of the nation's peril, refuse to render it service? The government could not survive judicial or even military controversies with its people in time of war, and to decide otherwise would be the work of death. Shall public policy reserve its most stringent mandate for the civil power of the government in time of peace? If so, then is our whole fabric of government a mockery. It can oppress in the name of "imperative necessity" where the course of the law of

the land would attain the end desired, but is left paralyzed to summon its strength to preserve its own existence. Surely this learned Court will not decide in face of the teachings of the highest judicial tribunals of the nation as to the authority and duty of Congress to make all needful laws to enforce obedience in time of common danger. Bear in mind that our highest Court has held that "all the powers vested in Congress by the Constitution are complete in themselves and may be exercised to their utmost extent, and that there are no limitations upon them, other than such as are prescribed in the Constitution" (Wheat. 196). The limitations must be prescribed. They must not be gathered from the mere spirit of any other part of the organic law. They must be clear and positive to limit a positive power delegated. Have we any such limitations? Is there any that approaches such a limitation? If there were such, of whatever character, they would completely destroy the power to raise armies, instead of making that power complete in Congress. It would be a confession that the Constitution is but a mass of foolish, fatal contradictions, and that our boasted nationality is but a fiction and a fraud. Happily, however, our organic law is not thus marred; it has no such fearful element of death within itself.

I had intended to refer in detail to the opinions of the members of this Court in the case of Kneedler *vs.* Lane, but I have already trespassed too long upon your patience. Those opinions will enter largely into the consideration and judgment of this case. In them will be found the true land-marks of the Constitution as defined by this Court, and the power of Congress to exercise the necessary authority to enforce obedience to its laws, is clearly stated by the opinions in support of the final judgment. If the act of 1865 should now be declared invalid by this Court, it would place its own judgments in strange antagonism. It would present the singular

spectacle of the judicial tribunal of last resort in Pennsylvania first deciding that Congress had the power to conscript men for the army, but had not the power to enforce service or punish desertion, without first submitting its measures to the capricious judgment of thirty-six States, with different laws, differently constituted Courts, and judges of different affinities and sympathies. I confidently trust that our government and our judicial record will never witness such an attempt to deform and cripple the supreme law of the land.

I shall now briefly examine the objection raised against the act of Congress on the ground that it impairs the right of suffrage in the States.

The forfeiture of citizenship by Henry Riley was voluntary, and the crime of desertion was committed with the full knowledge of the fearful penalty that must follow it. He thereby deliberately elected to forfeit his great birth-right inherited from his enlightened and beneficent government. It had conferred the right upon him, and for the crowning crime of disclaiming the allegiance demanded in return, the priceless blessing of citizenship is revoked by the same power that created it. It was done because, as Wheaton says, "the United States is a supreme government, acting not only upon the sovereign members of the Union, but directly upon the citizens." That it is supreme over the sovereign members, is established by the uniform teachings of our history. But for this supremacy the early revolt of Pennsylvania would have been the end of the Union, but the rebellion was suppressed by the supreme authority, as similar revolts were suppressed in South Carolina and Rhode Island. Vattel, s. p. c., says:

> Since a nation is obliged to preserve itself, it has a right to everything necessary for its preservation. A nation has a right to everything that can ward off imminent danger, and keep at a distance whatever is capable of causing its ruin; and for the very

same reason that established its right, it has also the rights to the things necessary to its preservation.

Wheaton, 115, says:

> The right of self-preservation necessarily involves all other incidental rights as a means to give effect to the principal end.

That the general government is charged with the preservation of our nationality and its power over the sovereign members of the Union for the purpose, cannot be questioned. If it is thus supreme over the sovereign members of the Union, can it be less so upon the individual citizens who hold their great franchise by the laws of the United States? The States cannot abridge the rights of a citizen of the Union, because he holds his citizenship from the supreme power, and can the States interpose to defeat the government in the exercise of the power to enforce the reciprocal duties of the citizen? The States cannot grant or enlarge or diminish the rights of citizenship, and will it be pretended that they can prevent the great creative power from forfeiting its gifts as a penalty for offenses against its authority? Kent says the question of citizenship "is one of national and not of individual (State) sovereignty." Every citizen of the United States "is a component member of the nation," says Attorney-General Bates, "with rights and duties under the Constitution and laws of the United States which cannot be abridged by the laws of any State." In the same opinion (twenty-ninth of November, 1862) he says "every person who is a citizen of the United States, whether by birth or naturalization, holds his great franchise by the laws of the United States, and above the control of any particular State."

The government has made Henry Riley a citizen of the United States, and thereby assumed certain obligations touching his welfare which it was bound to fulfill. Had the government failed in the performance of its obligation,

he could withdraw himself from it. Vattel, s. p., 106, says:

> If the body of society, or he who represents it (the government), absolutely fail to discharge their obligations toward the citizen, the latter may withdraw himself, for if one of the contracting parties does not observe his engagements, the other is no longer bound to fulfill his, as the contract is reciprocal between society and its members. It is on the same principle that society may expel a member who violates its laws.

Blackstone says:

> Allegiance is the tie or ligament which binds every subject to be true and faithful to his sovereign, in return for protection which is afforded him.

Attorney-General Bates also clearly defines the relations between the citizen and the government; in his opinion of the twenty-ninth of November, 1862, he says:

> The duty of allegiance and the right to protection are correlative obligations, the one the price of the other, and they constitute the bond between the individual and his country.

Such are the mutual obligations between the government and the citizen, and they are created without any reference to the States and must be fulfilled without the interposition of any of the sovereign members of the Union. They are above and beyond the powers of the States, and how is the State to interpose to defeat a penalty going to the forfeiture of citizenship? It can neither make or unmake a citizen, and it has no voice in defining the power of the government or the penalties it may impose for the violation of the compact made with the citizen.

STRONG, J. Is there any power in Congress to declare who are and who are not citizens, except so far as naturalization is concerned?

MR. MCCLURE. Yes.

STRONG, J. Congress has authorized a uniform law for naturalization. Does it follow that they have the right to make or unmake citizens?

MR. MCCLURE. Citizenship is not a natural right according to the practical teachings of our government. It must be derived from some competent power. It certainly is not from the State. It must be from the supreme power of the nation. If not from the government, whence is citizenship derived? It is a created, a vested, right, and there must be a power to create and vest it; and that power certainly can take it away in any manner not in conflict with its faith with this citizen. Surely it can forfeit as a penalty for crime.

AGNEW, J. You mean that Congress may say whether he is a free man or not by the crimes he may have committed, and that being no free man he has no ballot.

MR. MCCLURE. Congress, the legislative power of the government that has the only control of the question of citizenship, has, in the exercise of its power to raise armies, imposed the penalty of alienage for the crime of desertion; and I cannot doubt that he hereby ceases to be a free man in the accepted sense of the term. He is deprived of the rights of citizenship, and the State then disfranchises him by its own laws.

STRONG, J. Is there not a distinction between the right of a citizen and the right of citizenship? A man may be put in prison for some crime. He does not thereby lose his citizenship, but is merely suspended in the exercise of it.

AGNEW, J. Is a man in prison convicted of a felony a free man?

STRONG, J. Yes, sir.

MR. MCCLURE. Suppose that Congress had imposed the penalty of imprisonment for life for desertion, instead of forfeiture of citizenship, would there be any distinction practically between the right of a citizen and the power of citizenship? If by the law of the land Henry Riley had thus been punished, could any power but the power that imposed the penality relieve him?—and could the State

interpose and say that it impairs the right of suffrage in Pennsylvania? If so, every criminal consigned to the penitentiary for counterfeiting, robbing mails, or piracy, could plead the sovereign power of the State to prevent the disfranchisement of its citizens by imprisonment. And what renders the position of the counsel on the other side the more inconsistent on this point, is the fact that Congress may, by its articles of war, impose the death penalty for desertion, but it cannot disfranchise without an infraction of the rights of the States. Could inconsistency go further? The greater punishment may be lawfully inflicted, but the State can arrest the lesser punishment because some imaginary power or franchise, inherent in the State, is violated.

The United States as a supreme nationality possesses the power essential to that nationality to define the obligations of citizenship, and to demand the paramount allegiance due from the citizen to the government. Its powers acting "directly upon the citizen," as Wheaton defines it, is certainly competent to declare what gross, palpable acts of abjuration and abandonment of the obligations of citizenship, shall work a forfeiture of such right, and the organic law of Pennsylvania is in harmony with this power of the general government. In conferring suffrage, as the State has the undoubted right to do, it provides, in section one, article three, of the Constitution, as follows:

In elections by the citizens every white freeman of the age of twenty one years having resided in the State one year, and in the election district where he offers to vote at least ten days immediately preceding such election, and within two years paid a State or county tax, which shall have been assessed at least ten days before election, shall enjoy the rights of an elector; that a citizen of the United States, who had previously been a qualified voter of the State and removed therefrom and returned, and who shall have resided in the district and paid taxes as aforesaid, shall be entitled to vote after residing in the State six months: *Provided*, That white freeman citizens of the United States, between the ages of

twenty-one and twenty-two years, and having resided in the State one year, and in the election district ten days as aforesaid, shall be entitled to vote although they have not paid taxes.

With this provision of our State Constitution the whole ground of citizenship and suffrage is covered. Observe how it refers to "citizens" and "citizens of the United States" three times in the single section, thus scrupulously defining the first qualification of the voter to the national citizenship. No claim or pretense is put forth of any other citizenship than that derived from the general government, and to it the State properly defers in granting the right of suffrage. Is there any other citizenship? Is there any attribute of citizenship derived from the State? Suffrage is not an essential attribute of citizenship, for citizenship can be enjoyed while suffrage is denied, as has been the case in many States. If Pennsylvania had limited suffrage, founded upon property or educational qualifications, and thus disfranchise certain citizens of the United States, could the act of Congress be enforced against those who are denied suffrage, and not against those who are voters? In the one case it could not be pretended that it impaired the right of suffrage in the State. This objection followed to its logical result, would present the State as claiming to discriminate between its own people in tolerating and nullifying the penalties imposed by Congress for an offense against the national authority.

But it is a mistake that the act of Congress assumes to regulate the question of suffrage in the State of Pennsylvania. It is true that it imposes a penalty which, by our own law, disfranchises the offender, but Congress no more assumes thereby to limit the suffrage of the State than it does by the punishment of any other crime which incidently works disfranchisment. It takes life for certain offenses, and the lesser rights are destroyed with the greater, including citizenship and suffrage. It incarcerates

persons in penitentiaries for years, and convicts are thus disfranchised—not because Congress assumes to regulate suffrage, but because the loss of suffrage is a necessary result of the punishment imposed. It drafted our people into the army and thereby disfranchised them, because it denied them access to the lawful places of voting; but no one pretended that he could escape service because the government impaired the right of suffrage. Disfranchisement in all these cases is an incident resulting from the exercise of necessary and conceded powers on the part of the government, and so it is in the case now before the Court.

Henry Riley is disfranchised by the laws of Pennsylvania and not directly by the laws of Congress. Congress does not declare that he shall not vote, and in some of the States he doubtless could vote, but the organic law of Pennsylvania confronts him and denies him suffrage because he has forfeited his national citizenship, and we limit suffrage in this State to those who are citizens of the United States. His disfranchisment is one of the incidental results of his alienage, and so made by our law and by the law of the nation.

It is clear therefore that Congress may compel citizens to accept service or forfeit citizenship without assuming to control the question of suffrage in the States, for in point of fact it does not regulate it thereby. In some of the States aliens can vote, and I see no reason why one who owes no allegiance to any other government may not vote in those States, notwithstanding the loss of national citizenship. The fact that Pennsylvania carries the sacrifice of national citizenship to the sacrifice of suffrage, is not an assumption on the part of Congress to control the suffrage of the State. On the contrary, the organic law of the State relating to suffrage, is in entire harmony with the power exercised by Congress by the act of March 3, 1865.

It is too late to question the right of expatriation in the State or nation, nor is it peculiar to the government of the United States. It was once one of the boasted features of the liberty of the Romans that they could elect at any time to maintain or renounce allegiance to the government, and it is laid down by Chancellor Kent that the right to choose as to allegiance exists in every citizen. Public policy, and the comity to be observed between nations, forbid that we should deny to our own citizens what we invite the citizens of other nations to do. We recognize the doctrine of expatriation by the naturalization of foreigners, their admission into full fellowship, and their elegibility to nearly every office within the gift of the people, and can we assume to deny the same rights to our own citizens? A subject of a foreign power who had merely declared his intention to become a citizen of the United States—who had elected to change his allegiance—commanded the guns of our navy in defense of his rights, and the civilized world yielded assent to the action of our government in the case. Our own State adopted this policy at an early day. Chief-Justice Tilghman declared in the case of Jackson *vs.* Burns, 3 Binney, 85, that "the principle of the English law that no man could, even for the most pressing reason, divest himself of the allegiance under which he was born, is not compatible with the Constitution of Pennsylvania." I regard it therefore, as a principle settled beyond dispute in this country, that any citizen may elect to change his allegiance, and thereby to forfeit his great franchise of national citizenship at his pleasure. He may elect to change his allegiance, and thereby voluntarily forfeit his citizenship, or he may elect to forfeit his citizenship by refusing his allegiance to his own government. Either is equally a withdrawal of his allegiance, equally a forfeiture of his citizenship, and equally the act of his own deliberate choice. It is true, there is a distinction between

the voluntary change of allegiance, and the sacrifice of citizenship as a penalty for refusing allegiance. In the one case the forfeiture is a penalty, and in the other it is a matter of preference; but it does not affect the principle. It shows that the right of citizenship can be divested alike by the subject and the government, although the government does not relieve the citizen from the obligation of citizenship, when it is forfeited as a penalty and no new allegiance chosen.

And while the citizen has the right to change his allegiance and surrender his national citizenship, the government has also certain rights essential to the enforcement of its contracts while they continue to exist. If, as is said by Vattel, 106, the citizen fails to "observe his engagement with the government, then the government is not bound to fulfill it, as the contract is reciprocal between society and its members," and, he adds that it is "on this principle also that society (the government) may expel a member who violates the laws." It is on this point that the highest power incident to nationality is properly exercised. A nation has not only the power, but it is its manifest duty, to exclude from citizenship those whose character wholly unfits them for the exercise of such rights. It is on this ground, I presume, that the Indians have been excluded from national citizenship, and free persons of color have been denied citizenship, without regard to fitness. Attorney-General Bates held that a man cannot be a citizen if his character "is so incompatible with citizenship that the two cannot exist together." France forfeits citizenship for accepting a foreign office. The subject elects to surrender it, and the sacrifice is complete. So does Prussia. Austria forfeits the citizenship of those who abandon the country, whether in peace or war. While England denies the right of expatriation, nevertheless the English subject sacrifices all his rights as a citizen by adhering to a foreign power.

Throughout all civilized history the same doctrine has been the accepted law of nations, and the right to declare citizenship forfeited has been uniformly practiced.

If this power cannot be exercised by the government, then are we bound to espouse their cause and protect every traitor in foreign lands. Henry Riley might flee to Canada, as a cowardly or faithless citizen, to escape the service he owes to the government that protects himself and family, and if called upon for service there, or any of the rights of American citizenship should be violated in him, the government would be bound to follow the skulking deserter to protect and defend him. Can it for a moment be supposed that a perfidious or craven creature who has attained the great franchise of citizenship, only to disgrace it, can deny its reciprocal duties? If so, in time of public danger by war, the whole military power of the government might be necessary to protect our deserters in the rights of citizenship, as they enjoy themselves in foreign lands to escape the defence of their own institutions. The ministers plenipotentiary of the late Confederate government could have commanded the military and naval power of the United States to avenge their wrongs, as they bore the offering of treason from court to court abroad, appealing for recognition and aid to overthrow the Republic. I think that even the able counsel on the other side (Mr. Sharpe) would be appalled at the fruition of his doctrine, when the traitor and deserter should call for the protection of the government they had disowned in the day of trial. There can be no middle ground in the application of the doctrine. While persons are citizens they are entitled to the fullest protection throughout the world. The talismanic words, "I am a Roman citizen," once commanded the respect of the proudest potentates of earth, but no less entitled to respect is the claim of American citizenship. Wherever civilization has found a resting-place, there is our flag,

the emblem of our liberties, and the rights of our citizens are as sacred in the dominions of the most absolute despotism as in our own free Pennsylvania. But while the government throws its broad shield of protection over its citizens in every clime, it exacts reciprocal duties and they must be performed. If not performed, the compact is destroyed—the government lives on to fulfill its beneficent mission to the faithful people committed to its supreme civil guardianship; but the citizenship dies and leaves an alien, a wanderer and a stranger to mankind, where once was an integral part of a mighty nation. It is not done by trial, for process cannot reach the fleeing civil suicide, and legal impossibilities cannot be exacted from the national authority any more than it can exact them from its citizens. But it is done by the supreme sovereignty that has the exclusive right to create, define, limit and control the question of citizenship, and it follows its treacherous and cowardly sons who have disowned its protection to escape its service, with the terrible fiat that they "shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship, and their rights to become citizens."

It is the "supreme law of the land" that thus thunders its retributive vengeance against the faithless, and the response from the organic law follow the forfeiture of citizenship. Such is the fate of Henry Riley, deliberately accepted and invited upon himself, and it is just as it is lawful!

THE BENCH, THE BAR, THE PRESS.*

May it Please the Court:

The learned judges of this court will dismiss from consideration in this case all that has been stated about assumed facts which are not of record. The counsel for the other side has presented a statement of the circumstances which led to the dispute between the court below and the plaintiffs in error, that lacks the merit of impartial truth. There is nothing whatever on the record relating to the facts which preceded the publication complained of by Judge Patterson. It was in the power of the court below, and equally in the power of the counsel representing it, to make the facts, referred to by the counsel who has just preceded me, a part of the record, and to come into this court with all issues of fact put beyond dispute; but they declined to do so for the very good reason that they would have stood self-condemned before this tribunal had they presented the whole truth on the record. I ask the members of the court to turn to the fourth paragraph of the answer of Messrs. Steinman and Hensel to the rule of the court below. You will there find that in the presence of the lower court Judge Patterson was distinctly challenged to traverse the truth or falsity of the publication complained of in these words: "But if he has, in said publication, abused the freedom of the press guaranteed by the Constitution of this Commonwealth, he is liable to be indicted in the proper forum, and is ready to answer before a jury of his coun-

* Delivered before the Supreme Court at Harrisburg, May Term, 1830.

trymen according to the law of the land, for such abuse of his rights under the law." This challenge was not only thus broadly and distinctly made in the answer of the respondents to the rule, but in the argument of the case before the offended court below, the challenge was made as pointedly as was permissible from the bar to the bench. It was thus that we answered before Judge Patterson, as the record proves, and we have the same answer for this and all tribunals. As the defendant in error had the making of the record, that which is of record will be considered in this learned court, and that which is not of record will be promptly dismissed from the case, however obtrusively pressed by the argument of counsel.

My learned "friend of the court" very gravely misunderstands the attitude of the counsel in this case. It is true that I feel much interest in maintaining the rights of the bar. Indeed, I appear to plead the cause of my learned opponent rather than my own. He is simply a member of the bar, while I am more fortunate in being connected with a newspaper. If I should be so rash as to offend some little end of the judiciary and meet the fate of the appellants, I might manage to worry along in the editorial chair without appearing at the bar; but if he shall ever offend the judiciary he will be left without a vocation, and, if he correctly presents the law, without remedy. In a little while his friend, Judge Patterson, will probably be a candidate for re-election, and his nomination would be reasonably certain as things go in Lancaster these days, if the mayor and police shall be equal to protecting the political returns of judges from self-destruction, and the vaults of the Lancaster banks shall be strong enough to protect the returns over night from factious belligerents. In that case my learned opponent might be inclined to take the stump, and his party predilections would compel him to favor Judge

Patterson's competitor. His impressive eloquence could not be silent in such a struggle. It is possible that he might deem it his duty to say on the hustings that corrupt and riotous judicial nominations should be condemned with emphasis by the people, and he might be impelled to go further and say that a judge whose record cannot stand public criticism should not be permitted to preside in the temple of justice. If in such manner, or in any other manner, by public or private speech, he should question the fitness of Judge Patterson for his present high office, he would be guilty of impairing public confidence in the integrity of the court, and a messenger from the offended judge would summon him to the august presence for apology or dismissal from the bar. The judgment upon my friend on the other side would be: "You have brought the administration of justice into disrepute, and you are disbarred for misbehavior in office." It is to protect my learned opponent rather than myself that impels me to appear to-day before the court of last resort in this case, and for his sake I protest against any such monstrous perversion of the law as he has inconsiderately urged upon this learned court.

Mr. REYNOLDS (laughingly, in his seat). I am much obliged.

LICENSE IN JOURNALISM.

Mr. MCCLURE. Let me be well understood at the outset in regard to the distinction between liberty and license of the press. I have no sympathy with, or respect for, the assumption that there must be no absolute restraint upon the licentiousness of journalism. Although trained to the press rather than to the bar, I have uniformly and earnestly protested against the theory that our libel laws should give unrestrained license to publishers. We reached that point in legislation when the Getz act practically stripped home and private life of all sanctity and

gave unbridled license to the press, if the truth could be summoned to sustain the publication. It was a blot upon our statutes, and I was glad, as a representative of the press in the Legislature, to give active aid in effecting its repeal, some twenty years ago. Our present libel laws, when fairly interpreted, are all that any reputable publisher can desire, and the last decision of this learned court in the Barr case, is an enlightened and just elucidation of the relative rights of public journals, public officers and private citizens. With the right to criticize every public officer, including judges, and to discuss all questions of public interest within the lines of truth, and with the immunity of the new Constitution in criminal cases, protecting the press against punishment for honest mistakes, Pennsylvania journalism has reason to feel just pride in the liberal laws of our great Commonwealth.

We have at last reached a proper appreciation of the rights, duties and powers of both the judiciary and the press, and that teaches us that an honest and competent judiciary cannot be successfully assailed by a corrupt or licentious press, and that an honest and fearlesss press cannot be successfully assailed by a corrupt or vindictive judiciary. The judge and the editor who maintain their integrity and self-respect, have nothing to fear from those who disgrace both the judiciary and the press by their abuse of prerogatives which should ever be sacred to truth and justice. The judiciary is an integral part of our governmental system; the press is an essential element of the safety and advancement of free government, and their respective duties are harmonious as the seasons, which so widely differ in their offices, but all of which are the sources of health and plenty. Both have painful duties to perform at times, but those of the courts are to conserve and to restrain, while those of the press are necessarily aggressive and often revolutionary. Judges restrain newspapers which disgrace themselves

and their communities by licentiousness, and newspapers criticize judges when they drift into antagonism to popular rights or when they disgrace the ermine by the prostitution of justice. The press is the advance line of every legal and political reform. It must often accuse power fearlessly and summon the law and the courts to shield it against corrupt authority, and there have been times in our history when the press was compelled to make exhaustive battle to sustain the integrity and majesty of the courts against sudden tempests of popular passion.

The press is trained to criticism, and adverse criticism is not pleasant even to those most accustomed to it. Editors do not enjoy it; politicians fear it, and judges are most impatient under it, as they have not the attrition with the world that readily adjusts public men to it. They are but men, made better by their better offices, and they have often marred the pages of our judicial history by mistaking the common resentments of common men for a zealous maintenance of the dignity and just prerogatives of the courts. It is worthy of notice, however, that these errors do not come from those to whom the bar, the press and the public point as the ornaments of the sanctuary of justice. Great judges do not grasp for the extreme powers conferred upon courts to enable them to enforce process and compel public confidence in the administration of the laws. The Bairds, the Stantons and the Pattersons do it; the Gibsons, the Blacks and the Woodwards have never done it. It is the petty judge and the corrupt judge who loves despotism and perverts the law to its own degradation, while able and reputable judges command public respect by their fidelity to justice and have no uses for their extreme powers to punish their foes.

RIGHTS OF COURTS AND PRESS.

The rights of courts have been well defined under our government. They were naturally misunderstood even by our best judges in the early history of the Republic,

but such errors were promptly and severely corrected. After gaining civil and religious freedom in a terrible baptism of blood, we accepted the common law of the parent government, and our courts were slow to understand that much of the despotism that bred the revolution was incorporated in the common law. The courts assumed that with the common law had come all the despotic power of judges necessary in England to sustain the omnipotence of the crown. It was this delusion of the eminent jurists who once sat on the bench I now address, that called out the first admonition from the supreme authority of the Commonwealth to its judiciary by the impeachment of Chief-Justice Shippen and Justices Yeates and Smith. They accepted the law of England as the law of our free institutions, as the learned counsel on the other side accepts it to-day, and they were forgetful that its despotism had perished by the independence of the Colonies. They summoned Mr. Passmore before them, as a court of England could have done, arbitrarily fined and imprisoned him for an assumed contempt committed out of court by a placard posted at a coffee house. Under the many authorities so ably presented to-day by my learned opponent, there could be no doubt as to the power of the court to condemn and punish as it did; but when able counsel, in this evening of the nineteenth century, quote the English law of contempt of one and two centuries ago, the judges of seventy-five years ago may be excused for so mistaking the law. The integrity of Judges Shippen, Yeates and Smith was never assailed. Their judgment against Passmore was confessedly an honest one; but the sovereign power of the Commonwealth called them to fearful reckoning and arraigned them for disobedience to the whole spirit of free government. They were impeached by more than a three-fourths vote in the House, and a majority of the Senators voted for their conviction, although they escaped for want of

the constitutional vote of two-thirds. It was the first crucial test of the supreme despotic power of the courts under our liberalized government, and it was the first and the last offence of the kind ever committed by the Supreme Court of Pennsylvania. It has many times been compelled to lay its strong hand on the subordinate judicial tribunals, to teach anew the lesson that liberty is the chief jewel of our law, but it has never, since the case of Passmore, offended against the liberty of the citizen by the exercise of its extreme powers.

The impeachment of our entire court of last resort so clearly defined the despotic features of the common law which were in conflict with our free institutions, that he who runs may read. The laws of England remained unchanged, and are yet unchanged, in the authority of courts to punish for contempt, as was shown by England fining and imprisoning John Walter, of the London *Times*, without complaint from the supreme authority of the kingdom, while the Supreme Court of Pennsylvania was impeached for exercising the same powers which were exercised by the English courts. Our judges could not have forgotten that our fundamental law of the State had departed from the English laws in declaring the right of all citizens to speak, print and publish their views with freedom, subject only to just responsibility for the abuse of the privilege, and that a free press has been as uniformly declared to be one of the indispensable attributes of free institutions; but they believed that courts could not exist without despotic powers, and the lesson had to be learned through much humiliation. The first amendment to the Federal Constitution was proposed at the first session of the First Congress, and it was a command to all the States not to abridge the freedom of the press. Although the early courts thus had line upon line to admonish them that a free press and free speech were vital features of our free institutions, such men as

Chief-Justice Shippen and Justices Yeates and Smith had to be taught the law that liberty inspired as defendants in an impeachment trial before the Senate. Since then the judiciary and the freedom of speech have had no conflict in our State, save as some petty judicial tyrant has disgraced the administration of justice. The right to discuss law-makers, law-interpreters and all public men and measures, both in the public press and by public and private speech, has never been questioned by this learned court, and the press, as a rule, of every political and religious belief, has most faithfully sustained the prerogatives and the judgments of this and of all other reputable courts. So faithful has the press of Philadelphia been in its support of an honest judiciary, that party passion and party discipline are now powerless to defeat a competent and upright judge in that city, no matter what may be his political affiliations. It must be conceded that the press of the chief city is the fair representative of the press of the State, as it is most widely read and most influential. It has disreputable elements, as has our judiciary. It has its blackmailers, as the administration of justice has its low-grade police magistrates, where criminals find protection instead of punishment; but the press and the judiciary of the city have more than asserted their fidelity to law, to justice and to the accepted rights of each other.

JUDICIAL LICENSE IN PUBLIC CRITICISM.

It is very common for thoughtless persons to speak of the licentiousness of the press, and even courts are sometimes so forgetful as to refer to it as an exceptional evil in journalism. It is a favorite theme of politicians on the hustings, especially of those who merit the severest criticism of fearless public journals, and every demagogue and detected wrong-doer grows eloquent over the ribald and licentious newspapers of the day. It would be an

affront to both intelligence and truth to assume that a portion of the public journals of the country do not degrade themselves and their responsible calling by licentiousness; but they, like disreputable administrators of justice, are the exception and not the rule. I believe that I keep safely within the bounds of truth when I say that the representative journals of our State are as free from unwarranted license, in the discussion of public men and measures, as are our representative judicial tribunals; and the same is true of the entire nation. The bench, the bar and the press of every people are, as a rule, neither better nor worse than the people themselves, for they are all the creation of the same supreme power in a popular government. Some of each will rise above and elevate the source of their being, and others will fall below and degrade it; but the inexorable law of our institutions is that public men and public measures are just what the poeple make them. They make and unmake laws, they make and unmake courts, they make and unmake public journals, and all are fashioned by and amenable to the same parental judgment; but it is none the less the truth that the bar, the press and the public look to the courts as farthest removed from popular and individual passions, and as the great refuge for the safety of persons and property. Being, therefore, the highest standard for the bar and the press to emulate, it is but just in this argument to inquire into the freedom with which our chief judicial disputants criticize the acts and judgments of their own courts. Your honors will at once recall the dissenting opinion of the late Chief-Justice Black, in Hole *vs.* Rittenhouse, Second Philadelphia Reports, p. 417, in which he said:

> The judgment now about to be given is one of "death's doings." No one can doubt that if Judge Gibson and Judge Coulter had lived, the plaintiff could not have been thus deprived of his property, and thousands of other men would have been saved from the

imminent danger to which they are now exposed, of losing the homes they have labored and paid for. But they are dead; and the law which should have protected those sacred rights has died with them. It is a melancholy reflection that the property of a citizen should be held by a tenure so frail. But "new lords, new laws," is the order of the day. Hereafter, if any man be offered a title which the Supreme Court has decided to be good, let him not buy if the judges who made the decision are dead; if they are living let him get an insurance on their lives, for ye know not what a day or an hour may bring forth.

The majority of this court changes, on the average, once every nine years, without counting the chances of death and resignation. If each new set of judges shall consider themselves at liberty to overthrow the doctrines of their predecessors, our system of jurisprudence (if system it can be called) would be the most fickle, uncertain and vicious that the civilized world ever saw. A French constitution, or a South American republic, or a Mexican administration would be an immortal thing in comparison to the short-lived principles of Pennsylvania law. The rules of property, which ought to be as steadfast as the hills, will become as unstable as the waves. To avoid this great calamity, I know of no resource but that of *stare decises*.

I claim nothing for the great men who have gone before us on the score of their marked and manifest superiority; but I would stand by their decisions, because they have passed into the law and became a part of it—have been relied and acted on—and rights have grown up under them which it is unjust and cruel to take away.

It is possible that some public journal has, one time or another, attempted a more licentious criticism upon a solemn judgment of this learned court, but it is certain that none ever succeeded. Nor does the chief-justice of nearly a generation ago stand alone in the license with which he criticized judicial judgments. It is within the recollection of every member of this learned court that the last of our retiring chief-justices surpassed the license of the dissenting opinion in Hole *vs.* Rittenhouse, in his dissenting opinion in the Williamsport Bond case, and it seems to have been so highly prized by the court that it was preserved in the official State reports. In that standard

exhibition of judicial criticism of judicial judgments, we are told that the "leading doctrine of the opinion (of the court) is dangerous in its character;" that "the doctrine of the opinion is contrary to the genius of the people and the spirit of their Constitution;" and the wail of despair follows in the inquiry: "Will no example bid us shun this vortex of corruption?" It is not surprising that after such reflections upon the intelligence or integrity of this learned court by its own chief, he should say that, "looking at the interests of the people and the genius of their institutions, ours should be the duty of restraining the capability of mere public servants to rob the people, instead of giving it wider scope for injury." It must be remembered that these were not arguments addressed to the court to mold its judgment, but they were criticisms upon the final judgments of our highest judicial tribunal by its own chiefs; and that the standard judicial criticism was accepted by others than the author in the Williamsport Bond case, is evidenced by the record that gives Justices Sterrett and Woodward as concurring. What public journal has dissented from the judgments of this or any other reputable court with equal license?

Nor are we left entirely without high judicial example of the standard of license that is permissible in discussing other public questions and leading men in our partisan conflicts. If this learned court would recall the judicial lines which must protect the press from the imputation of licentiousness in considering other than legal issues, they have but to turn to the public address issued to the people of Pennsylvania in the fall of 1878 by the late Chief-Justice Agnew, when he was the chief of this court and a candidate for re-election. It will be edifying to your honors in taking a proper latitude on the rights of the press as illustrated by judicial example, and it cannot fail to be specially entertaining to the learned justice from Allegheny. And if your honors would have a

further example of the standard of judicial license in discussing public questions, the case of Judge Collins, of Lancaster, presents it. A disgraceful political juggle was invented just before the Constitution of 1838 went into operation, by which Judge Collins attempted to extend his term of office, and Justice Kennedy, in delivering the judgment of the Supreme Court (8th Watts, 344), speaking of the new fundamental law just adopted by the sovereign power of the Commonwealth, said:

> I have no hesitation in pronouncing them the product of a delusion that has been the ruin of nations in times past quite as wise, intelligent and virtuous at one period of their existence as we have any right to claim to be. But as long as it belongs to every succeeding generation or nation always to think itself more enlightened and more wise, and therefore more capable of governing itself than any that has gone before it, in such manner as most effectually to promote and secure individual as well as national happiness, by leaving or placing every one in the full enjoyment and exercise of all his national rights, without imposing any restriction upon them whatever, it is not to be wondered at that we should, under the influence of a most inflated and vain confidence in our own superior wisdom and discretion, disregard the warnings which might be derived from the experience and sad fate of those who, from the same kind of illusory confidence in their superiority, lost everything and became, as it were, entirely extinct among the nations of the earth, and blindly and most heedlessly run on in precisely the same fatal course that led to their degradation and ruin. It would seem as if the empty pride and incorrigible vanity of our nature was, without fail, either sooner or later, to consign us to some such unhappy destiny as ever ought to be deprecated.

If Justice Kennedy had been an editor, he would have been summarily dismissed for contempt of the king's English; but being a judge and presumably beyond the reach of the "inflated and vain confidence" of the sovereign authority, he sowed the seeds of popular distrust which speedily ripened, and the harvest emptied every judicial chair of the State, high and low, in a single day. It was the servant confronting the master, and the license

of judicial criticism of the considerate popular judgment was admonished by the supreme power to which bench, bar and press must be obedient.

HOW COURTS HAVE INVITED THE CRITICISM OF THE PRESS.

If judges were infallible, or even always honest, however mistaken, the press would not be compelled to criticise their official acts as the plaintiffs in error have criticised Judge Patterson; but while we have always been able to point to this learned court as free from fear, favor or affection in delivering its judgments, it has more than once provoked the sovereign authority to revise its decisions, and its purest and ablest characters have not always been entirely free from the blemishes which demanded the faithful wounds of manly criticism. And when we take a dispassionate retrospect of the history of the judiciary of our State, although equal to the best in this or any other country, the necessary office of the press as a fearless censor of the official infirmities of judges, must be appreciated by every intelligent citizen. It will be remembered by this learned court that the Legislature was compelled to abolish a court in Philadelphia to efface a fearful stain from the judiciary of the State. The names of Conrad and Barton are linked with grateful memories in the circles where their brilliant oratory and poetry survive their judicial records, which all are glad to consign to charitable forgetfulness. Then, as in all like cases, the press was slow to arraign the offending judicial officers; but public necessity finally demanded it and the sovereign power abolished the court. The learned counsel on the other side would then have demanded the punishment of the press rather than the judges, because public criticism of faithless judges impaired public confidence in the integrity of the court; but there were no Judge Pattersons in those days and no teachers of the law that empowers a judge to condemn and punish his critics

for his own crimes, and the diseased judicial tumor was cured by heroic legislative surgery, in obedience to the heroic criticisms of the press.

The distinct deliverance in favor of individual rights and against the summary exercise of the extreme despotic powers of judges, taught by the impeachment of the Supreme Court at the opening of the present century, was faithfully obeyed by our entire judiciary for the period of a generation. During all that time we have no record of a single complaint against the alleged abuse of the arbitrary authority possessed by courts to maintain their dignity and enforce process; but Judge Baird, of Fayette County, finally forced the almost forgotten issue upon the bench, the bar, the press and the sovereign power of the Commonwealth. It was not doubted that Judge Baird was an honest man, but he was ill-tempered, revengeful in his seasons of passion, and of necessity ruled the law and the bar badly when he could not rule himself. He was subject to lucid intervals, during which he intelligently and justly judged himself and his infirmities, and in one of these noonday moods he addressed an elaborate letter to the bar, deploring the discord between the court and the bar, and suggesting that his retirement from the bench would restore the administration of justice to its proper dignity and efficiency. To this letter the bar answered in respectful terms, accepting Judge Baird's suggested resignation; but because the bar, with all the respect that is due to the court, agreed with Judge Baird's proposition for his own retirement, his evil temper was aroused, and he dismissed all the leading members for the offense of concurring with him in his own opinion of himself. It was then believed, even in Pennsylvania, that the power of a judge to punish or disbar for contempt of court, was a power so sacred that no tribunal could review it. The Fayette County attorneys were stripped of their profession by the fitful resentment of a judge,

and the law offered no means of redress. Impeachment would have followed, but the judiciary committee of the House decided to bring the case first within the jurisdiction of the Supreme Court for review by a special law, and the decision in the celebrated Austin case (5th R. 101) restored the disbarred attorneys to their offices. Although the rights of the press were incidentally involved in the case, the court below dismissed that feature of the issue, and we are denied the light of Chief-Justice Gibson's exceptional legal acumen on that important question. Thus chastened by the court of last resort and self-confessed as unfitted for his trust, Judge Baird continued to display his judicial infirmities until an unbearable and wanton indignity offered to a respectable citizen in his court resulted in the citizen publicly horse-whipping the judge when he emerged from his judicial sanctuary. An indictment for assault and battery followed, and the defendant appeared, pleaded guilty, and was sentenced to fine and imprisonment; but the bar and the community, almost with one accord, appealed to the Executive for a pardon, on the ground that the castigation of the Judge was fully merited; and, although pardons did not then go by favor, the pardon was promptly granted. On another occasion he issued a rule upon a prominent member of his bar, who had been his earnest friend through all his follies, because the attorney asked the court to hear an authority on a point that had been petulantly decided before argument. The rule was made returnable forthwith, and forthwith the lawyer was disbarred. Soon after the Judge sent for the dismissed attorney to come into court to be restored, but he declined, preferring to remedy his own wrong and the wrongs of the public by the impeachment and dismissal of the Judge who thus made a mockery of justice. To escape impeachment Judge Baird resigned, but the ruling passion prevailed till death. If your honors will turn to the records of

your own court, you will find that the same judge ended his professional career summarily at this bar. He differed so violently with this learned tribunal in the argument of a case that he asked to be disbarred because, as he said, either the court or himself knew nothing about law, and he was dismissed in obedience to his own request. Yet to criticise such a judge, who made a comedy of law, and whose infirmities drove justice from her own temple, would, according to the learned counsel on the other side, be to impair public confidence in the integrity of the court, and if done by an attorney, deserves the penalty of dismissal from the bar.

If your honors will recall the exhibition of judicial incompetency in the neighboring district of York some years ago, it will give another pointed illustration of the public criticism the judiciary provoked. Judge Irwin, although an honest man and appointed by an honest Executive, proved wholly unfitted for his responsible trust. Of such it can well be said that few die and none resign until compelled to choose between voluntary retirement and dismissal. The bar hesitated long and the press was reluctant to criticise with that incisiveness that the public interests demanded, because the obnoxious official was charged with public duties of uncommon sanctity. A committee finally decided to appeal to the ambition of the Judge, and proposed that he should resign and accept a nomination for Congress. They urged that statesmanship was his forte, and that he should not be isolated on the bench when he could feast on national fame; but he probably distrusted political promises, and he rejected the proposal and exposed from the bench the attempt to bribe him to desert the high duties the State had imposed upon him. The bar then agreed not to appear before him for the trial of cases, and finally demanded his removal by legislative address—a humiliation he escaped by his resignation. If you turn to the

Chester district, you will find that Judge Nill was rejected by the Senate, in obedience to the remonstrance of almost the entire bar, because of alleged incompetency; and like pronounced criticism of the fitness of judges occurred in half a dozen other districts of the State a short time before the adoption of the elective judiciary. Indeed, it was the provoked criticism of the press, the bar and intelligent public opinion upon partisan and incompetent judges, aided by the manifest judicial prejudice against the amended Constitution of 1838, which made the people resume their sovereign power over the immediate choice of judges in 1851. What judge, member of the bar, representative of the press or intelligent citizen lisps the name of the late Chief-Justice Gibson save to praise and reverence? His distinguished successor, in pronouncing his eulogy from the bench, truly said that he was the only chief the hearts of the people would know, and yet he brought upon his otherwise stainless judicial record a reproach that perished only when he slept the dreamless sleep of the dead. Your honors are familiar with his painful story, told in a public letter to excuse the one weakness that was stronger than himself. He pleaded that he had given the vigor of his life to his State, and that the question of bread and raiment had impelled him to accept a commission that brought with it a shadow that was never effaced from his life. The learned justice from Bradford, who was a member of the convention that nominated the honored chief for election in 1851, will remember how that one infirmity confronted his candidate, and how himself and another active delegate—since a justice of this learned court, William A. Porter—made exhaustive battle for the great jurist, who was then quoted in both hemispheres, and finally nominated him by a bare majority. They admitted the justice of the criticism, but offered his purity of purpose and his pre-eminent judicial services to command the charitable judgment of the

world. Thus the highest and purest, as well as the lowest and vilest of those who have won judicial honors, have merited the fearless criticisms of the press by their errors or crimes, and the high character and general respect of our judiciary to-day is in no small degree the result of the free press that faithfully maintains the integrity of our free institutions.

HOW IS THE LAW TO BE INTERPRETED?

The judicial follies of Judge Baird led to the passage of the act of June 16, 1836, which is simply a liberalized revision of the act of 1809. The fourth section of that act is the distinct chart to guide this learned court in reaching its judgment. It is as follows:

> No publication out of court respecting the conduct of the judges, officers of the court, jurors, witnesses, parties, or any of them, of, in or concerning any cause depending in such court, shall be construed into a contempt of the said court, so as to render the author, printer, publisher, or either of them, liable to attachment and summary punishment for the same.

What the legislative authority intended to accomplish by this act may be very clearly understood by recurring to the circumstances which called for its enactment. It was just after Judge Baird had dismissed his bar and the Supreme Court had given the Austin decision. The Baird correspondence with his bar had been published in the local newspapers, and he at first sought to make that publication a contempt of court. The act was evidently intended to prevent the future Judge Patterson from repeating Judge Baird's vindictive blunders; and notwithstanding the distinction so feebly drawn by Judge Patterson between a contempt of court and misbehavior in office, it is manifest that the act of 1836 broadly forbids the arbitrary and violent judgment given by the court below in this case. Even if the fourth section applies only to cases of contempt, the fifth section plainly indicates how alleged misbehavior in office on the part of

attorneys, in a case like this, is to be ascertained. It is as follows:

> If any such publication shall improperly tend to bias the mind of the public or of the court, the officers, jurors, witnesses, or any of them, on a question depending before the court, it shall be lawful for any person who shall feel himself aggrieved thereby to proceed against the author, printer and publisher thereof, or either of them, by indictment, or he may bring an action at law against them, or either of them, and recover such damages as a jury may think fit to award.

In this case it is confessed that there was no contempt committed either in or out of court, and the disbarred attorneys were in no way professionally connected with the suit discussed in the article complained of. The fourth section of the act distinctly acquits them for the publication, and the fifth section does not reach this case, because it relates exclusively to criticisms upon cases pending at the time of publication; but it very clearly teaches that if any wrong should be committed by public criticism of final judgments of the courts, there must be an ascertainment of guilt by the ordinary process of law. In this case, there can be no legal proceedings to vindicate the accused court, except by the ordinary criminal or civil suits for libel. If the publication is untrue it is clearly libelous, and a conviction would warrant the dismissal of the plaintiffs in error for misbehavior in office; but there is not a single decision in America that warrants the action of Judge Patterson. I challenge the opposing counsel to name one case in any civilized country, where an editor and member of the bar has been summarily dismissed for public criticism, out of court, of a case that was finally disposed of and with which he was not professionally connected. The Austin case (5th R. 191) does not in any degree sustain the action of Judge Patterson. The fact that Chief-Justice Gibson delivered an elaborate

opinion in that case without quoting or referring to a single decision of any court, was the plain recognition of the departure of our law from the common law power to punish for contempt, and the vital part of the Austin decision, applicable to this case, is in the single sentence declaring that "the conduct of a judge, like that of every other functionary, is a legitimate subject of scrutiny, and when the public good is the aim, such scrutiny is as open to any attorney of his court as to any other citizen." In the McLaughlin case (5th W. and S., 272) the merits of the issue could not be reached by the learned court, as it was not empowered to review it; but McLaughlin was first disbarred by Judge Barton, in the criminal court, for open disobedience and contempt in presence of the court, and he was subsequently disbarred by the district court for a publication respecting a case in which he accused Judge Stroud of falsehood and malicious partiality in defeating his suit. But the accused judge did not summon his accuser, sit in judgment upon him and execute the vengeance of the law, as Judge Patterson did. The other members of the court proceeded in the matter, heard the case and decided it.

In the case of Dickens (17th Smith, 175), which was reviewed by this learned court under a special act of the Legislature, Chief-Justice Agnew pointedly draws the line between discreditable and infamous acts of attorneys when it is proper to disbar them for misbehavior in office. In that case the bar had initiated the proceedings, the facts were judicially inquired into, and the judgment dismissing Dickens was sustained because it had been proved that he degraded his office by making an opposing attorney drunk to take an undue advantage of him in a trial; but to admit the power to disbar for anything but proven infamous acts "would be to expose the members of the bar to the whims, caprice, peculiar views and prejudices of judges." In the Newton case (1st Grant, 453) the dis-

tinctiou between the act of an attorney and a witness out of court, is drawn so that none can misunderstand the distinction between the act of the attorney and of the editor out of court. Judge Wilmot disbarred Newton for contempt in refusing to appear before an examiner, and this learned court reversed the court below because Newton was not acting as an attorney and officer of the court when he refused to respect the subpœna to appear before an examiner. If a member of the bar, summoned as a witness, refusing to obey the process of the court, offends only as a witness and not as an attorney, how can an attorney offend as an attorney when he writes as an editor about a case that is decided and with which he had no professional connection? In the Hirst and Ingersoll case (9 Philadelphia Reports, 216), Judge Hare held that "where the offense is committed out of court, and where the guilt of the accused depends upon circumstantial evidence or is an inference from facts which do not occur in the presence of the court and are denied by him, he should not be convicted of a contempt unless there is no other way of attaining the ends of justice." The court sent a certified copy of the evidence to the district attorney. In the Greevy case before Judge Hall, of Bedford, members of the bar petitioned for the rule, on the ground that Greevy was a witness if not an attorney in the suit, and was publishing reports in a public journal from day to day, while the trial was progressing, severely assailing the court and circulating the papers among the bar, witnesses and jurors. It was a case in which there might have been just fine for contempt, but the effort was to disbar Greevy, and there was a close race between human nature and the judge, but the judge came out a scant nose ahead. The judge held that he had the right to disbar Greevy; that it ought to be done, but that he would forbear. Judge Walker, of Schuylkill, once made a small experiment in Judge Patterson's law with Mr.

Farquhar, who had published that the Judge sentenced an Irishman to two months' imprisonment for stealing $500, and sentenced a negro to four months' imprisonment for stealing a pair of old shoes. Judge Walker, like Judge Patterson, issued his rule on his own motion, but in that case, as in this case, the respondent appeared and answered that he was prepared to vindicate the publication, and Judges Pershing and Green first required a formal petition and then, after hearing, refused to take any action in the case. The North Carolina cases referred to by the opposing counsel simply disprove his own position and positively acquit the respondents in this case. In both of them Chief-Justice Pearson reversed the judgment disbarring the attorneys because the respondents had, in their answers, disclaimed any intention to commit contempt and declared that what they did was without malice and for the public good. Having thus answered under oath, the court below was bound to accept their answers as conclusive of their innocence. In almost the precise terms of the answers in the North Carolina cases the respondents in this case answered that the publication complained of was written and published "while acting in good faith, without malice and for the public good."

MR. REYNOLDS. The North Carolina members were reinstated by apologizing to the court, as they should have done.

MR. MCCLURE. No, sir; they did not. They came into court, admitted the publication, and stood upon their answer that they had intended no contempt of court and meant their acts for the public good, and Chief-Justice Pearson held that by their sworn answer they had tried themselves, and must be held as acquitted. And I submit to this learned court that the publication in this case was so made, and that the court below, in the judgment delivered, does not allege that the publication was false

in fact. That publication stands before this learned court absolutely unassailed by the record. If untrue, it is an atrocious libel, and a graver libel because it assails the integrity of a court charged with the administration of justice. We challenged the court below to a judicial inquiry into the truth of the article, and we here challenge the friends of the court, and all others, to an exhaustive investigation of the facts. We have not attempted to impair public confidence in the integrity of the court, but we have charged it with a positive and deliberate prostitution of justice, and stand here and elsewhere upon the truth of the grave accusation. And when an accused court fears to meet its accusers, and sits in judgment upon those who arraign it for abuse of its authority, shall this learned tribunal shield a judicial wrong-doer on the pretext of preserving public trust in the judiciary?

Let me remind your honors that the only way to preserve respect for our courts is to make infamous all judges who dare not meet the truth, and who prostitute the law to punish their accusers for their own crimes. The learned counsel on the other side, or any citizen of Lancaster County, can complain against the plaintiffs in error for libel, and why has it not been done? It has been publicly and repeatedly invited by the disbarred attorneys, alike in their answer to the rule below, by the argument of their counsel before the offended judge, and through the columns of their widely-circulated newspaper. If the publication is false, it is such a libel as would warrant dismissal from the bar for misbehavior in office; but we say here, as we have said elsewhere on every proper occasion, that the publication is a truthful one, and that it is not denied even in the opinion of the court below. We are ready to answer for the truth of the publication; but we cannot indict ourselves, nor can we take any legal measures that will afford us an opportunity to prove the truth of the charge. Can this learned court

for a moment entertain the belief that such a judgment should stand?—that a guilty judge shall shield himself by becoming prosecutor, judge, jury and executioner for those who dare to question his prostitution of the channels of justice?

HOW HAVE JUDGES INTERPRETED THE LAW?

I have shown how the decisions of this learned court fail in every instance to furnish the semblance of warrant for Judge Patterson's dismissal of the plaintiffs in error from the bar, and now let us follow the issue to the interpretation of the law as given by most of your honors, by many of your predecessors and by other distinguished jurists. If I shall apply the facts with severe directness, it will be because the occasion calls for it. Nearly every member of this learned court, and nearly every judge of the State and nation, has met this issue in his own judicial history and decided it for himself. You have all read the memorable speech of Abraham Lincoln, delivered at Springfield in 1858, reviewing the Dred Scott case. It was a deliberate and terrible arraignment of the first judicial tribunal of the land by one of its own sworn officers, and it became the text for his party leaders of national fame, most of whom were officers of the same court. If Judge Patterson's law had been accepted by Chief-Justice Taney, he would have sent a messenger to Mr. Lincoln, summoned him to the judicial presence and disbarred him for impairing public confidence in the integrity of the court.

If it was the right of the Supreme Court to do so, it was its duty, for that deliverance of Mr. Lincoln not only brought the solemn decision of the court into disrespect, but it was the signal for a revolutionary reversal of its judgment. Patterson, the judicial pigmy, so construed his right and duty; Taney, the judicial giant, knew better.

Of the members of this learned court not one now remains of those who participated in the conscription decisions of 1863; but all must remember the more than freedom with which those decisions were criticised. Indeed, I think it my duty respectfully to suggest that the members of this learned court, who were not then on the bench, take with them into consultation on this case, their own criticisms upon the hustings and through the public journals of the preliminary judgment given in Kneedler *vs.* Lane. All were sworn officers of the court, and unless my recollection of the political discussions of that day is strangely at fault, several of your honors would have been left without vocations had this tribunal interpreted and enforced the law as Judge Patterson does. Many of the criticisms upon the judgment in the conscription case, made in public speech and public journals by the hundreds of sworn officers of this court, make the criticism of the plaintiffs in error in this case tame and dignified by comparison. This highest judicial tribunal of the Commonwealth was accused in public, by hundreds of its own officials, with deliberately subordinating law, justice and patriotism to partisan prejudice, but who of your predecessors thought of sending messengers after lawyer orators and lawyer editors to bring them in this presence for disbarment, without trial, because they impaired public confidence in the integrity of the court? Did not every judge at that time on the bench meet and pointedly decide the issue in this case by their high judicial examples? Four chiefs of this learned court have been candidates for re-election when presiding over its deliberations. Gibson, Black, Lowrie and Agnew all passed through the ordeal of political campaigns when occupying the first chair of this tribunal, and all of them were met with much more violent denunciations from lawyers and editors who were members of this bar, than the publication complained of by Judge Patterson. I have already

referred to the assaults made upon Chief-Justice Gibson, and how narrowly he escaped overthrow because of them, and it is within the memory of all of your honors how fiercely the waves of partisan defamation surged against Chief-Justices Lowrie and Agnew when they were before the people for re-election. Chief-Justice Lowrie was silent and fell beneath the popular blow that effaced his conscription decision from our laws, but Chief-Justice Agnew met blow with blow and fell fighting with the weapons of the partisan. Justices Coulter, Chambers, Porter and Sterrett have also been candidates for election when sitting as justices of the court, and now Justice Green is running the gauntlet of a popular campaign. Some of them have been fiercely assailed in the heat of partisan bitterness by members of this bar. Of those who are, or have been members of, or candidates for this tribunal, Messrs. Lewis, Black, Jessup, Sharswood, Ludlow, Williams, Paxson, Trunkey, Ross, and probably others, were judges of lower courts, as Judge Patterson now is, when they passed through contests for judicial promotion.

What one of those judges can point to the record of his campaign and say that he was not assailed by officers of his own court, more violently than the assault upon Judge Patterson complained of in this case? It was done often without the semblance of justice, therein differing from the case we are now considering; but who of all the leading judicial lights I have named ever thought of possessing the authority or exercising the arbitrary power claimed by Judge Patterson? Every judge I have named, including a majority of your honors, and many of the most respected judges of the past and present, has, in his own case, squarely met this issue and given example to such as Judge Patterson, so plainly that he who runs may read. In 1863 the second member of this tribunal, and certainly one of the first in legal learning, was a

candidate for Governor. It was in the very flood-tide of the terrible party passions which were intensified by civil war. How defamation came upon him from the officers of his own court, through public speech and public press, must be remembered by your honors. I have distinct recollections of speeches in that contest from the learned justices I now address, who were then members of this bar, and it will hardly be denied that they were calculated to impair public confidence in the integrity of the court. Remember that if Judge Patterson's interpretation of the law is correct, an assault upon a member of the court is an assault upon the court. It was so assumed in the McLaughlin case, and the assumption was not questioned when the issue was brought before this tribunal. But Judge Woodward was a great judge of the law and not the petty plaything of passion and caprice on the bench, and he never dreamed of defaming the law and prostituting the power of the courts to mean resentments. If Patterson is right, Woodward could and should have done so; but he and all of his fellow-members of this court decided otherwise. The learned Justice from Bradford will readily recall a memorable illustration of the issue in this case in 1858, as he was an interested actor in the struggle. It was my unpleasant duty, as a member of the judiciary committee of the House, to hear many of Justice Mercur's fellow-members of the Bradford and Susquehanna bars assail the judicial integrity of Judge Wilmot in terms of almost unexampled violence, while he and others were eloquent in the defense of their court. If Judge Patterson's judgment is law, why did the learned Justice from Bradford and his associates come to the Legislature? Why did not Judge Wilmot summon his accusers before him, sit in judgment upon them, and smite them to the dust with his omnipotent judicial arm? And why did Conrad and Barton fall instead of judging and slaying their accusers? And why did Nill and Irwin

bow to their assailants instead of striking them from the bar for impairing public confidence in the integrity of the court? And why did Judge Stanton seek safety from his bar by resignation, instead of stripping them of office and thus dismissing accusations and accusers? And why did Judge Harding demand a vindication from the Legislature, before which he was formally assailed by an officer of his court, instead of striking a characterless defamer from a profession he disgraced? Thus from the highest to the lowest of our judicial tribunals, I gather an unbroken line of direct interpretations of the law of this case, and as with one voice they condemn the judgment of Judge Patterson and forbid its approval by this learned court.

COULD SUCH A JUDGMENT STAND?

None can dispute that it is the duty of the learned court to interpret the law as it is, and not to make it as it should be. If it is clearly within the lawful powers of courts to disbar attorneys without trial, for publications made out of court respecting cases which have been finally determined, and with which the authors and publishers had no professional connection, your honors can only declare the law; and it would be manifestly indecorous to ask the court to pause in its judgment because such judgment could not stand as the law of the Commonwealth. But when the true interpretation of the law is in any degree doubtful, it is proper alike for counsel to present and for courts to consider the fact that a judgment sustaining such violent and despotic authority by capricious judges, cannot remain the law in an enlightened State like Pennsylvania. The sovereign authority of both State and nation has more than once laid its strong arm upon its courts to revise or reverse their judgments when they have impaired popular or individual rights, and it will ever continue to do so. The Dred Scott decision was law but a score of years ago; what is it to-day? It was

not reversed by any judicial tribunal, for there was none above the one that so declared the law; but the supreme power of the nation obliterated it from our laws as a judicial blot upon the boasted republic of the world. And when Judge Peck perpetrated the same judicial wrong, in a modified degree, that Judge Patterson has perpetrated in this case, mark how the sovereign power recalled him to his just allegiance to individual rights. He was impeached by the House, escaped conviction by a nearly equally divided Senate, and Congress followed with the act of March 2, 1831, repealing the extended powers of the federal courts given by the act of September 24, 1789. The act that immediately followed the Peck impeachment is an instructive lesson in this case, and is as follows:

> The said (United States) courts shall have power to impose and administer all necessary oaths and to punish by fine or imprisonment, at the discretion of the court, contempts of their authority; provided, that such power to punish contempts shall not be construed to extend to any cases except the misbehavior of any persons in their presence, or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of said courts in their official transactions, and the disobedience or resistance by any such officer, or by any party, juror, witness or other person, to any lawful writ, process, order, rule, decree or command of the said courts.

Thus did the sovereign authority of the nation reverse the judgments of Chief-Justice Taney and Judge Peck, and the reversals came from a tribunal that knows no appellate court.

But I beg to call the attention of this learned court to the distinct action of the sovereign power of our State, that has been compelled time and again to reverse the judgments of its highest judicial tribunal. The impeachment of Chief-Justice Shippen and Justices Yeates and Smith in 1805, for a less flagrant exercise of despotic judicial power than that exercised by Judge Patterson in

this case, is an impressive lesson on the issue now to be decided, and the act of 1809, which is substantially the act of 1836, was the emphatic instruction to the judiciary to give sacred respect to the individual liberty of the citizen. By a more than three-fourths vote for impeachment in the House; by a vote of thirteen in favor of conviction to eleven against it in the Senate, and by the act of 1809, the supreme authority of the Commonwealth reversed the judgment of its court of last resort and forbade it to exercise the despotic power presented in this case. In 1835 the supreme authority was again summoned to restrain despotic judicial power when Judge Baird dismissed his bar. The act of that year directed this tribunal to review the decision of the court below; and although Chief-Justice Gibson's admirable opinion in the Austin case reversed Judge Baird and restored the disbarred attorneys to their offices, the act of 1836, which I have already quoted, followed to mark the path for the judiciary so plainly that none could mistake it. Forty-five years elapsed before a judge attempted to repeat the judicial despotism of Judge Baird. All understood the law as the supreme authority of the Commonwealth defined it in 1836, until Judge Patterson assumed to be wiser than the law and summoned discarded judicial authority to gratify individual resentment for accusers whose challenge to trial he could not accept. In 1863 this learned court delivered a preliminary judgment against the constitutionality of the national conscription act. Two of the five members of the tribunal were candidates before the people of the State—Chief-Justice Lowrie for re-election, and Justice Woodward for Governor. The appeal was carried from this supreme judicial authority to the sovereign power of the Commonwealth that makes laws and its administrators. The people rejected Chief-Justice Lowrie and called the late Chief Justice Agnew to his place; Justice Woodward was denied

executive honors by the same omnipotent will, and the final judgment of this learned court in Kneedler *vs.* Lane, reversed the preliminary judgment and affirmed the constitutionality of the national conscription law. It was the inexorable mandate of the supreme power correcting its own court of last resort, and since then none have questioned that deliverance.

If your honors would learn how sensitive the sovereign power of the State has ever been about the encroachments of judges upon individual rights, let them note the promptness with which it has met every case of summary dismissal from the bar. For a less exercise of extreme judicial power the Supreme Court was impeached in 1805, and the act of 1809 followed. The Austin case caused the special act of 1835 and the general act of 1836; the Dickens case, although decided on the sound principle of judicial inquiry into guilt and just punishment therefor, caused the special act of 1870, and the Wright and Greevy cases caused the general act of 1879, requiring this tribunal to review all cases of dismissal from the bar; and the sacred regard of the supreme authority for individual rights is expressed in the command to your honors to give such cases precedence over all others after capital cases. Step by step, as even the appearance of judicial violence has been presented, the legislative power has reversed or restrained the courts, or has commanded our highest judges to review the judgments of the courts below. And what is true of Pennsylvania is also true of most of our sister States. Judge Pattersons have been known in Arkansas, Alabama, Illinois, Indiana, Missouri, North Carolina, Kansas and other States, and their prostitution of extreme judicial authority has resulted in the absolute denial to the lower courts of the power to disbar, except after trial and conviction by jury for misbehavior in office; and I hazard little in assuming that if the judgment of Judge Patterson shall be here affirmed as the law of the State,

no local court of Pennsylvania will ever disbar another attorney by summary proceeding. I believe that our courts need all the legal powers they now possess to maintain their own dignity and to enforce process and to administer justice successfully, but if the courts shall prostitute those powers to caprice or prejudice or individual resentment, they will be speedily stripped of all such prerogatives. The sovereign authority of Pennsylvania will not permit a petty judicial officer to sit in passion and judge and summarily convict and punish those who accuse him of wrong-doing. It is a worse than mockery of justice for an accused judge to evade inquiry into his alleged crimes by denying trial of himself or his accusers, and then making the law the instrument of his vengeance. Speaking in my humble way for two great professions whose privileges and prerogatives are directly involved in this issue, I beg of this learned court that it will justly appreciate how much the decision of this case may affect the rights of courts as well as the rights of bar and press. Between us let there be truth; and it is but the sober truth that the maintenance of the arbitrary and violent judgment of the court below in this case, would end the power of even our enlightened and just courts to inflict summary punishment for contempt or misbehavior of the bar in Pennsylvania. It will be so because it must be so, for the unjust punishment of the humblest citizen without condemnation by his peers, is an offense to every citizen of the Commonwealth.

DEATH OF CHIEF JUSTICE WOODWARD.*

And now, may it please the court, turning from the perishable things of time which so strangely surround us, I am charged with a painful duty. George W. Woodward is dead! From a far-off land a swift message has come unseen, like the summons of the inexorable messenger whose solemn decree it records, and a voice most familiar in this learned court is hushed forever. In the presence of his associates and successors mine is not the task of eulogy. His stainless judicial record that has long been a text for the profession, would make even the most eloquent praise feeble. It is well to take pause over the death of such a judge. Only a man like his fellows, mortal, fallible and sharing the infirmities which are common inheritance, and living and acting during a period when demoralization and distrust have been widespread in both authority and people, his adornment of public station by the highest measure of intellectual power and a purity of purpose that is confessed by friend and foe, must leave his memory green wherever ability and integrity are honored.

His life was replete with uncommon vicissitudes. Honored in the outset of his career by his native State beyond any other citizen of his years, it was but natural that he should not be exempt from the disappointments

* Mr. McClure was assigned by the Supreme Court to announce the death of ex-Chief Justice Woodward, at Harrisburg, May 12, 1875, after closing an argument in a pending case.

of ambition. They are the price of bright promises to the highway of distinction and are the thorns which remain to wound the hopeful grasp as the beauty and fragrance of the flower perish. From the withered field of political preferment to which he had been called by other efforts than his own, he ever came back to himself—to his one great calling and his grandest possible triumphs; and as judge and chief justice for two-thirds of a generation he has written an imperishable record. And now, in the fullness of his days, ripe in years and wearing the chaplet of honors that even malice would not dare to stain, he has passed away.

The fitful clouds and angry tempests of prejudice and passion which at times obscure the attributes of greatness, have long since vanished like the mists of the morning, and in the calm, bright evening-time, he who so justly judged between man and man appears before the Great Judge of all the living. But his blameless life, his pure example, his reverenced judgments remain, and like the beautiful dream of the departed sun that throws its halo over the countless jewels which soften the deep lines of darkness, so will his lessons of wisdom and honesty illumine the path of public and private duty for generations to come. In respect to his memory, I move that the court do now adjourn.

Miscellaneous Addresses.

MISCELLANEOUS.

It has been somewhat difficult to gather Mr. McClure's miscellaneous addresses. Most of them were unreported or so briefly given as to make their reproduction impossible. During the last thirty years he has delivered public addresses on almost every subject of general interest at the time, but as he always spoke extemporaneously, only in the few instances where the public journals gave full reports of them are they preserved. Enough have been obtained, however, to exhibit the ease and force with which he discussed all public questions as they arose, and the same fearless tone pervades all of them. They are given without revision, beyond the corrections of reportorial errors.

THE
CRIME AGAINST CITIZENSHIP.*

FELLOW CITIZENS:—This is in no sense a partisan occasion. A common peril has called this vast assemblage together. Grave considerations of the public peace and personal safety have compelled you to meet and deliberate. It is not the ruffian, the bully, the burglar or the murderer that demands a positive and earnest expression of public opinion in behalf of public order. For such the law is ample. Against such it can shield the citizen, and vindicate its majesty by appropriate punishment.

It is our boast that ours is a government of law, but its greatest of laws is unwritten in the statute books. There are crimes of mighty magnitude before which courts and statutes bow in helplessness. Offences thus supreme before the ordinary tribunals, call forth the supreme remedy of the land—the great tribunal of enlightened public opinion. It is ever omnipotent. Whether it is as the hand-maid of the statutes and of the courts, or whether it is a law unto itself, it is the solemn judgment of the last resort.

It has made memorable its supremacy in every stage of our progressive civilization. At times it has left rude marks of the provocation that made its long forbearance a crime against humanity. In our early frontier settlements, and even in the midst of regulated communities

* Delivered in National Hall, October 13, 1871, at a meeting called to express popular indignation because of the murder of Catto, Chase and Gordon on election day.

at times, corrupt and powerless tribunals have been chastened and strengthened by the sovereign attributes of public sentiment. In extreme cases defiant criminals have yielded summary atonement to this dread tribunal, that wrote its inexorable decrees only on its terrible monuments of justice. In ordinary times, in organized and well-ordered communities, it is often aroused to assert its majesty, by the growing prevalence and power of unwritten crimes against the dearest prerogatives of our citizenship. Its mission, under such circumstances, is within the law and of the law. It is not to seize the murderer or the ruffian and execute hasty punishment. With the creature, or the menial agent, who sends the death-bullet home to the heart, or drives the keen-edged steel to the vitals of the unoffending citizen, this assemblage has nothing to do. We have pure and faithful judges, and I trust upright officers and agents of the people in all the various departments of justice, who must deal with such as the law declares to be criminals.

We are called together to invoke the sovereign power of a civilized community against the criminals the law cannot know. Many of them are probably guiltless of premeditated wrong. Many others are as guilty before the Great Judge of all the living as are the skulking assassins who have stained their souls with the life-blood of their fellows. The men who hurried Catto, and Chase, and Gordon to untimely graves, and made a score of wounded in our midst, would have been nerveless for the fiendish work had not some widespread, subtle moral miasma poisoned their hearts, maddened their brains, and impelled them to lawlessness and murder. We are here to deal with the fountain whence comes this moral pestilence, not with the petty streams which bear its deadly currents to individuals. We are here to deal with principals, who teach and order violence and murder, not to decide upon the guilt and punishment of the unconscious agents and

willing dupes who reflect the cowardly malice of others in riot and bloodshed.

And who are responsible? The murderers were not made guilty by the hope of gain. They had no personal feuds to make mortal enmity. They and their victims were to each other strangers. No sense of personal wrong quickened the passions and made a brother's death gratify individual resentment. They met in the discharge of the noblest of our civil duties, and the peaceable, unoffending gave their blood and their lives for their citizenship. Again I ask the grave question—For this disorder, for these wounds, for these lives, who are responsible?

Let me answer in all soberness, that the responsibility rests not solely—no, not even mainly—with the degraded mockeries of our boasted citizenship, who are now trembling fugitives or prisoners in the hands of the law. The author of these crimes is the organized public sentiment that still teaches the obliterated laws of caste, and appeals to the ignorance and passions of the vicious to refuse by violence what our beneficent laws confer. It is this crystallized public sentiment, fostered by prejudice and seized as the potent weapon of the demagogue, that is the fountain of this disorder and death. It steadily vomits forth its insidious assaults against the laws, against the public peace, and at times it comes in a deluge of destruction. Its authors are not amenable to the laws. While our laws give equal privileges to the opulent and to the lowly, to the learned and unlearned, they also give to all freedom of speech and of conscience. But the citizen who deliberately abuses his right to speak and to believe as his judgment approves, and sows the dragon-teeth of hate and prejudice among his fellows, is responsible to his country and to his God for the crimes his teachings prompt in the ignorant and the depraved. Catto did not die because his murderer was his natural enemy. He

died because a poor, deluded wretch was taught that the black man has no rights the white man should respect.

It is this unwritten crime, unpunishable by our laws, that demands the concerted action of an enlightened public sentiment to dethrone and punish it. It calls every friend of law and order to the front. Whatever his political persuasion, or whatever may have been his views as to the wisdom of enacting the laws we have, he is a foe of society and of the honor and prosperity of our beautiful city, who hesitates when called upon to reprobate and put to shame lawless teachings, no matter whence they come. Disorder is ever a crime. It cannot be made exceptional. Nor can it be bounded if tolerated. If it assails the black man to-day with impunity, it is invited to assail the white man to-morrow. If it strikes down the lowly in one outbreak with safety, it will strike at the opulent when prejudice and passion demand it. If it can rob of life it can rob of all else, for all else is less than life. If it can assault the Republican or Democrat for voting or laboring peaceably in accordance with his convictions, it can assault the Catholic at his mass, or the Protestant at his altar, because he worships as his conscience bids him. It has no defenders amongst law-abiding people.

The remedy, and the only remedy, for the wrong is the exercise of the omnipotent power of the order-loving sentiment of our people. It is cherished where honesty, or justice, or charity, or Christianity has a votary. It is limited to no party lines or to no religious belief. It can enlist under its noble banner the great mass of our people of every honest conviction and pursuit; and it has but to organize its grand tribunal, and declare its just mandate, and it will be obeyed. While the courts consign the creatures and victims of this organized fountain of disorder to merited punishment, let the supreme judgment of the law-loving people compel each citizen to

elect, by his precept and example, between honor or shame, and peace will come to the black man and to the white man, and it will come to stay.

There are times when the sacrifice of the life of a citizen does not sink deeply into the national heart. Our brave men, white and black, gave up thousands of lives to preserve and regenerate our government of freedom, and the nation could not measure its single sacrifices. But there are times when by the fewest and the humblest of lives, a great people may receive wounds which cannot heal. The dagger or the bullet that prostrates the least of our fellows because he exercises the sacred rights solemnly guaranteed alike to all, wounds in a vital part our best inheritance and our children's noblest patrimony. To maintain the priceless blessings of liberty and law we have given countless treasure. Life and resources were deemed as but secondary to government. We had made the black man a slave. We disfranchised, oppressed and ostracized him. We interdicted his education by statute, made him a hopeless menial and drove him without the pale of progress. We denied him the right to protect the honor of his own humble fireside, and made his children the property of his oppressors. But in the fullness of time he came up, through the tempest and flame of battle, to the full stature of his manhood. From the graves of the brave Northern and Southern soldiers of every color and condition peace came at last, with justice and equality before the law as her daring attributes, and the nation accepted them as the brightest jewels in the crown of victory. It is solemnly affirmed in our fundamental law that our proud citizenship knows no preference of caste, condition or color. Just when the progress of civilization, expanding and liberalizing as it progressed, had encircled the globe in its flight, and was surging back from our Western shores upon the cradle of the human race, the redeemed Republic of the New World

proclaimed to every nation of the earth that our liberty, our laws, and our citizenship are an offering to all mankind, whether bond or free. It is the pledge of this great government, and it is the personal pride and safety of every citizen, however great or however lowly; and every violation of it aims with deadly purpose at the rights of every individual.

Why Catto, and Chase, and Gordon were murdered, and why many more were brutally wounded, is well known to every citizen in Philadelphia. They suffered death and wounds because of their race. They were hated because we have wronged them; they were killed or disabled because of their misfortune; and we owe it to the majesty of our laws, to our own sense of justice, by which we must expect to be judged hereafter, and above all we owe it to the oppressed and helpless, to throw the broad shield of the protecting power of our government, and of a just people, over every class of our citizens. We have enfranchised this long oppressed race, as did our fathers in the earlier and purer days of the republic. They are granted the blessings and made to assume all the responsibilities of our citizenship, and their nameless tombs on the hillsides and plains of the South testify to the price they have given for equal justice. How they shall discharge the duties and privileges they have acquired it is for themselves to determine within our laws. How they shall vote or speak, or believe, or worship, is for their own free judgment to decide, and the sentiment that would deny them, or any other class of citizens, the full and free enjoyment of their rights, is the enemy of public peace and the author of disorder and death. Let all patriotic citizens unite as one man to vindicate the laws in their full measure of justice and equality, so "that government of the people, by the people, and for the people, shall not perish from the earth!"

PLAIN
TRUTHS FOR THE GRANGERS.*

GENTLEMEN :—If it is expected of me that I shall here discuss politics from any particular partisan standpoint, there must be disappointment. I confess to no allegiance in politics, except to my own convictions. While I have read the declared creed of the organization so largely represented in this immense audience, I am not familiar with its accepted rule of political action. It seems to be the basis of the many political diversions of the present day that the body politic is diseased, and sadly needs bold curative remedies. He would be a reckless man who could deny the need of the healing art in our political system ; but political doctors imitate the regular profession in differing most widely as to both the disease and the cure.

It is an obvious fact that war inflated money, and gave an unnatural stimulus to almost all channels of industry and trade. Now the war is over, and we have been gradually returning to the ways and habits of peace. Our political economists racked their brains for years to devise some policy of statesmanship by which water should find its own level, and while they were convulsing themselves about their innumerable and irreconcilable theories, the business of the country was almost insensibly ebbing back to its safe moorings, and not until gold and greenbacks, from perfectly natural causes, closely approximated each other in value without revulsion or violence, did our

* Delivered July 4, 1874, at the Grangers' picnic, Minnequa.

theorists understand that as a people we are wise enough for healthy progress, and are a financial law unto ourselves. The inevitable overtrading of a long period of boundless prosperity has given its logical results in panic and general paralysis of business, and forthwith the political doctors come again with their jargon of prescriptions.

It is admitted that we are still somewhat above solid ground, and some of our rulers would reach bottom by immediately jumping out of the upper window as the shortest channel to what they call a solid basis, while other extremists would inflate a balloon and go up indefinitely as the best way to get down. Both seem to be forgetful that either theory, if enforced, would be but a break-neck game; that one would be sudden and hopeless destruction, while the other would postpone the evil day, only to multiply its horrors when reckoning must come. They forget, too, that it is not necessary to take a suicidal leap down to a fixed standard of values, or to go ballooning to reach terra firma by a sudden collapse, when we might go gradually and gently down stairs without a general dislocation of necks or fracture of limbs. A legislative requirement to pay specie this year or next year, or the year after, could not but be the product of imbeciles or knaves, or probably a mixture of both. We could not pay five cents on the dollar in specie, for the tolerably good reason that we have not got it, and the fact that we could not pay would make both speculators and all others insist upon being paid. The result would be a rich harvest for the limited centres of money, and general destruction in all the channels of legitimate industry and trade. And equally ill-advised would be an indefinite or even a greatly enlarged manufacture of irredeemable money on our present financial basis. It would cheapen our currency, inflate all the necessaries of life, and disease the whole monetary system.

We need more money for the successful prosecution of our vast and growing pursuits. We need it to be unshackled from the arbitrary control of monetary centres, of political officials, and of Congress. A wise and sound financial system would regulate itself by ready adaptation to the varying necessities of trade; but under our present policy money can be centralized at any time it is the interest of speculators to do so, and all legitimate enterprise of the country made to pay oppressive tribute to those who prey upon the productive wealth of the nation. We need a convertible, flexible currency, based upon the soundest foundation, with the earliest practicable redemption steadily in view. We need it as the settled policy of the country, and entirely removed from the whims of secretaries of the treasury or the capricious notions or interests of the executive, or the fluctuations of partisan demands of Congress. The regulation of our financial affairs must be by inflexible laws, to which all shall yield obedience. We have no policy, and all business interests are at the mercy of politicians who happen to have power, while the government can pour out millions of reserve without law when politicians or speculators are in trouble, and refuse financial relief, by lawful means, when there is universal prostration in industry, trade, and commerce in every section of the Union.

In all revolts against either real or imaginary evils of existing control, the tendency too often is to destroy rather than to correct or heal. If corporations are oppressive, there are those who would obliterate instead of restricting them. If railroads are deemed extortionate in their now indispensable agency in the interchange of products, some would hedge them in for a lingering death. Do great corporations control legislation to the prejudice of popular interests, visit oppression upon industry, and appropriate the public domain to private speculations? If so, will violent declamation and even the election of

legislators against corporations correct the evil? If it were possible by such organization and effort to destroy corporations, would any substantial good be attained? The sun is not without blemish; should it therefore be obliterated, if it were possible to do so? It gives excessive heat at times, and parches the green fields to desolation, but seed time and harvest are not therefore to be discarded by the husbandman. He will rather temper the extremes by skill and industry, and gather the fruits of his labors by the mastery of the evils which threaten him. If the body is diseased, and its sores are thrown upon the limbs, the destruction of the member that bears the ulcers of a tainted system will cure nothing. While the fountain is impure and unhealthy the streams cannot be free from pollution, and if stream after stream should be attacked and sunk in some bottomless pool, it would not diminish the current of poison that comes from the fountain head. If closed out of one channel it would break out in another, and thus its blight would be endless.

It is so with the public evils of which the people complain. One organization would attack the disregard of law that makes drunkenness shame our communities, and the crusaders are at hand with the scalpel of public religious ceremonies to cut off the festering limb of dissipation. The Grangers would subordinate our whole political system to the suppression of corporative extortions, and, if successful, would practically abolish corporations. Hard-money men would reach specie payments by a paroxysm of destruction, and then each particular class, associated to advance a particular interest, would assail some sore on the extremities of the body politic, and leave the whole system as thoroughly diseased as before. None will deny that the wrongs complained of by these various organizations do exist, but if they are to be uprooted the remedy must go to the fountain of the disorders. If that is once purified there will be no streams

of pollution to call for organizations to attack particular glaring wrongs.

The chief source of our financial troubles, of our political degradation, and of the lawlessness that flings its deformities before us in many shapes, is the tendency to centralization. Political centralization, money centralization, corporate centralization, all come from one fountain, and all pour out their varied streams of demoralization throughout the land. It is the bastard off-shoot of war. The necessary exercise of extreme arbitrary powers to save the government has thrown up from the roots of the trunk a thick crop of spurious growth, and the selfish and the corrupt have taken shelter in them. When war was ended, concentrated authority could not be surrendered, for ambition and cupidity forbade it. The result has been a continued growth of centralization, and the enactment of our laws have been mainly in its interest. Under our financial laws, money-centres are omnipotent, and they can oppress the whole industry and trade of the country, or reduce or inflate values in a day, and under our laws bearing upon political power, not only in the reconstructed States, but in controlling centres of the great States of the North, the public will can be, and has been, defied by the centralized power that must be despotic or die.

The intolerance of partisan rule has made all men of independent convictions and actions either impotent in political effort or driven them to retirement and contempt for public opinion, and even disregard for the sanctity of law itself have become the bountiful fruits of party success. To strive against any one political evil, or to seek to infuse any one idea into political contests, would be to overlook the great source of all our evils, and, even if successful, the check upon wrong-doing would be but temporary. Let the people, through all the various organizations of the day, look well to the purification of

the fountain of authority. Do not blame party, or party leaders, or party officials, for they are but the reflection of the people themselves. They may not be what the people would like to have, but they are what the people tolerate, and what they, under the discipline of party, create by their own acts. And these evils will continue until the people assert their own majesty.

A mere temporary triumph on an issue that will perish in its own victory, will accomplish nothing; but when the people solemnly resolve that none but upright, intelligent and earnest men shall be chosen to places of responsible trust, regardless of the arrogant demands of partisan interests, the fountain of power will be made pure and healthful, and, as surely as day succeeds night, so surely will wholesome and beneficent administration be the fruits of the triumph. Our government is just as good or as bad as the people choose to have it, and no political organization can give us a government worthy of this great republic until the people themselves—the source of all authority—are resolutely faithful to the free institutions confided to their keeping.

THE PEOPLE ARE SOVEREIGN.*

FELLOW-CITIZENS:—Are the people sovereign? Let us soberly inquire into this proposition in view of the judicial restraints imposed to embarrass the effort of the people to amend their organic law.

The resort to legal proceedings to arrest the adoption of the new constitution deceived no one, unless it was the court itself. When politicians assumed the rôle of injured taxpayers, and asked that money be refused to defray the expenses of the election on Tuesday next, all well understood that they simply objected to the use of public money for the very novel purpose of holding an honest election. Any amount of public money may be expended to hold an election under the registry law, which is but a mere formula they have to go through to return predetermined majorities, regardless of the votes cast, and the taxpayers lately in court would not feel aggrieved. Mr. Donnelly, the virtuous registry law election officer, who was also a petitioner for an injunction, seemed to fear that some fraud might be perpetrated, and he not be there to vindicate his occupation. Being a subordinate city official, or rather a dependent of those who hold and perpetuate their power by fraud, he was but obeying orders in demanding his right to hold an election; and the domination he had to obey is the objective point that is directly assailed by the new constitution. The creature obeyed the master—that is all. Nor did Philadelphia furnish the

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whole list of those who rushed into the courts in the name of the law, to perpetuate a power and a policy which have brought all law into contempt in Pennsylvania. Philadelphia is but the fountain of the seething cauldron of political demoralization that has so deformed a mighty commonwealth. Its streams reach Harrisburg, where legislation and legislative officers are articles of commerce during a portion of each year, and also stretch out their slimy, sinuous currents to the smoky city of the West. It was a necessity that there should be legal war upon constitutional reform elsewhere than in Philadelphia, and outside of the centres of political debauchery in the leading cities the integrity of the people forbade it.

After various high councils in this city of men who did not dare come into court either as petitioners or attorneys, it was decided that the counter-irritant must be started in Pittsburg. And it was agreed that the bills of equity should be so multiplied in numbers and so multifarious in matter, as to be a complete legal drag-net. In Pittsburg the acts of the Legislature providing for the convention were to be assailed as unconstitutional, and here the convention was to be restrained because it did not obey the letter of legislation. But one purpose inspired the movement, and that was the hope in one way or another, to so embarrass the people in their efforts to amend their organic law as to defeat it for the present. They could not—dared not—carry their cause to the people, and the only hope left was to defeat the election entirely on technical grounds, or, if an election must be had, restore the registry law with its thousand sinews of fraud.

Fellow-citizens, ours is a government of law, and when the law is declared by the proper tribunal it must be accepted and obeyed. Our system of government is so complete in its restraints, and so harmonious in its adjustment of powers, that however either executive, legislative,

or judicial authority may transcend its limitations, there remains a supreme remedy, and it will surely be exercised. In vain have attempts been made by the jealousies or the arrogance that authority too often creates, to embarrass or restrain the sovereign power of the commonwealth. The people have, in their own good time and in their own way, made and unmade tribunals, and limited or enlarged their delegated powers. They created an executive and clothed him with vast and responsible patronage, but they found their own delegated authority was employed by the executive to protract his own rule, and they reduced his duties to the mere administration of the laws. His political favors, reaching to every court, to every county office, and even to every justice of the peace, were withdrawn from him, and the power to fill these offices was resumed by the people themselves. They created a Legislature authorized to enact all laws consistent with the constitution. Abuses crept into legislation, and what was intended solely for the public good was degraded to advance personal ends or to gratify the cupidity of men. The sovereign authority interposed its omnipotent mandate time and again, withdrawing from the Legislature important powers, and prescribing in what manner other powers should be exercised. They created courts, and confided to them the almost absolute powers essential to the complete administration of justice. With these powers were given life commissions. The people meant to confide in their judiciary, and confidently expected that it would merit their homage. But executives and judges were but mortals, with ambition and prejudices and passions like other men, and protracted power made them unmindful of the interests of the supreme authority that had created them and crowned them with the right to adjudicate and administer the laws.

The convention of 1839 was called after a stubborn struggle between the people and the arrogance of power.

Many grave questions were considered and decided by that body, but it was obedient to the manifest purpose of the people in limiting the tenures and patronage of the executive and judicial departments of the government. The governor was limited to two consecutive terms, and the vast appointing power was taken from him. The judges were allowed to be appointed, with the approval of the Senate, but the term was limited to ten years. The judiciary then, as now, and as in all times past, was the enemy of progress, the bitter foe of all popular innovation or change that disturbed the habits or tastes of the judges, or that in any way reminded them of their subordination to the sovereign power. The contest for reform in 1837–38 was fought in the face of the sneers and open contempt of the judiciary, but then, as now, and as it will be ever hereafter, the people did not stop to inquire who of their servants liked or disliked their exercise of the public will. The amended constitution was framed and submitted for the popular approval. Then, as now, officials high in place, and exercising responsible and sacred powers, assailed the new instrument with tireless energy. They blasphemed it bitterly and boldly, and unscrupulously misrepresented its meaning and purpose. But the people triumphed over the combined efforts of their officials, and reform was inaugurated. But it was most unwelcome to many of those who had to administer it, and they grudgingly accepted its authority. Judges who had treated the popular demand for reform with undisguised contempt, displayed the most pitiable weakness in their efforts to clutch the ermine that had been torn from them. The name most eminent in the judicial annals of the commonwealth, bears upon its cherished memory that one stain to tell that no mortal can be perfect. In the case of the Commonwealth *vs.* Collins, this painful infirmity of the judiciary was indelibly portrayed on the pages of our laws. It was the

effort of a judge to evade, by executive jugglery, the limited tenure imposed by the new constitution. It was the first appearance of the amended fundamental law in the court of last resort for judicial construction, and the opinion of the court deliberately and wantonly insulted the people for assuming to change their constitution. Judge Kennedy, who delivered the decision (8 Watts, p. 344), said: "I have no hesitation in pronouncing them (the Constitutional Amendments of 1838) the product of a delusion that has been the ruin of nations in times past. * * * But as long as it belongs to every succeeding generation or nation always to think itself more enlightened and more wise, and therefore more capable of governing itself than any that has gone before it, * * it is not to be wondered at that we should, under the influence of a most inflated and vain confidence in our own superior wisdom and discretion, disregard the warnings which might be derived from the experience and sad fate of those who, from the same kind of illusory confidence in their superiority, lost everything, and became, as it were, entirely extinct among the nations of the earth. * * * It would seem as if the empty pride and incorrigible vanity of our nature was, without fail, either sooner or later to consign us to some such unhappy destiny as ever ought to be deprecated." Such was the welcome given to the Amended Constitution of 1839 by the judiciary—the constitution that is pronounced by all the present enemies of reform, so perfect as to need no change.

A decision of the court of last resort, given just on the threshold of an election to accept or reject a proposed revision of the organic law, is unlike most decisions of purely legal issues. While it is in the strictest sense an adjudication of a grave legal question, its bearing upon a great popular movement of the people invites the most searching popular criticism. While it declares the law to

which all must bow, it presents to the people one of those exceptional judicial deliverances that is properly subject to popular reversal. No more pernicious doctrine can be proposed, as a rule, than that the people should unsettle the judicial construction of laws by an appeal to the ballot: but when the law itself, whether deliberately or inadvertently enacted, is construed to defeat the very purpose of the people in a struggle to regenerate their government, it is a public and a patriotic duty to make such technical restraints upon the sovereign power impossible thereafter. If in doing so, the legislative or the judicial authority suffers, or if both are admonished by wholesome restraints, history will but be repeating itself. What the Supreme Court really decided in the late opinion enjoining the officers of the convention from holding the election in this city, is very far short of what was at first popularly accepted as the judgment of the court. It was a strange contest before the highest judicial tribunal of the State, and its results were equally uncommon. The men arranged before the court for judicial reprimand were erring, if at all, confessedly on the side of virtue and in favor of the integrity of the very foundation of our liberties. Enlisted in their behalf were, as a rule, the better elements of society, while waiting with trembling anxiety for the overthrow of the action of the convention, were the most debauched and corrupt of our political elements. Thus encompassed by a multitude of antagonistic witnesses, whose mastery over each other was measurably involved in the decision of the court, it is most natural that the judgment should provoke harsh criticism ; and it is most natural, also, that its meaning should be exaggerated by both victor and vanquished.

I do not so much complain of what the court decided as of the *animus* that pervades the decision and the *dicta* which deform it. As a chart for the future it is so dangerous to popular rights that its reversal is a supreme

necessity. While it practically decides but one question that can be complained of—that of the validity of the election ordinance—it is replete with suggestive judicial usurpations, which will need but another step in some future issue between the people and debauched power, to warm into life a mail-clad army to resist, with the high sanction of law, any unwelcome exercise of the sovereign authority. The main portion of the opinion of the court is a studied assault upon the dignity, the actions, and the powers of the convention. Its language, not in accidental phrases, but throughout an elaborate argument, persistently magnifies the powers and honors the actions of the Legislature, while it degrades the efforts and despises the authority of the convention. Any one not versed in the plainly marked history of our commonwealth, reading the opinion, could not fail to be impressed with the conviction that our Legislatures are paragons of purity, and that our convention is a body of usurping adventurers. Perhaps the court knew no better, and it would be charitable so to excuse the temper of the opinion. "Did the people," says the court, "by this act (the act of 1871), without an expressed intent, and by mere inference, intend to abdicate all their own power, their rights, their interests, and their duty to each other, in favor of a body of mere agents, and to confer upon them, by a blank warrant, the absolute power to dictate their institutions, and to determine finally upon all their most cherished interests?" As nobody claimed to exercise any such powers, and as nobody but the learned judge dreamed of the exercise of any such powers, he was but imitating Don Quixote in demolishing a host of imaginary foes. Very properly does he describe such a proposition as "an enormous, fearful, portentous delegation of power," and because it would be so "enormous, fearful, and portentous," he declares it unlawful. If they can set aside the registry law, we are told that their power would

be endless. They could "repeal all laws, abolish all institutions, and drive from place the Legislature, the governor, the judges, and every officer of the commonwealth," without a vote of the people. They could, in the opinion of the court, with such powers, draw money from the treasury and seize and condemn public halls for their use under the power of eminent domain. I submit, with due deference to the court, that the power to do all these things rests somewhere in our government, and it is no violent assumption that it does not rest in either the Legislature or the judiciary. The fact that supreme powers, if exercised in violence and regardless of justice, would be the utter subversion of all order and government, is no argument against either the existence or the necessity of such authority. As well might I demand the abolition or restriction of the powers of the Supreme Court because it could arbitrarily transfer my property to another, and could make a mockery of justice in the name of law and equity. Such powers are absolutely necessary to a court of last resort. Without them litigation would never end, and we would never attain a knowledge of the law. But it is fair to assume that the Supreme Court will exercise such "enormous, fearful, portentous delegation of power" with some reasonable regard for justice, and it is equally reasonable to assume that a convention, pre-eminent alike for ability and integrity, would exercise its vast scope of power with a just regard for the rights and interests of the people.

And what is more conclusive against the gratuitous terror of the court is the fact that the convention did not attempt to abolish any institutions, or to drive judges, executives, or legislatures from office, or to take money from the treasury or to exercise the power of eminent domain. Nor did it propose to abolish any laws, or to modify or restrain any authority, except by the express approval of the people of the commonwealth. All the

"enormous, fearful, portentous" power the convention exercised, and all that was fairly before the court for judicial construction, was the proposition to submit to the people "in such manner" as the convention believed would insure an honest expression of the popular will, the amendments it had devised and commended to the sovereign power.

The whole judicial structure reared by the court rests upon one inexcusable error. It is the assumption that the law of 1872, enacted after the people voted for a convention, without any reservation of power, emanated from the people, and thus became the chart of the convention, and solemnly imposed its limitations upon the delegates. That law was no more the direct act of the people than a corporation franchise corruptly purchased in the legislative halls. The declaration that it was a charter direct from the sovereign power, is a fallacy that does not attain the dignity of plausibility; and the argument that the people "ratified and adopted the terms of the act of 1872 as the terms on which they delegated their powers," because they elected a convention under its provisions, displays a measure of naked sophistry that illy befits the Supreme Court of Pennsylvania. The popular demand for restrictions upon our legislation was so general and so emphatic that even the judges of the Supreme Court could not be ignorant of it. Every year they had to pass judicially upon enactments assailed for corruption, for fraud, for reckless irregularity, and for the unintelligible and inconsistent nature of their provisions. The deformities of our prostituted system of legislation were ever before them, and it was a cruel abuse of judicial authority to restrain the efforts of the people to reform their legislation by making them, in their sovereign struggle, the playthings of the very legislation they had resolved to correct. And it is done by the wholly illogical argument that, because the people voted for delegates under the

act of 1872, they accepted it and bound their agents by all its limitations.

Had those limitations, or any other restrictions upon the power of the convention, been embraced in the act of 1871, when the people were authorized to vote for or against a convention, they could have expressed their approval or disapproval of the restrictions by accepting or rejecting the proposition. But to say that they ratified the limitations of the law of 1872, because they acted under its merely directory provisions in electing delegates, is a judicial mockery of their rights. It enslaves them to a designing Legislature, and adds insult to injury by charging their degradation to themselves, because they did not do an utterly impossible thing. It is but a refined imitation of the ancient despotism that posted the laws where the people could not read them, and mercilessly punished citizens for violating arbitrary and unknown decrees.

Suppose that nine-tenths of the people had refrained from voting for delegates because they disapproved of the legislative restrictions upon the convention? They had no other possible way of manifesting their dissatisfaction, and had they so acted, the express ruling of the court would make the whole people bound by the votes of one-tenth of the voters. It was a lawful election; all qualified electors had the oportunity of voting, and the majority of any minority of the people voting, is held to be the lawful and binding expression of the popular will. And yet such an election, where the people had no opportunity whatever to express their assent or dissent to the limitations embodied in the act, is held by the court as an express ratification by the sovereign power of the legislative restrictions, which required the convention to submit its reforms to a polluted ballot for approval. Under this decision, if allowed to stand as the law, fundamental reform will be impossible hereafter. The sovereign

authority is never invoked, except when some one or more of the departments of the government have forfeited popular respect. Executives and Legislatures have been corrupt in the past, and may become so again. Judges have lost the confidence they should ever command, and it is possible that they may in like manner be unfortunate in the future. If the effort of the sovereign power should be directed, as it is now, to control an evil system of legislation and a fraudulent system of elections, it can be done only, under the late decision, with the consent of the corrupt legislative authority that is assailed, and by the verdict of the debauched ballot that the people aim to regenerate. And if the sovereign effort should be to restrain the arrogant assumptions or the corruption of a court, there could be no ingenuity of legislation, or of action by a convention, that could not be overthrown on technical grounds, and find its authority, either expressed or implied, in the late opinion of the highest tribunal of our State.

Why such a decision was made by a court whose integrity is not, and I am glad to say cannot be, impeached, will become more and more astounding to the sovereign power as it becomes fully understood. The judgment itself, and the bad temper by which its inherent deformities are so greatly exaggerated, can be explained only by the assumption that they are the errors which are bred in the stagnant pool of judicial isolation. This strange construction of the act of 1872, by which the people are held as formerly assenting to what they could not reject, is the only excuse the court can give for remanding the new constitution to the mercy of the trained ballot-stuffers and forgers of returns, under the registry law in Philadelphia. All else in the opinion rests upon, or revolves around, this strained invention. And when invented, the court was inconsistent with itself. If the people properly limited the convention as to the election laws, they just

as solemnly restricted it from amending the Bill of Rights, and from submitting the constitution as a whole, if one-third desired the separate submission of certain articles. Both these limitations were violated by the convention, but after a tedious homily upon the crime of usurpation, in which there is not one generous word in favor of reform—not a sentiment that could quicken a good impulse in this contest—we are told that "no appeal is given to the judiciary." Why not? If the act of 1872 was the imperative chart of the convention, and the court could so declare it and restrain for one violation of it, why not for all violations of it? Upon the general theory adopted by the court, the convention should have been enjoined for what it did in violation of the statute, because it might have done worse. It was restrained as to its election ordinance because it might have usurped the power of eminent domain, or turned judges and legislators out of office, or abolished all institutions. It could just as rationally have been enjoined for amending the Bill of Rights, because it might have incorporated the faith of the Pagan into it, or declared a town meeting or a board of "lightning calculators" of election returns the best court of last resort. True, the convention did not do, or think of doing, any of these things, but judicial imagination seems to wander in such unfrequented paths that no suggestions can be regarded as extravagant.

Considering the insurmountable obstacles interposed by the court to defeat reform through any of the ordinary channels of authority, it is somewhat consoling that the right of revolution remains to the people with judicial sanction. It could just as well restrain revolution by judicial decree as to restrain the sovereign power. Both have for many centuries been regarded as in no sense subordinate to courts or other officers of their creation, which are limited, reorganized, or abolished at will. But now the sovereign authority is made the creature of one

of its own creatures, and it would have been equally consistent and more courageous to have blotted out the right of revolution at the same time. But the court generously names revolution as one of the methods by which the people can revise or abolish their form of government. We shall not have to invoke violent revolution in our day to regenerate any department of authority. Revolution in any State where the people have power, has a two-fold character. There are violent revolutions, the result of the tempest of popular wrath, of which the court takes cognizance; and there are peaceful revolutions, no less imperious and omnipotent of which the court is forgetful. They are patient as the morning dews and gentle showers and genial sunshine, which in the fullness of time ripen the harvest for the reaper. They are the creation of the gradually crystallized convictions of the people, that their delegated powers are abused or their authority usurped by their servants. When the Supreme Court of 1839 denounced the "empty pride and incorrigible vanity" of the people, because they had bared the arm of sovereign power to limit the tenure of the judges, the court sowed the seeds of peaceful revolution, which in but little more than a decade, vacated every judicial chair in the commonwealth, from the then most honored chief to the smallest rural associate. There was no violence, no convulsion, no tempestuous agitation. Distrust was sown broadcast among the people, and its growth was steady, and its vengeful power could not be stayed. When one Legislature had given the first direct admonition by the adoption of the amendment to the constitution deposing the entire judiciary on a given day, a powerful effort was made to turn back the public purpose. Men of eminent ability, including some who had worn judicial honors, entered the next Legislature to defeat the amendment, but it was labor lost. The wound to the sovereign will had come from the most sacred temple it had erected

among all its monuments of power, and there could be no atonement but in the sweep of destruction. Calmly, patiently, peaceably, but inexorably, the revolution went on until its work was accomplished, and the courts were made wiser, at least for a season.

In a sister State, the great city of New York became a great sore. Its political positions were filled with the venal and encompassed by organized spoilers; its courts were debauched to defy public opinion and bring contempt upon decency and law. The jury box was polluted by hired accomplices of criminals, and justice was powerless. There was law, but its sacred sanctuary was desecrated, and its officers were the partners of wrong-doers. Complaint was met with contempt, criticism with defiance, and resistance with punishment. It was the boast of crime that there was no public opinion to command respect, and the reign of open corruption and profligacy seemed to be beyond the reach of restraint. But each judicial wrong quickened the purpose of the people to assert their majesty, and each flagrant crime that was left unpunished hastened the day of retribution. No new laws were enacted; no new tribunals created. With corruption reeking in every channel of municipal authority, and with local courts obedient to the necessities of the depraved and reckless, the work of regeneration ceased not in its invisible but certain progress. When the peaceful revolution of public opinion had ripened, the most arrogant and supposed omnipotent of criminals were swept down by the breath of popular reprobation. Courts were invoked successfully for a time to stay the stroke of justice, but they only postponed the evil day until the supreme tribunal of enlightened public opinion was fully armed for its fearful vindication. Judges sought refuge from the scorn of their fellows in the untimely grave, or were hurled from the throne of justice and made strangers in the associations of men, while the criminals they protected

have left their millions behind them to fill felons' cells, or to wander as shivering fugitives where they may hide from the fearful revolution they provoked. It was a revolution within the law and of the law, and yet it became sovereign when the law was utterly impotent. It was this peaceful revolution that made the assembled wisdom of the nation, recently congregated in the National Capital, rush in frantic haste to undo its own work, and reduce the compensation an overwhelming majority of them believe to be just. It was this great conservator of popular safety that made the learned chief justice, who delivered the opinion of the court, voluntarily appear at its bar, by a public letter, to confuse and contradict himself. He declares that while "the good is general" in the new constitution, "some of the errors are flagrant," and yet he will vote for it. It is this ever available element of power in a free government that will restore the sovereign control of the people, and establish it high above all courts or other delegated power. Dwarris thus sums it up in two terse sentences, to which all civilization has confessed:—"Sovereignty is the public authority which has no superior. It is the power to do anything and everything in a State, without being accountable to anyone." By peaceful revolution this power will be asserted and fully vindicated, and executives, Legislatures, and courts will bow to it or be broken.

Fellow-citizens, in this struggle we are now exposed to indefinite frauds in the election returns of this city on the new constitution, and the gravest responsibilities are thrown upon every good citizen. Every friend of constitutional reform should not only vote, but he should see that all who sympathize with his cause should vote also. And when the votes are cast, he should see that they are fairly computed, and the return of each hour noted and preserved. If five thousand earnest, determined men throughout the city would, on Tuesday next,

attend their respective precincts, prepared to grapple with fraud in whatever form it might present itself, the men who pollute our elections would abandon their purpose and concede an honest vote in Philadelphia. Should the new constitution fail of popular ratification, I see but little hope for the regeneration of our Legislature, our elections, and our municipality for years to come. Those who are most interested in the overthrow of all efforts for reform have much method in their clamor to reject the constitution, and return it back to the convention for modification. Let it not be forgotten that about the time the convention adjourned, and when the opponents of reform hoped to defeat the whole instrument, these same men denied the power of the convention to meet again for the further consideration of amendments. And whether it can meet again for the purpose, or if it should so meet, what new judicial definition of its powers might be given, or what novel restraints might be invented to paralyze its work, no one learned in the law would pretend to guess. The ratification of the constitution will end all controversy, not only as to the relative powers of Legislatures, courts, and conventions, but it will end all doubt as to the determination of the flagrant abuses which so sadly oppress our city and State. Give to this cause one day of united effort, and reform will be indelibly inscribed on the banner of our noble commonwealth.

LINCOLN AS COMMANDER-IN-CHIEF.*

The supreme law makes the President the Commander-in-Chief of the military and naval forces of the nation. This is a necessity in all well-regulated governments, as the sovereign or highest civil ruler must have supreme command of the forces of the country for the public defence. During the Revolutionary War the universal confidence that General Washington inspired made him practically the supreme director of our military operations. The supreme civil authority then was the Colonial Congress, and no one of that body could assume this high prerogative. During the War of 1812 with England, I find no instance in which President Madison exercised any authority in the direction of campaigns as Commander-in-Chief of the army. There was no formal Commander-in-Chief. Major-General Dearborn, the ranking Major-General, was assigned as acting Commander-in-Chief, although retained in active command in the Northern district. The President was conferred with very freely as to military movements, but he did not assume the responsibility of issuing orders for military movements in the field. The Mexican War presents a somewhat different phase of history. President Polk assumed the responsibility as Commander-in-Chief by ordering General Taylor to march from the Neuces to the

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Rio Grande and thus precipitated the Mexican War without either the authority or knowledge of Congress; and later in the war, when it became necessary to enlarge the army to make an aggressive campaign on the City of Mexico, General Scott was summoned by the President to propose a plan of campaign that he should command in person. He did so and, after its approval by the President, the troops were provided and General Scott was permitted to prosecute the campaign from Vera Cruz to the Mexican Capital, without interference by orders from Washington.

When Civil War confronted us in 1861, General Scott was the hero of two wars and recognized by the country and the world as the Great Captain of the Age. Although a son of Virginia he was thoroughly loyal to the government and all turned to him as the bulwark of safety for our threatened country. He was believed to be the most accomplished general then living, and President Lincoln, the Cabinet and the country had absolute faith in his ability to discharge the duties of Commander-in-Chief, even in the extreme and appalling necessities of Civil War, with consummate skill and success. It was not until active, practical operations had to be commenced for the protection of the Capital and for the defence of the government, that those closest to General Scott learned the sad lesson of his utter incompetency for the new duties forced upon him. He had entirely outlived his usefulness. He had never commanded over 12,000 men in all his lustrous record, and the magnitude of our Civil War coming upon him when the infirmities of age enfeebled him mentally and physically, made him wholly unequal to the task. President Lincoln, always unobtrusive when he could be so consistent with his sense of duty, deferred to General Scott and his military associates. He had no plan of campaign; he sought only to attain peace with the least bloodshed and disturbance.

The first star that shed its lustre on the Union arms was that of General McClellan, the young Napoleon of the West, whose victories in Western Virginia made his name a household word. He was the first to propose a comprehensive plan for aggressive movements against the Rebellion, and coming from one of the youngest soldiers of the army it is not surprising that General Scott, with his sensitiveness as to advice from those of less experience, rejected it and presented a comprehensive plan of his own, then known as the "Anaconda" method of crushing the Rebellion. In this dispute Lincoln took no part and probably gave little attention to it. He then clung to the hope that no such general military movements might be necessary to attain peace. His belief was that shared by most of the prominent men of the Cabinet that a successful battle and the capture of Richmond would bring peace. He had no occasion, therefore, to exercise his authority as Commander-in-Chief beyond conferring with General Scott and the Secretary of War. Had he understood the issue then as he understood it a year or more later, I hazard little in saying that the first battle of Bull Run would have been differently fought, and with almost a reasonable certainty of the defeat of the insurgents. The care with which he watched the diffusion of military forces and the keen sagacity and tireless interest he ever manifested in the concentration of our military forces in every campaign, forbid the assumption that had he understood the war then as he soon learned to understand it, there could have been a division of the Union forces in the Bull Run campaign to fight the united forces of the enemy. General McDowell fought the battle of Bull Run with 17,676 effective men and twenty-four guns, when he should have had some 15,000 additional from General Patterson's command and from 15,000 to 20,000 of the Pennsylvania Reserve Corps then fully organized and ready for the field. I feel quite sure that had Lincoln

then assumed the authority as Commander-in-Chief that he ever after maintained until Grant became Lieutenant General, McDowell would have commanded fully 50,000 men at Bull Run and would have overwhelmed the enemy and marched into Richmond. It is possible, indeed quite probable, that such an achievement would have ended the war, but it was not to be. Slavery, the author of the war, would have survived such a peace and the great conflict of thirty years ago would have been handed down to another generation.

Lincoln was quickened to the exercise of his full authority as Commander-in-Chief by the multiplied misfortunes of his generals. He accepted as commanders the men in the army most conspicuous in military service, and it was one of the saddest lessons of the war that not one of the commanders then prominent before the country and most trusted, became chieftains as the conflict progressed. The contrast between the Union and the Confederate commanders is indeed painful. The Confederate officers who started out as military leaders in the beginning of the war, as a rule were its chieftains at the close. The Johnsons, Cooper, Lee, Beauregard, Jackson, Longstreet, Hill, Kirby, Smith, Ewell, Early, Bragg, Hood, Fitz Hugh Lee, Stuart and others either fell in the flame of battle leading high commands, or emerged from the war with the highest distinction. On the other side not one of the men who came out of the war with the grateful plaudits of the country as chieftains of the Union, was known to military fame when Sumter was fired upon. One by one Lincoln's commanders fell by the wayside and he was constantly perplexed with the sense of the fearful responsibility he was compelled to assume in the assignment of commanders to the different armies. This necessity naturally called for the employment of his supreme powers and compelled him to exercise the soundest discretion time and again, as failure followed failure

in his great work of overthrowing the Rebellion. Lincoln had learned the painful lesson of Scott's inability to perform the duties expected of him by the country, and on the twenty-ninth of June, 1861, he called the first council of war that embraced his Cabinet, Scott and other military men. It was there that McDowell's plan for the advance on Manassas was decided upon. Lincoln did not advise but assented to it, and Scott gave a reluctant assent only when he learned that it was a public necessity for the army to advance, as the term of the three months' men would soon expire. The history of that battle is known in all its details to this intelligent audience of experienced military men.

It is not surprising that a man of Lincoln's sagacity and trained practical methods should consider his responsibility as Commander-in-Chief after the defeat of Bull Run. He felt that he had no one to whom he could turn for counsel that he could implicitly accept, and he was equal to the occasion. On the night after the battle of Bull Run, Lincoln sought no sleep, but after gathering all the information that he could as to the situation, he devoted the hours of early morning to formulating a plan of military operations, and it is marvelous how closely that program was followed in the long and bloody years through which the war was fought to its consummation. This was Lincoln's first distinct assumption of the duties of Commander-in-Chief. He wrote out in pencil, with his own hand, memoranda directing that a blockade should be made effective as soon as possible; that the volunteer forces at Fortress Monroe be constantly drilled and disciplined; that Baltimore be held with a firm hand; that Patterson's forces be strengthened and made secure in their position; that the forces of West Virginia continue to act under orders from McClellan; that General Freemont push forward his work in the West, and especially in Missouri; that the Army of the Potomac be reorganized

as rapidly as possible on Arlington Heights; and that new volunteers be brought forward speedily into camps for instruction. This paper bears date July 23, 1861, and on the twenty-seventh of July he added to it that when the foregoing shall have been substantially attended to, Manassas Junction and Strausburg should be seized and permanently held with an open line from Harper's Ferry to Strausburg, and a joint movement from Cairo on Memphis and from Cincinnati on East Tennessee should be promptly organized. This was Mr. Lincoln's first acceptance of the necessity that called him to exercise his duties as Commander-in-Chief, and it will be observed that his plan of campaign fully comprehended the situation and the military necessities which arose thereafter.

The mental and physical feebleness of Scott, together with the infirmities of temper which age and disease had logically wrought, made it a necessity to have a new commander for the army. McClellan was then the only one who came with achievement to enforce his title to the general command, and he was called to Washington as commander of the Army of the Potomac. Volunteers were offered in abundance, and the one man of any country best fitted for the organization of a great army, was fortunately there to organize the army that was ever undaunted by defeat and that in the end received the surrender of Lee at Appomattox. There was early friction between Scott and McClellan, and all the kind offices of Lincoln failed to soothe the old veteran or to make the young commander submissive to the alleged whims of his superior. It became a supreme necessity to have Scott retired, and it was finally accomplished after much effort, but fortunately it has no detailed record in the annals of the country. The true story of Scott's retirement from the command of the army could have been written but by three men, viz.: Lincoln, Cameron and Assistant Secretary Thomas A. Scott. They have all joined the veteran

soldier in the ranks of the great majority beyond, and none will ever write the chapter on the change of the military Commanders-in-Chief in 1861.

From the time that Lincoln called McClellan to Washington he tenaciously exercised his high prerogatives as Commander-in-Chief of the army and navy until the eighth of March, 1864, when he handed to General Grant his commission as Lieutenant-General; and he was very often in conflict with his department commanders as to their operations or failure to prosecute them. His first serious trial arose with General McClellan in the fall of 1861, and that conflict was never entirely closed until McClellan was finally relieved from the command of his army after the battle of Antietam in the fall of 1862. The late fall months of 1861 were peculiarly favorable for military operations and the administration and the entire country became impatient to have the army advance. Just when Lincoln expected a movement toward Manassas, McClellan became seriously ill and continued so for several weeks; and after his recovery, obstacles seemed to multiply each day until the aggressive movement was universally demanded. On the first of December, 1861, Lincoln requested of McClellan a plan of campaign in which he asked how soon the army could be moved and how many men would be required to make the advance direct to Richmond. To this McClellan replied that he could move from the fifteenth to the twenty-fifth, and suggested that he had another plan of campaign soon to present to the President. During McClellan's illness Lincoln assumed the responsibility of summoning Generals McDowell and Franklin in conference with him as to the movements of the army, and on the twenty-seventh of January, without consulting with any of the commanders, or even the Cabinet, he issued "General War Order No. 1," directing that on the twenty-second of February there should be a general movement of the land and

naval forces against the insurgents, of the army at Fortress Monroe, the Army of the Potomac, the Army of Western Virginia, the Army in Kentucky, the Army and flotilla at Cairo and the naval forces from the Gulf of Mexico. That was followed four days later by a special order from the President to General McClellan, directing that all the disposable forces of the Army of the Potomac, after providing for the defence of Washington, be moved immediately upon Manassas Junction; that all details be in the discretion of McClellan, and the movement was to begin on the twenty-second of February. This was a direct order to McClellan; but believing as he did that it was not a wise one, he urged his objections earnestly upon the President. It was to these objections that Lincoln wrote a somewhat celebrated letter to McClellan, in which he so tersely, but suggestively, discussed the difference between the Peninsula campaign, then preferred by McClellan, and the movement upon Manassas. Lincoln did not arbitrarily command; he sought to be convinced as to whether he was right or wrong, and all who knew him would bear testimony to the fact that no public man was more easily approached when his own convictions were to be questioned by sincere, intelligent men. These are his incisive inquiries to McClellan:

> Does not your plan involve a greatly larger expenditure of time and money than mine?
>
> Wherein is a victory more certain by your plan than mine?
>
> Wherein is a victory more valuable by your plan than mine?
>
> In fact would it not be less valuable in this, that it would break no great line of the enemy's connections while mine would?
>
> In case of disaster, would not a retreat be more difficult by your plan than mine?

I cite these inquiries of Lincoln, not to show that he was either right or wrong in his judgment, but to convey a just appreciation of his careful study of the military situation at that early period of the war; his intelligent

knowledge of the proposed results of campaigns, and his entire willingness to gain the best information to revise his judgment if in error. McClellan was so tenacious as to the correctness of his Peninsula campaign that Lincoln, after much deliberation, reluctantly yielded his convictions and from the day that he did so he certainly sought, in every way that he could consistently with his views as to the safety of the Capital, to aid McClellan in his movement. About this time Lincoln was much perplexed by another grave dispute with McClellan. Lincoln believed that it would be wise to organize the Army of the Potomac into army corps with responsible commanders, while McClellan was unwilling to accept that method of organization, for reasons which need not here be discussed. The order of the President for the movement of the armies on the twenty-second of February was not obeyed, and on the eighth of March Lincoln assumed the responsibility of issuing an order to McClellan to divide the Army of the Potomac into four army corps to be commanded by McDowell, Sumner, Heintzelman and Keys, with a reserve force for the defence of Washington, under command of Wadsworth. A fifth corps was also ordered to be formed with Banks as commander. On the same day he issued "President's General Order No. 3," directing that no change of base of operations of the Army of the Potomac should be made without leaving for Washington's defence a sufficient force to make the Capital entirely secure.

This order went to the very marrow of what is yet an unsettled dispute between the friends of Lincoln and of McClellan, but this is not the occasion to discuss the merits of that controversy. It necessarily withheld, from direct co-operation with McClellan, a considerable portion of the army that could have been utilized in the effort to capture Richmond if it had been deemed safe to uncover Washington. With the details of that memorable and

heroic campaign this audience is thoroughly familiar. McClellan advanced upon Manassas only to find it abandoned by the enemy. A council of war was held at McClellan's quarters, Fairfax Court House, on the thirteenth of March, at which it was decided to proceed against Richmond by the Peninsula. The only diversity of sentiment at that council was as to whether 25 000 or 40,000 men should be detached for the defence at Washington; Keys, Heintzelman and McDowell favoring the smaller number, and Sumner the larger number. I should here note a circumstance that I think is not generally understood. On the eleventh of March, when McClellan was advancing with his army on Manassas, Lincoln issued an order practically removing him from the office of Commander-in-Chief by limiting his command only to the Army of the Potomac operating with him against Richmond. This order has been variously discussed from the different standpoints held by the friends of Lincoln and McClellan, and with the merits of the controversy I do not propose to deal. I want to say, however, that those who assume that Lincoln limited McClellan's command because of any personal prejudice against him are in error. He appointed no successor as Commander-in-Chief, but obviously left the place open for him who should win it. It is evident that his difficulties with McClellan about advancing upon Richmond, and about the organization of his army, had somewhat impaired Lincoln's confidence in McClellan as Commander-in-Chief, but I speak advisedly when I say that he sincerely hoped that McClellan would succeed in his Richmond campaign by the capture of the Confederate Capital, and thus prove his right to be restored as Commander-in Chief. I know that Lincoln cherished that hope and meant that the captor of Richmond should be made the Commander-in-Chief of the army. Nor is this statement without strong corroboration from circumstance.

The position of Commander-in-Chief was not filled by Lincoln until precisely four months after McClellan had been relieved from it, namely, on the eleventh of August, 1862, and just four days after McClellan's letter to the President, written at Harrison's Landing, severely criticising not only the military but the political policy of the administration.

That was a fateful letter for McClellan. It did not resolve Lincoln against the further support of McClellan, nor do I believe that it seriously prejudiced McClellan in Lincoln's estimation, as was shown by his restoration of McClellan to command after Pope's defeat soon thereafter, but it so thoroughly defined partisan lines between McClellan and the supporters of the administration, that when Lincoln called McClellan to the command of the defences of Washington, he had to do it against the united voice of his Cabinet, and against the protests of almost, if not quite, a united party in Congress and in the country. However earnestly Lincoln may have desired to support McClellan thereafter, he was greatly weakened in his ability to do so. His letters to McClellan during the Peninsula campaign are an interesting study. All of them are singularly generous and never offensive, and exhibit the sincerest desire of the President to render McClellan every support possible without exposing Washington to what he deemed reasonable peril of capture. Only a week before this political letter was written McClellan had addressed Stanton a long letter, in which he said: "If I save this army now I tell you plainly that I owe no thanks to you or to any other persons in Washington. You have done your best to sacrifice this army." That McClellan, like Lincoln, did everything with the most patriotic purposes, and with intended loyalty to every duty, I do not doubt, but the issue remains now nearly a generation after the dispute began, and is likely to continue throughout all the pages of future history.

Four days after the Harrison Landing letter was delivered to the President, Halleck was appointed Commander-in-Chief. The office remained vacant precisely four months, during which time there never was a doubt that Halleck would be called to the position unless McClellan should be restored. Soon after Lincoln returned from his visit to McClellan on the Peninsula, at which time McClellan's letter was delivered in person to Lincoln, Halleck urged the removal of McClellan from command, but Lincoln overruled him, and instead of ordering the army of the Peninsula back to the support of Pope, McClellan was ordered to come with his forces. How McClellan ceased to have a command when his army was brought within the jurisdiction of General Pope is well understood by this assembly. Pope was defeated and routed and driven back into the entrenchments of Washington. In this emergency Lincoln braved the unanimous hostility of his Cabinet and of his political friends by calling upon McClellan in person in Washington and asking him to take command of the defences of the Capital, which practically gave him command of the entire army while it was defending Washington. It was not a difficult matter to defend the Capital with the complete system of entrenchments constructed by McClellan. There were a score of generals in the army who could have done that, but what the army needed most of all was reorganization. It was broken, dispirited, almost hopeless, and Lincoln knew that no man approached McClellan as a military organizer. To use his own language on the occasion, as quoted by Mr. Hay in his diary: "There is no one in the army who can command these fortifications and lick these troops of ours into shape half as well as he (McClellan) can." In this severe trial Lincoln was not forgetful of his duties of Commander-in-Chief. On the third of September, the day after assigning McClellan to the command of the defences of Washington, he issued an order to

General-in-Chief Halleck, directing him to proceed with all possible dispatch to organize an army for active operations to take the field against the enemy. The Antietam campaign logically followed as Lee advanced into Maryland, and McClellan, without any special assignment, took the field against Lee, resulting in the battle of Antietam and the retreat of Lee back to Virginia.

On the twenty-eighth of June Lincoln addressed a letter to Seward, in which he outlined the policy of the war in all the different departments. This was after the failure of the Peninsula campaign. It proved how thoroughly Lincoln kept in view his comprehensive strategy for the prosecution of the war. After the battle of Antietam there was continued dispute between Lincoln and McClellan, arising from what Lincoln believed to be tardiness on the part of the commander of the army to pursue the enemy. The Emancipation Proclamation speedily followed McClellan's victory at Antietam, and that rather intensified the opposing political views of the friends of Lincoln and McClellan. In a private letter, written by McClellan on September 25, and given in his own book (page 615), McClellan said: "The President's late proclamation, the continuation of Stanton and Halleck in office rendered it almost impossible for me to retain my commission and self-respect at the same time," and McClellan did not soften the asperities of the occasion by an address to his army, issued on the seventh of October, defining the relations of those in the military service toward the civil authorities. He said: "The remedy for political errors, if any are committed, is to be found only in the action of the people at the polls." I give these quotations to show under what grievances, whether real or assumed, McClellan suffered during this controversy, and it is not surprising that the chasm between the President and his General gradually widened because of the constantly increasing intensity of party prejudice against

McClellan. During all this dispute Lincoln never exhibited even a shadow of resentment in anything that he said or did, so far as we have any record, and on the thirteenth of October he wrote an elaborate letter to McClellan, in which he temperately, but very thoroughly, discussed all the strategic lines of McClellan's prospective advance into Virginia, showing the most complete familiarity not only with the country that the army was to occupy, but with all the accepted rules of modern warfare. This controversy culminated in McClellan's removal from his command on the fifth of November, 1862, and that dated the end of his military career. He was ordered to report at Trenton for further orders, where he remained until the day of the Presidential election in 1864, when he resigned his commission, and Sheridan's appointment as his successor was announced in one of Stanton's characteristic bulletins on the following day, along with the news of McClellan's disastrous defeat for the Presidency.

I have given much time in this address to Lincoln's relations with McClellan because they present, in the strongest light, Lincoln's positive exercise of the high prerogatives of Commander-in-Chief of the army. Whether he did it wisely or unwisely in his protracted controversy with McClellan cannot be here discussed, but the case of McClellan stands out most conspicuously as showing how completely Lincoln accepted and discharged the duties of the office of Commander-in-Chief. The most disastrous battle in which the Army of the Potomac was engaged soon followed McClellan's retirement when Burnside was repulsed at Fredericksburg. At no stage of the war was the Army of the Potomac in such a demoralized condition as during the period from the defeat of Fredericksburg until Hooker was called to the command. Lincoln believed that some of Burnside's corps commanders were unfaithful to him, and where was he to get a commander? It is an open secret that Sedg-

wick, Meade and Reynolds each in turn declined it, and the President finally turned to Hooker as the only man whose enthusiasm might inspire the demoralized army into effectiveness as an aggressive military power. That Lincoln was much distressed at the condition then existing is evident from many sources, but he makes it specially evident in a characteristic letter addressed by him to Hooker on the twenty-sixth of January, 1863, telling him of his assignment to the command of the Army of the Potomac. In this letter he says to Hooker: "I think that during General Burnside's command of the army you have taken counsel of your ambition and thwarted him as much as you could, in which you did a great wrong to the country and to a most meritorious and honorable brother officer. I have heard in such a way as to believe it, of your recently saying that both the army and the government needed a dictator. Of course it was not for this, but in spite of it, that I have given you the command. Only those generals who gain success can set up as dictators. What I now ask of you is military success and I will risk the dictatorship." Hooker accepted this pointed admonition like a true soldier. His answer was: "He talks to me like a father. I shall not answer this letter until I have won a great victory." On the eleventh of April Lincoln again left a record of his views as to the proper movements of the Army of the Potomac, in which he pointedly declared the true policy of making the army of Lee the objective point instead of the Confederate Capital, and from that theory he never departed. In this memorandum he said: "Our prime object is the enemy's army in front of us, and not with or about Richmond at all, unless it be incidental to the main object."

I need not give in detail the result of Hooker's campaign to Chancellorville. It was one of the most brilliant strategic movements of the war in the beginning and one

of the most strangely disastrous results at the close. On the day after Hooker's retreat back across the Rapidan the President wrote him a letter, in which there is not a trace of complaint against the commander, but clearly conveying Lincoln's profound sorrow at the result. He asked Hooker whether he had any plans for another early movement, concluding with these words: "If you have not, please inform me, so that I, incompetent as I may be, can try and assist in the formation of some plan for the army." When Lee began his movement northward toward Gettysburg, Hooker proposed to attack Lee's rear as soon as the movement was fully developed, to which Lincoln promptly replied, disapproving of the plan of attacking the enemy at Fredericksburg, which was Lee's rear, because the enemy would be in entrenchments, and to use Lincoln's language, "so man for man worst you at that point, while his main force would, in some way, be getting an advantage of you northward." He added: "In one word, I would not take any risk of being entangled upon the river like an ox jumped half over a fence and liable to be torn by dogs front and rear without a fair chance to gore one way or kick the other." Hooker's next suggestion was to let Lee move northward and make a swift march upon Richmond, but this was also rejected by Lincoln because, as he says, Richmond when invested, could not be taken in twenty days, and he added—"I think Lee's army and not Richmond is your sure objective point." This was on the tenth of June, 1863. On the fourteenth of June he again telegraphed Hooker urging him to succor Winchester, which was then threatened by the advance of Lee's army, in which he made the following quaint suggestion: "If the head of Lee's army is at Martinsburg, and the tail of it on the plank road between Fredericksburg and Chancellorville, the animal must be very slim somewhere. Could you not break him?" On the sixteenth of June he addressed a private

letter to Hooker in which he spoke to him with the kind frankness so characteristic of him, gently portraying his faults and kindly pointing the way for him to act in harmony with Halleck, and all others whose aid was necessary to success. On the twenty-seventh of June Hooker was relieved from command at his own request, and Meade charged with the responsibility of fighting the decisive battle of the war at Gettysburg. I need not discuss any of the details of that campaign. The defeat of Lee at Gettysburg decided the issue of the war. Many bloody battles were fought thereafter, but from the fourth of July, 1863, the cause of the Confederacy was a Lost Cause, and the man who won that battle should have been the chieftain of the war.

I may here properly introduce two dispatches received by Lincoln from the battlefields of Antietam and Gettysburg, which, I personally know, did much to make Lincoln distrust the capacity of both McClellan and Meade to appreciate the great purpose of the war. When Lee had retreated across the Potomac from Antietam on the nineteenth of September, 1862, McClellan telegraphed: "Our victory was complete. The enemy is driven back into Virginia. Maryland and Pennsylvania are now safe." Meade's congratulation to the army on the field of Gettysburg, July 4, 1863, closes as follows: "Our task is not yet accomplished, and the commanding general looks to the army for greater efforts to drive from our soil every vestige of the presence of the invader." The fact that both these commanders seemed to assume that their great work was to drive the enemy from Northern soil, impressed Lincoln profoundly. In Mr. Hay's diary Lincoln is quoted as saying, upon the receipt of this dispatch: "Will our generals never get that idea out of their heads? The whole country is our soil." His theory of the war was that the enemy could be fought much more advantageously on Northern soil than in the South, as it

enabled concentration of Northern forces, and diffused Southern forces in maintaining lines of supply; and before either of these battles were fought he had publicly declared his theory that Lee's army was the heart of the rebellion and that Richmond and other important military centres would be valueless while Lee's army was unbroken. It is known that Lincoln was at first strongly inclined to censure Meade for not fighting another battle at Williamsport. I saw the President soon after that battle and was amazed at his thorough familiarity with every highway and mountain pass which the armies had open to them. As it was near my own home I knew how accurate his information was, and he questioned me minutely as to distances and opportunities of the two armies in the race to Williamsport. When I asked him the direct question whether he was not satisfied with what Meade had accomplished, he answered in these words: "Now don't misunderstand me about General Meade. I am profoundly grateful down to the bottom of my boots for what he did at Gettysburg, but I think if I had been General Meade I would have fought another battle." He was extremely careful to avoid injustice to any of his commanders, and after fully considering the whole subject, he excused rather than justified Meade for not delivering battle to Lee at Williamsport. Had Meade done so and succeeded he would have been the great general of the war, but there are few generals who would have fought that battle with the forces of both sides nearly equal and Lee entrenched. Had he fought it and failed he would have been severely censured; but failing to fight he lost his one opportunity to be the Lieutenant-General of the war.

I need not refer in detail to the Pope campaign of 1862. It is known to most of those present that the appointment of Pope and the creation of his department were entirely Lincoln's own acts. Without the knowledge of his Cabinet he slipped off quietly to West Point to confer with

General Scott, but what transpired between them no one ever learned from Lincoln. Indeed so much were Lincoln and the country perplexed about military commanders in 1862–63 that Senator Wade conceived the idea of making himself Lieutenant-General and commander of the armies, and had many supporters. In this he followed the precedent of Senator Benton during the Mexican War, who then made an earnest effort to be appointed Generalissimo to supersede both Scott and Taylor in the direction of military operations in Mexico.

The campaign for the relief of East Tennessee was one of Lincoln's early conceptions, and in September, 1862, he went to the War Department personally and left a memorandum order for a campaign into that State. Many reasons combined to prevent early obedience to his orders, but there was not a movement made in the West that Lincoln did not carefully examine and revise to hasten the relief of Tennessee, and his letter to Halleck, February 16, 1862, when Fort Donelson was about to be captured, outlined a policy of campaign to reach the heart of Tennessee. While he thus carefully revised every strategic movement, he always scrupulously avoided giving instructions which might embarrass a general fighting in a distant field. After the defeat and victory at Shiloh he called Halleck to the field to shield General Grant from the grossly unjust opposition that was surging against him, and in a letter to Halleck he said: "I have no instructions to give you; go ahead, and all success attend you."

The failure of the iron-clads at Charleston in 1863 was one of the sore disappointments of the war, and Lincoln's instructions sent soon after jointly to General Hunter and Admiral Dupont, are explicit as to what they shall attempt to do. When General Banks was assigned to the department of the Gulf in 1862, with a command of 20,000 men, Lincoln's letter to him, dated November 22,

pointedly illustrates his complete familiarity with the purposes of the campaign and his admonitions to General Banks present a singular mixture of censure and charitable judgment. When we turn to his letter to General Grant, written July 13, 1863, after the surrender of Vicksburg, we will recall how carefully Lincoln observed all strategic movements and also how he judged them. He was glad to confess error when the truth required it, and in his letter of thanks to Grant he told him that he believed that Grant should have moved differently, but added —"I now wish to make the personal acknowledgment that you were right and I was wrong." Early in the year 1864 Lincoln directed the movement into Florida, which resulted in the disastrous battle at Olustee, but he intended it as a political rather than as a military expedition. He in like manner directed combined military and political movements in Arkansas, Tennessee, Maryland and Missouri. While Halleck was nominally Commander-in-Chief of the army he had gradually ceased to be anything more than the chief of staff. Lincoln is quoted in Mr. Hay's diary as saying that, although Halleck had stipulated when he accepted the position, it should be with the full powers and responsibilities of the office, after the defeat of Pope, Halleck had "shrunk from responsibility whenever it was possible."

This brings us to the eighth of March, 1864, when Lincoln and Grant met for the first time, and Lincoln personally delivered to Grant his commission as Lieutenant-General. Immediately thereafter he was assigned as Commander-in-Chief of the army. From that day Lincoln practically abdicated his powers as Commander-in-Chief, so far as they related to army movements. He had found a commander in whom he had implicit faith, and one who was fully in accord with his theory that the overthrow of Lee's army would be the overthrow of the Rebellion, and Lincoln did not conceal his purpose to impose the entire

responsibility on Grant. In a letter written to Grant April 30, 1864, just before Grant's movement in the Wilderness campaign, Lincoln said: "The particulars of your plan I neither know nor seek to know. You are vigilant and self-reliant, and pleased with these, I wish not to intrude any constraint or restraint upon you." Lincoln not only meant what he said, but he fulfilled his promise to the end. How heartily he was in accord with Grant is known to all. There never was a military or personal dispute between them, and Lincoln felt more than satisfied with the wisdom of his appointment of Grant when he received from the desperate carnage of the Wilderness the inspiring dispatch: "I propose to fight it out on this line if it takes all summer." He had like faith in Sherman, and after his capture of Atlanta was more than willing to assent to Sherman's March to the Sea, because he trusted the man who was to lead the army in that heroic movement. In his letter of congratulations to Sherman at Savannah, December 26, 1864, he told how anxious and fearful he was when Sherman left Atlanta, but added: "Remembering that 'nothing risked nothing gained,' I did not interfere. Now the undertaking being a success the honor is all yours, for I believe none of us went further than to acquiesce."

Soon after Sherman's march into North Carolina, Lincoln met Grant and Sherman at City Point, where the whole aspect of the war was fully discussed, and where he gave his last suggestions as Commander-in-Chief. They did not relate to the movements of armies but to the question of peace. The generous terms given by Grant to Lee at Appomattox were the reflex of Lincoln's suggestions at City Point, although doubtless in hearty accord with the great warrior's convictions; and Sherman, in his original agreement with Johnston for the surrender of his army, simply executed Mr. Lincoln's directions or suggestions as he understood them. The assassination of

Lincoln suddenly brought a changed condition upon the country, and with it developed the intensest passions of civil war, but of these Sherman was ignorant, and he obeyed the orders of the Commander-in-Chief in accepting terms of surrender that became at once impracticable after Lincoln had fallen by the assassin's bullet. Thus ends the story of Abraham Lincoln as Commander-in-Chief in the most bloody and heroic war of modern times. I have simply presented facts, leaving for others the task of criticism; but this one fact will ever stand out conspicuously in the history of our civil war, that Lincoln was the actual Commander-in-Chief from the first defeat at Manassas in July, 1861, until March, 1864, when the Silent Man of the West brought him welcome relief from that high prerogative and gave the Republic unity and peace.

THE PRESS AND POLITICAL LIGHT AND POWER.*

Ladies and Gentlemen of the Press Congress:— There are two great vital forces in the enlightened civilization of our present time. They are the Light and Power of the Press, and the Light and Power of the Pulpit. These are the two great fountains which pour out their boundless streams and nourish every beneficent movement of our free people. That the streams are not always pure is to be expected, but in considering the impelling motives of our great progress, we should remember that nothing yet created is perfect; that no human agency is perfect; that no human power is perfect. Discounted by all their imperfections, however, it is safe to say that the pulpit and the press stand side by side in the grandeur of their achievements, while side by side in their infirmities. Each of these two great sources of political light and power often criticises the other, and I must confess with justice. Each in turn condemns the sensationalism of the other, and both have need of pointed admonitions against that error. The sensational journal no more shapes the destiny of politics than the sensational minister shapes the destiny of religion. On the contrary, the sensational preacher is a hindrance to substantial religious advancement, just as the sensational newspaper is a hindrance to legitimate political advancement.

The sensational newspaper is greatly magnified in importance by those who do not fully understand how little

* Delivered before the Press Congress, Chicago, May 23, 1893.

it impresses the masses of our country. It is nothing if not sensational. It must have a new sensation every day or it disappoints its patrons. It must invent, it must magnify, it must embellish, it must so color the truth that it ceases to be the truth. And, after the thoughtless multitude have read its sensations it leaves them unimpressed because unbelieved. In the editorial chair as in the pulpit these two great forces of political light and power are cribbed and confined in their usefulness by those who misrepresent their true purposes and misunderstand their high prerogatives.

The political light and power of the country to-day are almost wholly shaped in their destiny by the newspaper press. This is a bold declaration but it is none the less the truth. In this free land where the newspaper goes into every home, where it is the great educator of men, women and children, and where it is as steadily making its impress in shaping convictions as the gentle dews of the morning shape the beauty of the flower, its relation to political light and power is that of master; absolute master. It is not so simply because it is a newspaper. Newspapers cannot make wrong right; cannot destroy good men or good causes, nor can they make an enlightened public, as a rule, accept bad men or bad causes. There may be tides of popular passion to which sensational newspapers give their assistance, and which do great wrong to popular government and to the press, but they are not true representatives of the journalism of this enlightened civilization any more than are the men who dishonor the bench and the pulpit, and bring shame to whatever cause they espouse.

The Press of this country is the most potent of all elements in shaping political light and power, solely because it is in the closest touch and sympathy with the people of the country. It should be remembered that in this we are a peculiar people. In all other governments of the

world newspapers do not reach the masses, but teach as governmental power instructs them to teach. They command rather than persuade or convince, but in this free land every citizen is sovereign; one of the millions who make and unmake laws; who make and unmake presidents, and cabinets, and senates, and houses, and it is to these that American journalism addresses itself. If not in close touch and sympathy with the people who are the sovereign power of the Republic, journalism fails in its mission and fails of success. When thus in touch and sympathy with the people it is the master element in shaping the destiny of our political light and power. It shapes the political convictions of those who govern, and when it surrenders that high prerogative to serve mere partisan ends, it falls from its high estate. Its constant aim should be to fit men for the higher and nobler duties of citizenship just as the pulpit teaches the best aims of religious light and power.

Journalism has done more to conserve and liberalize the pulpit in the interest of religion itself than is confessed by the pulpit. From time immemorial the press has been conspicuous as representing the liberal progress of every age, and its most stubborn struggles have at times been with the illiberal ideas with which religion has been hedged about. It has at all times been as fearless as able in defence of enlightened advancement, and it has ever been the foe of bigotry and persecution in religion, and has done much to drive the sword and the fagot from the very altar of religion itself. Journalism should not be judged by its worst elements any more than should the pulpit be judged by those who climb into it only to bring shame upon it. I speak of the best attributes of journalism which have dominated in every age of the past, and judging journalism by its best attributes, as I judge the pulpit by its best attributes, it has been the handmaid of religious progress and beneficent civilization.

Because journalism thus represents the liberal progress of the age it does not teach less reverence for holy things. There never was a time in the history of our civilization when newspapers were so widely read as to-day, and at no period of the past has religion been as generally reverenced as it is at this time. At no period of the past were men nobler or women purer or religion more respected than to-day. Religion is accepted as the foundation of social order and public safety. Even those who make no profession of Christianity bow to its sublime influences in protecting home, society, statesmanship, and free institutions. In this country where the press is not only free, but the universal educator of the people, we find the best civilization that the world has ever known ; the most general reverence for religion, and the most substantial advancement in all that ennobles the human race. Nor has this influence been limited to our own free land. We have steadily sent back upon the old world the refulgence of our wisely conserved liberty of law. Nearly every nation of the earth has felt it and confessed its grandeur. There is not a despotism of the old world that has not been tempered by the matchless advancement of the new Republic under the teaching of a free press.

It logically follows that the editor to be successful in his calling must be more than a mere student of books. The closet scholar is of little value to a newspaper. He may know what he teaches and know it well, but only those can teach successfully who understand to whom they teach. The editor must be in touch and sympathy with the people ; with the aspirations and purposes of those who shape our political light and power. The sensational editor simply grovels in the slums where no convictions are shaped and where no great work is ever done. The impressions he makes to-day perish to-morrow. The editor who appreciates his responsible calling, and who understands the impulses and interests of the people, is to

be accepted as the representative of American journalism, just as the consistent, intelligent minister of the pulpit is to be accepted as the representative of the religious light and power of the land. The very foundation of the education of both of these teachers must be the study of the people; to learn who they are, what they are, what they feel, what they need, and what they will. The editor who fails in this part of his mission fails in his profession and fails in journalism.

The best illustration of the necessity of being in touch and sympathy with the people to be potent in shaping their political actions, is given in the character of Abraham Lincoln. He ruled the Republic in the sorest trials through which it has ever passed, and he ruled it wisely with a discordant Cabinet, an unsympathetic Senate, and a wayward House. He was a stranger to politics as it is commonly understood. Had no skill in what is called political strategy; was a stranger to the constant friction of public men, the jealousies and combinations which arise in our political system; but he was at all times master over all, and why? Simply because he was of the people; constantly in touch and sympathy with the people; always followed the considerate judgment of the people, although often patiently laboring to shape their convictions to the wisest ends. He understood that "the proper study of mankind is man," and only such men have achieved greatness in elevating the people of any country of the world. He came from close to mother earth; he grew up amongst the people; shared their sorrows, their joys, and their aspirations, and whether on the flat boat or in the White House, he was equally in touch and sympathy with the people who are sovereign in our free institutions. When called to the Presidency he was mightier than the mightiest because he best understood the people who had called him as their ruler. What is true in statesmanship is true in journalism, and

journalism can shape the political light and power of the nation only by its careful study of the interests of the people who are sovereign.

The newspaper is to-day the one great overshadowing element of force in the political light and power of the land because it reaches almost every home and is in sympathy with its best impulses. That is the true mission of journalism, and it is the greatest of all forces simply because it is equal to its high prerogatives. A newspaper cannot be omnipotent because it is a newspaper. It cannot arbitrarily assert its power in violence to its highest duties. It must be faithful to itself; to its great opportunity, and being so it is the master teacher of this evening of the Nineteenth Century. There are yet those who believe that journalism must be subordinate to partisan interests, and some newspapers possessing great attributes of usefulness lessen their power by subordinating journalism to partisan demands, but they do not represent the journalism of America as to-day. The accepted party organs of both great political parties of the country have defeated their own candidates for President, not by open opposition in a campaign but by teaching that the party in power has been faithless to the sentiment that gave it success. Mr. Cleveland was defeated in 1888 because his party press had sowed the seeds of antagonism within his own political household; President Harrison was defeated in 1892 because of the teachings of trusted organs of his own party, and it will not be disputed that Mr. Blaine was defeated in 1884 by great party journals of his own faith which had made his election impossible before he was nominated. Thus the party organs have been steadily elevating themselves to independence until to-day America has the most independent newspaper press in the world; and being the great educator of the people, I speak considerately in declaring it the master power in shaping the political light and power of the country.

THE DUTY AND DIGNITY OF JOURNALISM.*

MR. CHAIRMAN:—This is to me a most pleasant occasion. I have known the distinguished guest of the evening for thirty years as a journalist; remember him well as one of the most brilliant of the remarkable galaxy of war correspondents developed during the Rebellion; and have noted his rapid advancement to the very front rank of his profession, not only with the pride that I have always felt in those who dignify the newspaper calling, but also with the gratification that ever comes to us all when cherished friends attain exceptional success. There is eminent fitness in this gathering of distinguished sons of Ohio to do honor to Whitelaw Reid, who is now a leading figure in American progress as journalist and diplomat, but whose name will be cherished chiefly, not only in this but in other lands, as one who has shed the richest lustre upon American journalism.

What is journalism in this great Republic? In England it has been called the fourth estate; in the free institutions of America, where the people are sovereign, and where the newspapers are the chief educators of those who govern the land, the Press is the first estate. Like all great elements of power, it has its shadowed aspects. It has many teachers of its own creation who are discreditable to the great calling, and a reproach to the most intelligent people of the earth; but discounted by all its

*Delivered at the banquet given by the Sons of Ohio, in New York, to Whitelaw Reid, April 9, 1892, on his return from the French Mission.

imperfections, the Press of the United States is the best the world has ever known, and is the most potent of all the varied factors in our free government. I regard the editorial chair as the highest public trust of our free institutions. Presidents, cabinets, senates, representative bodies, come and play their brief parts and pass away, many of them into forgetfulness; and great parties rise and fall in the swift mutations of the political efforts of a free people. Journalism not only survives all the varied changes of our political system, but its duties and responsibilities multiply with each year, as it becomes more and more the great teacher of the people in their homes.

When President Harrison came into power, he honored himself by nominating to three of the four first-class missions of the Government, distinguished representatives of American journals—Whitelaw Reid, to France; Charles Emory Smith, to Russia, and Murat Halstead, to Germany. High as was the compliment paid to journalism by the President, the highest compliment of all was paid to Mr. Halstead, when he was rejected by a Senate of his own political faith; and an exceptional compliment was paid to Mr. Reid, the honored guest of the evening, by his narrow escape from rejection by the same body.

There was not an objection urged against the confirmation of any of these eminent journalists that was not inspired by resentment for the best journalistic efforts of their lives. It was the manly, fearless criticism of public men and public measures; the exposure of the infirmities and perfidy of those who pose as representative statesmen of the Republic, that honored Mr. Halstead by refusing him the mission for which he had been nominated, and that paid a rare tribute to Mr. Reid by grudgingly assenting to his appointment. The cowardly, submissive journalist is innocent of antagonisms; the aggressive, fearless, faithful journalist commands the highest distinction of malignant hostility from all who make politics a trade,

and prostitute statesmanship to mean ambition and jobbery. I recall also with great pleasure the fact that the two great editors who were confirmed to fill first-class missions, have both voluntarily resigned to resume their newspaper duties. We are here to-night to welcome Mr. Reid back to his high public trust of journalism ; and in Philadelphia we shall soon be able to welcome Mr. Smith, who has resigned his mission, and will resume the great calling of his life. These leaders of our profession have learned the littleness of official trust when compared with the highest of all public trusts—the direction of a great newspaper.

Need I remind this intelligent assembly of Horace Greeley, confessedly the ablest of all the many able journalists our country has produced? He was often more potent even than the President, and no man ever accomplished so much in the education of the people in all that was beneficent and just. He cared not for the honors or emoluments of public office, but he had fought the battles of the people ; he had braved obloquy in his tireless efforts for the oppressed and lowly ; and his great sympathetic heart, that ever beat responsive to the cries of the oppressed, craved the grateful recognition of the people to whose cause he so sincerely dedicated his life. A brief term in Congress proved to all, as it must have proved to himself, that while the great editor was a master in criticising the imperfections of public men, the Congressman who had criticised his fellows through his own newspaper columns was a dismal failure. At last the great dream of his life gave promise of fulfillment, as he was nominated for the Presidency. But the clouds came, his hopes perished ; and, smitten in all that he loved or dreamed of, his death was welcomed by his friends as ending the fitful life that had settled in a starless midnight of mental darkness.

And Raymond, whose name is spoken with reverence by every American journalist ; the only man whose lance

was never shivered in his many conflicts with his great master, is now hardly remembered as Legislator, Speaker, Lieutenant-Governor and Member of Congress. He was a leader of leaders in politics. He was at the baptismal font of Republicanism, and he penned the platform of Pittsburgh, in 1856, that crystallized the greatest party of American history, and made the most heroic achievements of any civilization in the world. I have seen him calm a turbulent national convention—call it to order and method, and guide it to the great results of its mission; but who remembers him as Congressman, save as the target of the matchless invective of Stevens, or as having recorded failure after failure in statesmanship?

Dana, the Nestor of American journalism, dated his great success and power as a newspaper man from the time when he indignantly declined a second place in the Customs of your city, tendered to him by a President whose election he had favored. Thenceforth he was free from the thongs of political expectation, and no one has more pointedly illustrated the difference in distinction and achievement between the editor who puts journalism before party and party honors, and the editor who struggles for party success to share party spoils.

The elder Bennett has grandly illustrated the true theory of journalism by the assumption that a great editor could never be an acceptable popular candidate for any party; and I have reason to know that he regarded it as the crowning distinction of his life that he had the opportunity to decline, as incompatible with his journalistic duties, the same mission from which our honored guest of to-night has just returned.

All respected newspapers teach that it is the duty of the citizen to accept public trust when called upon by the sovereign power of our free government, and none will dispute the correctness of the theory; but where in all the land is there a higher public trust than that accepted by

the editor of a widely-read newspaper? In our free government, there is no official position that can reasonably be accepted as promotion from the editorial chair; and the fact that political place is attainable only by a greater or less amount of dependence upon the favor of political partisanship, emphasizes the necessity of maintaining the absolute independence of journalism by the absolute refusal of the public places for which the jostling of mean ambition is ever in struggle. The time was when journalism was confined to party organs, and when newspapers were a luxury. Public office was then measurably compatible with the public trust of journalism; but that age has passed away, never to return. To-day, the newspaper is the educator of the home, and is read in almost every family in the land. It is the daily lesson to our children; the daily monitor to those who exercise the sovereignty of our government. It is constant in its duties and its achievements. On great occasions, it arouses public sentiment to aggressive action; in common times, it is ceaselessly fulfilling its mission as gently as the dews which jewel the flowers of the early morning; and it is the one calling of our free land that cannot be dependent upon the whims of party leaders, or the resentments of those who control official positions. It must be "unawed by influence, unbribed by gain." Such is the true mission of the journalist where journalism is so inseparably interwoven with the sovereignty of the Republic.

SCOTCH-IRISH ACHIEVEMENT.*

LADIES AND GENTLEMEN:—You have had excellent samples of the oratory of the Scotch-Irish. I am not here to deliver an oration, but I will give you a recess from Scotch-Irish oratory by devoting a short space of the evening to a conversation about our distinguished race. The trouble with me is to know where to begin. If you are asked, Where have the Scotch-Irish been, and where are they now? the answer is, Where have they not been, and where are they not? If you are asked what they have done, the answer of every intelligent citizen must be, What have they not done? If you ask, What distinguished places of trust and power they have filled? the logical answer is, What place is there in civil, military or religious authority that they have not filled? To speak of such a race is to speak of the history of the past achievements of our land; and, strange as it may seem, this people whose history is written in every annal of achievement, is without a written history. There is not a single connected history of the Scotch-Irish in American literature, and there is not a history of any other people written in truth that does not tell of Scotch-Irish achievement.

If you were to spend an evening in a New England library you would find not only scores, but hundreds of volumes telling of Puritan deeds; and if you were to study them, the natural inference would be that the only people who have existed and achieved anything in this land were the Puritans. They have not only written

* Delivered before the first Scotch-Irish Congress, Columbia, Tenn., May 10, 1889.

every thing that they have done, but they have written more than they have done. The story that they generally omit is their wonderful achievement in the burning of witches. There is a complete history of the Quakers. You find it in connected form in almost every library of any city. There is a complete history of the Huguenots who settled in Carolina, and there is a connected history of every people of our land, save the one people whose deeds have made the history of this country the most lustrous of all. It is true that those who write their history in deeds have least need of history in the records of our literature, but the time has come in this land when the Scotch-Irish owe it to themselves, and owe it specially to their children who are now scattered from eastern to western sea and from northern lake to southern gulf, that those who come after us shall learn not only that their ancestors have been foremost in achievement, but that their deeds have been made notable in history, as they were in the actions of men.

Some of our more thoughtful historians or students of history will pretend to tell you when the Scotch-Irish race began. I have not heard even our Scotch-Irishmen who have studied the question do the subject justice. No such race of men could be created in a generation; no such achievements could be born in a century. No such people as the Scotch-Irish could be completed save as century after century passed away, and while you are told that the Scotch-Irish go back in their achievements to the days of John Knox, I must remind you that John Knox lived a thousand years after the formation of the Scotch-Irish character began. It was like the stream of your Western desert that comes from the mountains and makes the valleys beautiful and green and fragrant, and then is lost in the sands of the desert. Men will tell you that it disappears and is lost. It is not so. After traversing perhaps hundreds of miles of subterranean passages,

forgotten, unseen, it is still doing its work, and it rises again before it reaches the sea and again makes new fields green and beautiful and bountiful.

It required more than a thousand years to perfect the Scotch-Irish character. It is of a creation single from all races of mankind, and a creation not of one people nor of one century, nor even five centuries, but a thousand years of mingled effort and sacrifice, ending in the sieges of Derry, were required to present to the world the perfect Scotch-Irish character. If you would learn when the characteristics of the Scotch-Irish race began, go back a thousand years beyond the time of Knox and learn that there was a crucial test that formed the men who perfected the Scotch-Irish character after years and years of varying conflict and success, until the most stubborn, the most progressive, the most aggressive race in achievement, was given to the world. Let us go back to the sixth century, and what do we find? We find Ireland the birthplace of the Scotch-Irish. We find Ireland foremost of all the nations of the earth, not only in religious progress, but in literature, and for two centuries thereafter the teacher of the world in all that made men great and achievements memorable. For two centuries the Irish of Ireland, in their own green land, were the teachers of men, not only in religion, but in science, in learning, and all that made men great. She had her teachers and her scientists, men who filled her pulpits and went to every nation surrounding. It was there that the Scotch-Irish character had its foundation; it was there that the characteristics became evident which afterward made them felt wherever they have gone. Those Irish were teachers of religion, and yet as stubborn for religious freedom as were the Scotch-Irish. Catholic, they often refused obedience to the pope. They were men of conviction; they were men of learning. They were the advanced outposts of the progressive civilization of that day, and the

cardinal doctrine of their faith, down deep-set in the heart, was absolute religious freedom, and they even combated the Vatican in maintaining their religious rights.

Then came the cloud that swept over the land, and that effaced this bright green spot from existence. Then came the barbarian from the isles of the Baltic. He came with the torch of the vandal and all the fiendishness of the barbarian; he desolated homes, destroyed prosperity, overthrew ministers, razed churches to the earth, and from that once bright green isle a land of sorrow was made. The Irish of that day were not to be conquered in a generation; nay, not in a century. It was only after two centuries of desperate, bloody conflict; of sacrifice such as men to-day know not of, that finally they were almost effaced from the living. But it was like the stream that comes from the great mountains of the West, that had made the valleys beautiful which it had traversed, and then disappeared in the desert. The work of these men had perished and been overthrown for the time, but their teachings were eternal, and they are as much impressed upon this audience now as they were twelve hundred years ago in Ireland.

Then history tells how the province was finally laid waste, and how when it had ceased by reason of its desolation, to invite any to it, the Scotch-Irish were invited to come to Ulster, and how there was literally founded the great people whose history and whose achievements we celebrate to-day. They had undergone persecution from king and pope. Not until Pope Adrian and King Henry, Protestant upon the one side and Catholic upon the other, had united their arms, their schemes, and their statesmanship, was the land laid waste so that the Scots alone could rebuild the destruction which had been wrought. So great was the degeneracy that prelates denounced Catholicism one day, and again praised it the next; the teachers at the holy altar abjured Catholicism

to Mary and Protestantism to Henry. Church and State reeked with corruption. When there was universal demoralization, even at the very altar of the holies, then the Scots went to Ireland and settled in the province of Ulster, where the history of the race properly begins. They made the land again to bloom and blossom, and upon every hand was brightness and prosperity. They called a convocation of their clergy, and proclaimed their profession of faith, the same that you would proclaim at your altar to-night; and it seemed, at last, as though the angel of peace had visited the land, and that now there should be freedom to worship at the altar of their choice; that improvement, mental, social, religious and material, should go hand in hand again, and that Ireland should become a place of plenty and of happiness. But scarcely had they established themselves and proclaimed their faith, and restored prosperity in the desolation that they had found when persecution again came with the power of Church and State.

These people were persecuted at their altars, in their homes, in their business, in all things; they were condemned as felons and compelled to flee from the land. After a century of conflict, such as we could not know, maintaining their altars and their homes and their rights, they seemed again to have been scattered to the four quarters of the earth. Again the bright mountain stream of education, religion, progress and advancement appeared to have been swallowed up by the desert in utter hopelessness. It was then that John Knox came, and came as the long-concealed sweet waters from the fountain of religion and of education in all their splendor, having long been swallowed up by the desert of persecution and despair, clear as crystal, pure as heaven. Again the people were taught that the religion and the education of a thousand years before had not been lost; that there was one character of men and one alone in which was preserved the

eternal truths of progress, of freedom, of religion ; and finally after conflict upon conflict, and sacrifice upon sacrifice, these men presented what I regard as the perfect Scotch-Irish character. At the siege of Londonderry, after twelve hundred years of education and teaching, and utter prostration under persecution by all the power of Church and State to destroy, the perfect Scotch-Irish character was presented to the world ; and I thank the siege of Londonderry, because it was that which sent them to the new world.

Then they came, fleeing from home, from all that they loved, to the new world, as teachers of the inalienable rights of man to worship the living God as he shall choose, and maintain civil freedom as the highest right of God's created beings. They came and they settled in Pennsylvania, the Carolinas and Virginia ; and it was the Scotch-Irish people of the colonies who made the Declaration of Independence in 1776. Without them, it could not have been thought of, except as a passing fancy. When the New England Puritan and the Virginia mixture of the Cavalier and Scotch-Irishman sat side by side, and presented to the memorable Congress of Philadelphia the immortal document of the Declaration of Independence, they did not voice the views or convictions of Thomas Jefferson or John Adams ; they voiced the teachings of the Scotch-Irish people of the land. They did not falter ; they did not dissemble ; they did not temporize when a foreign government became oppressive beyond endurance. It was not the Quaker, nor the Puritan, nor even the Cavalier, nor the Huguenot, nor the German ; it was the Scotch-Irish of the land whose voice was first heard in Virginia.

In the valley of Virginia was made the first declaration of independence ; it was there that the smothered feelings of these people were first declared. Next, in North Carolina, at Mecklenburg, came the Declaration of Independence in form, and from the Scotch-Irish of that

region. Next came the declaration of my own State, at Carlisle, Pa. There was the declaration made by the Scotch-Irish that the colonies must be free from the oppressive hand of Britain. They had taught this, not only in their public speeches; they had taught it at their altars, from their pulpits, in their social circles. It was taught upon the mother's lap to the Scotch-Irish child; and it was from these that came the outburst of rugged, determined people that made the declaration of 1776 possible. They, and they alone, were its authors, and when they made a declaration, they meant to maintain it by all the moral and physical power they possessed. When a deliverance came from the Scotch-Irish; when they demanded that they must and shall be free, it was no mere diplomatic declaration; it was no claim to be tested and disputed and be recalled in season. When the Scotch-Irish of this land declared that the American colonies should be free, it meant that the Scotch-Irish blood was ready to flow upon the battlefield; that the Scotch-Irish arm was ready to wield the battle-axe, and that, come weal or woe, they meant to maintain the declaration with their lives.

I wish that the truthful history of the Declaration of Independence had been written. It has not been done, and I am sorry that it will never be written, for the reason that it now can not be done. I wish that some other people, some other race than mine, had been in a position to write the true history of the Declaration of Independence. The Scotch-Irish can not write it, because in the writing they should make themselves their own heroes. There is no page in history that tells you that, after the passage of this declaration by the Congress of the colonies at Philadelphia, two of Pennsylvania's representatives were recalled and retired for disobedience to the will of the people, and new men sent to complete the work. Need I tell you that these men were not

Scotch-Irish? It is perhaps well for young American students that they have not been told how the Continental Congress, even after passing the memorable Declaration of Independence, shivered at the consummation of its work, how men shuddered and hesitated at affixing their names to the document that would make them traitors to their king. But it is the truth that it was not until John Witherspoon, the Scotch-Irish Presbyterian preacher, the lineal descendant of John Knox, rose in his place, with his venerable silvered head and earnest oratory, and declared that his gray hairs must soon bow to the fate of all, and that he preferred them to go by the axe of the executioner rather than that the cause of independence should not prevail, that the hesitating were made to stand firm; that the quivering heart beat its keenest pulsations for freedom, and made every man come up, one after another, and affix his name to the immortal document. What might have been the history of that day if John Witherspoon had not lived and had not stood there as John Knox stood centuries before to present the teachings of religion, science, education and freedom, from which could be drawn the inspiration of a dozen centuries? Had he not been there I know not what might have been the record of that day. I only know, and rejoice for freedom and civilization, that John Witherspoon lived, and that, as ever, the Scotch-Irish ruled the great event of that hour.

How have they written their history amongst us? When the battle came for freedom, I need not tell you where they were. I need not tell you that, of the whole Scotch-Irish race on this continent, there was but a single exceptional community where there was not the most devoted loyalty to the cause of freedom for which the colonies fought; and these might have been patriotic if they had not been Scotch-Irish. They had given their solemn promise, upon parole and pardon, when condemned unjustly, and when it was a choice between

freedom and death, that they would maintain their loyalty to the king that pardoned them. This little community in North Carolina was faithful to its oath, and became apparently unfaithful to its liberty. This is the record of the whole disloyalty of the Scotch-Irish race in this country to the struggle for freedom ; but it is made lustrous by the fidelity to the oath given to a king who had granted pardon.

As I told you when I began, I know not where to turn to tell you of Scotch-Irish achievement. I know not where to begin, where to go or where to stop. Do not imagine from what I have said that the Scotch-Irish were all angels. They were very human. Dr. MacIntosh, in his address to you, summed up their character pretty well in a single sentence when he said that the Scotch-Irish kept the commandments of God and everything else they got to lay their hands on. That was the truth of them.

They were a thrifty people. In my own State they had a conflict with the Quakers. The Quakers concluded that Scotch-Irish immigration ought to be stopped, and in one of their petitions sent to the Council of my State they declared that the Scotch-Irish were "a pernicious and pugnacious people." They were in perpetual conflict. The truth is, the Scotch-Irish were ever upon the outskirts of civilization. The Quakers lived where they could live in peace. They were a lovely people, and we have the conviction that they founded Pennsylvania in peace. So they did, but they did much to aid warfare, and left the Scotch-Irish to fight it out. They would go amongst the Indians, trade with them, and give them ammunition and firearms because they were peaceful brothers ; the Indians would murder the Scotch-Irish, and the Quakers while dwelling in peace thought that they did great good in dealing justly with the Indian and getting him to kill the Scotch-Irish. They were in

constant conflict. The Scotch-Irish entered the Cumberland Valley when the Quaker was scarcely outside of Philadelphia. They had gone to Fort Pitt and settled in Western Pennsylvania, when the Quaker was dreaming of peace along the banks of the Delaware; and it was one perpetual struggle of noble daring and courage to maintain their homes against the Indians in that State. But the Quaker always protested, always complained, and in every possible way sought to limit Scotch-Irish immigration, or drive it from the State; and they did drive many away.

Turn to South Carolina and you will find settlements of Scotch-Irish from Pennsylvania, who took with them the names of Pennsylvania counties—Chester, Lancaster and York. Before the Revolutionary War they settled many counties on the borders, simply because they wanted to get away from the Quakers, who constantly complained of and criticised them. The Quakers made the truest charge when they said: "These men absolutely want to control the province themselves." Of course they did. There never was a Scotch-Irish community anywhere that did not want to rule everything around it, and of course these people in Pennsylvania wanted to control the colony. The Quakers wanted nobody but themselves. The Scotch-Irish were the pioneers of civilization, and wherever they went with their trusty rifles and built their log-cabins, there was the school-house, there was the little log church, for religion and education went hand in hand with the Scotch-Irish wherever they went, from the time of the Revolution until now; and what was true of Pennsylvania was true of every part of the land where they settled. They dominated, and that was the cause of complaint against them. They dominated simply because, in the nature of things, it could not be otherwise. They were born and educated a thousand years as leaders of men; they were men of conviction; they were men of

faith in religion, faith in God, and faith in themselves, and why should not such a people, at that day, resolve that the land belonged to the saints, and that they were the saints?

Men have inquired whether there is not a decadence in the Scotch-Irish character, and men of thought and students of the race have at times hesitated to answer. Let me say that if there is apparent decadence in the Scotch-Irish race, it is because there are no conflicts worthy of the Scotch-Irish character to develop their grandeur and their heroism. Turn back to the last great conflict between the North and the South, and there was not a man upon the battlefield that was not made more heroic by Scotch-Irish leaders and Scotch-Irish soldiers.

There would have been thousands fewer fallen in that conflict but for the pertinacity of the Scotch-Irish character and its influence throughout the whole American people. There is nothing in Grecian and Roman story, there is nothing in all the conflicts of men, ancient or modern, that evidenced such matchless heroism as was shown by the blue and the gray. It was the heroism of the American people. Tell me not that there is decadence in the Scotch-Irish character. He is foremost in the conflict, when the conflict is for the right. He is but a man as all men are, human, full of its infirmities, but the grandeur of his character, fixed twelve hundred years ago, is to-day as perfectly true to its teachings as when Ireland, in her grandeur, was the teacher of the world.

When these men fail in achievement, it is because there is nothing to achieve. However, they will be felt even when the battlefield is not to be found. When there are no conflicts in statesmanship, when the great issues have passed, think you that the Scotch-Irish teaching is still unheard and unfelt in civilization? No. When the tempest is still, and all is calm and beautiful around you, the dews of heaven make the flowers jeweled in the

morning, and your fields green with the promise of future plenty. Thus with the Scotch-Irish character, in conflict grander than all; and when every conflict shall have been won; when free is the banner of faith, and liberty has triumphed, then, as gentle as the dews of heaven, will be felt the teachings of the Scotch-Irish in behalf of a civilization that has grown for centuries and centuries, making the Scotch-Irish character stand out grandest and most beneficent in all the achievements of men.

THE YOUNG REPUBLICANS OF 1860.*

MR. CHAIRMAN :—I rise with mingled feelings of pride and embarrassment, to respond to the sentiment recalling us to the Young Republican leaders of 1860. It is no common task to assume to speak for the many able, ardent and fearless young men, who were so conspicuous in that great political revolution; but to have a name, however humble, in that brilliant phalanx of freedom's votaries, is to have achieved something, at least, in man's bravest struggle for mankind.

In that memorable conflict, Pennsylvania was the battle-ground of the Republic. Her voice was to be potential, her verdict decisive, in moulding the solemn demand of the nation, that bondage must be exceptional in the policy of the government. Many of our oldest and ablest statesmen, and many also of our ripest and most respected citizens, were unequal to the occasion. It had brought new duties, as new occasions ever do, and the landmarks of our fathers, sacred to the compromises of the past, were deemed equally sacred in pointing to perpetual compromise with a wrong that had grown to colossal power, and finally aimed to subvert the very genius of our free institutions.

It was such an occasion that called the young men upon the theatre of political action. They quickened the impulse of the Republican National Convention, and gave victory to the banner of Abraham Lincoln. They

* Delivered at the Curtin banquet, in Academy of Music, June 12, 1869.

had organized early in Pennsylvania, and had chosen their chieftain. They had much to contend with. Their bold, aggressive policy made the timid fall by the wayside, and venerable leaders, averse to progress, bowed reluctantly to the command of earnest men. Mean ambition, with its mean exactions, confronted them, and sought to destroy what it could not pervert to ignoble ends; but the people, patriotic in their purpose, and devoted to their convictions, struggled for the disenthrallment of a continent.

The selection of a standard-bearer was made with a just appreciation of the perils to be encountered and the qualities essential to success. The young men of the State rallied, and infused a strange enthusiasm in the primary contests of the party. Here and there, local preferences and local importunities outweighed the general issue, and now and then political strategy was successful at the cost of the popular will; but at last the great heart of Philadelphia gave utterance to the hopes and affections of her people and named as our leader our distinguished guest, Andrew G. Curtin. The wisdom of that choice is now more than vindicated, alike by the thrilling history of the past and by the vast concourse of people before us, whose plaudits grow deafening at the mention of his name. He accepted his high trust from the convention, and his matchless eloquence called the people to the new duties and the grave issues imposed upon them. It was a fairly fought battle, and our cause and its champion triumphed without a stain to dim the lustre of our victory. Rhode Island had opened the national campaign with disaster, and Philadelphia had faltered in May. The August elections sent no words of cheer to strengthen our hopes in this commanding citadel of political power. The second Tuesday of October was the day of destiny, and its mandate had to be fashioned by tireless energy in educating the people to comprehend

the danger which threatened our national unity. With a heroism and ability peculiar to himself, our leader struggled for the right, and he brought back our banner from the desperate conflict with victory streaming upon its folds. He was chosen governor by over 32,000, and the national contest was ended. The verdict of that day made Abraham Lincoln President, and redeemed a nation of 30,000,000 from the thralldom of the oppressor.

Causeless war came with its boundless desolation. Our new State Executive exhausted every measure of conciliation consistent with patriotism, but the arbitrament of the sword was presented as the only tribunal whose judgment treason would obey. He called upon his people to maintain their Government, and how nobly they responded is attested by the bereavements that still shadow every household. Their blood crimsoned almost every battle-field of the war, and their graves ridged the hillsides of every rebellious State. Faithful as was their devotion to the cause for which they offered their lives, they were quickened in their zeal by a common inspiration. Disaster at times chilled the ardor of our most heroic men; disease thinned the ranks and weakened the hearts of our defenders; hope was often almost veiled in despair as our armies were unable to give battle for want of recruits, and there was widespread grief at home and in the camp for fallen loved ones. But in the sorest trials there was with all the grateful assurance that one, highest in power in the Commonwealth, was ever the "Soldier's Friend." It was no clap-trap title—no cunning invention of the politician—it was the creation of the mess, of the hospital, of the sorrowing around the untimely dead. Under his administration, our State was made conspicuous for its beneficent care of our soldiers, and its agents were the first at the Capital and on the field in the mission of mercy. Philanthropic men were his representatives wherever the bivouac of the Pennsylvania warrior was found. Their

wants were supplied; their communication with friends and home facilitated, and their wrongs were redressed. When disease or wounds laid them low, there were kind hearts and tender hands to minister to them. When the golden bowl was broken, the patriotic dead were brought back to sleep in honor with their kindred; and the fatherless—the orphans of the Republic—were made the accepted charge of the State. With our people, wherever there has been sacrifice upon the altar of our common country, there the name of Andrew G. Curtin is lisped with reverence and affection.

He was one of the few men of the nation who appreciated the power and magnitude of the Rebellion, and the prompt march of the Pennsylvania Reserves to save the National Capital when defeat appalled the country, was a testimonial to his wisdom as conspicuous as their gallantry has made it memorable. The first call upon the State was answered by a general uprising of the people. Our quota was promptly filled, and there were thousands to spare. Major-General Patterson, commanding in Pennsylvania, made a requisition for 25,000 three years' men, and they were being rapidly organized when the national authorities revoked the order, denied the commander's authority, and refused to accept the troops, because not needed. Our State was threatened and defenceless, and the Reserve Corps was authorized after a painful and desperate struggle with united imbecility and infidelity. It has made its own proud record and deeply baptized it in its richest blood.

Before the close of his official term his shattered health gave painful admonition of the necessity for his retirement. I bore to him from President Lincoln, an autograph letter tendering him a position of the highest honor abroad. It was accepted in good faith, and eyes brightened around his hearth at the promise of prolonged life and relief from harassing public cares. His declination was publicly

given, but there was one tribunal that would not entertain it. It was the high tribunal of the people. They answered by a positive demand that he should again become their standard-bearer. He was not without accusers. There were those who hated him because the people loved him, but they rendered the State a service by making his acceptance of a renomination an imperious duty to himself. I saw the final decision made, and few can ever know the profound reluctance with which it was given. He was prostrated by disease, and bowed by incessant physical and mental toil, and it involved the surrender of the hope of health, and probably life itself. And his enemies called this ambition! The contest was not one of promise. Nearly 100,000 soldiers were disfranchised, and faction, tireless as it was malignant, was confident of his discomfiture. But the people fought his battle. His cause was their cause, and they made even his enemies laborers for his success. The soldiers were voiceless but not powerless in the struggle. From every camp came earnest appeals to fathers, brothers, and friends to forget party obligations, and sustain him who was ever mindful of the heroes he had given to the nation. Silent and unseen, but felt in almost every home, were the efforts of the gallant warriors for their benefactor, and they gave him more than thrice the 15,000 by which he triumphed.

For months after the contest he was unable to discharge his official duties, but dangers thickened around our flag, and he felt that he must not abandon his high trust. Our armies were reduced, and could not follow up the victories of Gettysburg and Vicksburg, and the monster of disorder ruled in portions of the North. He gave days and nights of exhausting, painful labor, when he could labor at all, to fill the broken ranks and sustain them in their sacrifices, until victory closed the bloody drama of rebellion. Our triumphant soldiers were welcomed back by the Executive

to the enjoyment of the nationality they had so nobly preserved; but he was compelled to leave them in their rejoicing, to seek health and rest in a foreign clime. There are those present to-night who bade him farewell in this city with emotions they illy concealed, and apprehensions they dared not to express. Many devoted hearts would that day have leaped with joy could this night have been anticipated, with our distinguished guest restored to health, and wearing the highest honors accorded to the State. A merciful providence preserved him for riper usefulness and greener laurels. He returned still an invalid, and was met with a semi-official tender of a foreign appointment. The President and Congress were not then in positive antagonism. The era of vetoes had not yet dawned, and many of our most trusted leaders had faith in the fidelity of the National Executive. The position tendered him promised ease, honor, and the greater boon of health, and many appeals were made to him to trust to the history he had written for his State by patriotic deeds, to vindicate his acceptance of it. I recognize valued friends in our midst who were consulted, and with one accord concurred with him in the conviction that he could not become the recipient of official favor from Andrew Johnson. He could sacrifice everything but the consistency of a record that is interwoven with the brightest annals of the Commonwealth, and he served his official term to its close, and retired honored and beloved by the people he had so faithfully represented. Since then they have had no great honors to bestow that were not their honest offering to Andrew G. Curtin. With great unanimity they asked his nomination for the second office of the National Government, and the President has paid a voluntary and just tribute to their wishes by selecting him as the representative of the Republic to the most friendly and one of the most powerful nations of the Old World. He was appointed without solicitation and

received the prompt approval of the Senate. True, he was assailed, but popular reprobation shamed the tongue that assailed him into a denial of its own infirmities. He is now about to depart to accept his new duties, and we are here to testify our appreciation of the distinction conferred upon our State. With grateful pride for his honors, mingled with regrets that he goes out from amongst us, this people bid him a sincere farewell; and earnest will be the prayers and rich the blessings which will go with him to the great Capital of the North.

Nine years ago the young Republicans of Pennsylvania made him their chieftain, and since then he has had no rival in their confidence and love. Through evil and good report, whether in power or sceptreless, with them "where sits MacDonald, there is the head of the table." Others have brightened and faded, have climbed and fallen, but his name and his record have inspired the earnest men in every conflict. The retrospect of their achievements covers less than a decade. They have had perpetual battle. Whoever gathered the laurels of their victories—whether worthily conferred, or won in dishonor and worn in shame—it was their task to complete the work they had so bravely begun. They have fought the great fight, until the full fruition of the country's sacrifices in war is realized in the sublimest fabric of human government ever reared by man or blessed by heaven. It was a mighty struggle, and priceless were the offerings on the altar of freedom. By scores of thousands we count our dead, our maimed, our widowed, and our fatherless; and among those who enjoy with us the blessings for which our martyrs died, how sadly eyes are dimmed, how deeply brows are furrowed, how locks are silvered, and strong forms bowed by the crucible of a nation's redemption. Sooner for some, later for others, and not long hence for all, we shall surrender our now unstained inheritance to those who will preserve, in growing power

and grandeur, our perfected liberty, and justice for future generations. There will be noble names recorded with noble deeds, to inspire those who come after us with the highest devotion to free institutions; and even the humble and forgotten in the pages of man's most illustrious annals, will have the proud reward that they filled the measure of their duty in maintaining, "that government of the people, by the people, and for the people shall not perish from the earth."

AT CURTIN'S TOMB.*

MR. CHAIRMAN AND FRIENDS:—I could not have, for an occasion of this kind, prepared or studied expressions. It is one on which the heart alone should speak. I am not here to pass eulogies upon Andrew G. Curtin in his own community, where every man, woman and child ever smiled at his coming. I am here to sympathize with you by expressing that which I feel in common with you; for I have for almost a rounded half century been his friend and he has been mine. A half century of unclouded friendship in political and social life! That is a story that is well worth cherishing. For nearly half a century he has never had a conflict in which I have not been by his side. I have never, in my humble way, had one myself in which he was not also by my side as friend and champion.

Before I was yet a voter, I was a conferree in the Congressional conference of this district at Lewistown, and with all the enthusiasm of a boy I voted and struggled to nominate Andrew G. Curtin for Congress, and from that time until the present, with all the marvelous history we have written and all the painful changes we have witnessed, there has never been a cloud upon that friendship; there has never been a halting in the devotion of either as friend. He is the one man who, in falling in the race, makes me feel as if I were left almost alone; and in my brief span henceforth I shall always feel that there is wanting the one who deserved and received the largest measure of my devotion. If there are those here whose hearts sorrow for Andrew G. Curtin as their friend, let

* Delivered at the Bellefonte Bar and Citizens' Meeting, October 10, 1894.

me say that there is not a heart in this audience that sorrows more than mine. Even in the desolated home that I have just left, there is not a heart there more crushed than is the heart of him who speaks to you, and the only consolation that I could give to the widowed companion of his life, who ever brightened his pathway with the sweetest affection, was that he has but a little gone before us. I cannot trust myself, Mr. Chairman, to speak further upon this great bereavement.

What shall I say of Governor Curtin's achievements? What has he done? The story of his public life is familiar to every school boy of the Commonwealth, and it is cherished by every intelligent citizen. It is worshiped by every soldier and every soldier's child in the land; and yet the chapter of his efforts, of his struggles in the great emergency through which he passed, can never be written. That story, Mr. Chairman, can never be told; language would be inadequate to convey to the people of this great Commonwealth the trials through which Governor Curtin passed, when the life of the Republic was trembling in the balance. You have in your midst the gallant men with armless sleeves who fought and won the battles of the nation, and the honored ex-Governor of your State who goes upon his crutches, who led his men before shotted guns without blanching, in defence of your nationality. With all their perils and responsibilities, they could not know how the Governor of your Commonwealth was compelled, at times when there seemed to be no silver lining to the cloud of despair, to struggle and grope his way in almost starless midnight to maintain the government of the people.

The young men of to-day have no conception of how fearful were those terrible times. They read the story of the bravery of our soldiers who fought and won the battles of the Republic and how they brought back their banners in triumph, but they know not how, as I have seen, the

Executive of the Commonwealth was charged with responsibility such as never was put upon mortal man before. He was called upon to assume for a great State and for a great nation a policy, and act upon it. No man can tell how grave were his duties, how appalling were his responsibilities. They can only know how munificent were the results.

I stood by his side at the threshold of the Civil War, when between his capitol and the capitol of the nation no loyal man could find passage. For days and days no train of cars passed, the lightning flashed no information from one to the other, and the highways were guarded by those who hated the Republic and sought its overthrow. No counsel could be had from the National Government; there were no means of obtaining advice or guidance in the action that must be taken, and there, charged with the supreme duty of assuming a policy for the nation itself, Governor Curtin rose to the fullest stature of manhood and statesmanship and heroism, and called out 25,000 fresh troops to serve three years or during the war. I was by his side when he gave the request to General Patterson that the requisition be made, and saw him issue his proclamation; and, when three days thereafter, communication was reopened with Washington, it was only to be informed that the troops could not be accepted, because not needed.

It was then that his Legislature was called together and what is, I think, the crowning act of his heroism in our Civil War displayed in the creation of the Pennsylvania Reserve Corps. Before they had all been organized, calls were made for one regiment and another by the National Government, and finally came the disaster at Bull Run that shocked the nation from centre to circumference, and hundreds of frantic messages crowded the wires from the government at Washington to the government at Harrisburg to press forward the Pennsylvania Reserves to save

the National Capital! The morning after that disaster the most grateful music ever heard by the loyal men of Washington was the steady step of the Pennsylvania Reserves marching down Pennsylvania avenue to protect the Capital of the nation.

This was but one of many. He was compelled to define the policy of the nation for Civil War. Young men do not think of this. The war seems to them simply a story, a history completed; they understand only that in the logical course of events the war was fought and slavery was abolished. Remember that he was inaugurated Governor two months before Abraham Lincoln was inaugurated President. Our State was contiguous to the Southern States and of all the most exposed. The policy of the Government had never been defined. There was no precedent in all history to guide it. The relation of State to State and of State to the National Government had been in dispute for three-quarters of a century and never decided. There was nothing in the history of other nations to teach the relation of States to the National Government, for there never was a great Republic but our own. Greece, Carthage and Rome we read of as Republics in our histories, but they were simply the free democracies that swayed from license to despotism, that deified to-day and crucified to-morrow. This alone has been the government of liberty and law. And he defined it. If you will turn back to his inaugural address and to his first message to the extra session of the Legislature, in two brief paragraphs you will see that he laid down the policy that guided the nation through all its bloody struggles, and there is not a line therein that has not been fulfilled in blood and crystallized in history and in our fundamental law.

There are few who can tell the inner stories of these efforts of Governor Curtin and of the high measure of his achievements, and soon those of us who can do so will

have joined him beyond the great divide; but there is more than enough in history to make his name ever stand among the most lustrous of Pennsylvanians in every achievement of human greatness.

I honor him not only as a friend; I honor him not only as the War Governor who was chief of all men in like positions in the land, but I honor him, Mr. Chairman, above all because he has reared the highest and grandest monuments to humanity that our State has ever known or that any State has given in her history. One brief sentence of a few words, spoken to him by two little waifs when on his way to Thanksgiving worship: "Father was killed in the war!" was the beginning. This trembling utterance came from those who asked alms on that Thanksgiving day. Their words sank deeply into the heart of the Executive, and he rested not until the children of the soldier were made the wards of the Commonwealth. It was his act and his alone; it was he who inspired it; it was he who pressed it upon legislators, and I am glad to say in this presence to-day is one from whom you will doubtless hear—one differing in faith from him, but who, in every effort for the dignity of your State and maintainance of the nation, was side by side with your Governor in all the terrible exactions of war and in the best offices of humanity.

There was not a sorrowing soldier throughout the land, wounded or sick, who was not ministered to by those who were sent by the Governor of your State. Where the body of a dead soldier could be found, by the authority of the State it was brought home for sepulture with those who loved him. And even to-day, after a generation has passed, we find the munificence of his humanity to the soldier exhibited on every side until the orphans of the soldiers have grown up and they and their children bless the man who made the greatest monument to humanity ever reared by any people in the history of civilized

nations. This record he has written. Independent of all his achievements of greatness in the trials of war, this achievement alone must stand out singly over all the like achievements of men in our land. Who could wish a grander tribute to his memory than to have such a story told over his grave?

They tell us he is dead. He has passed from among you. You will no longer hear his kind voice and see his genial smile. That is ended forever. But he is not dead. Yonder tree that is gilded with the golden hues, tells of the death that has come upon its verdure, but it is not dying. The leaves will fall to the earth and mingle with the dust, but it is not death. Springtime will come again. There will be perpetual renewal of life. It is eternal. God has created nothing that perishes—nothing that perishes. And here, over the bier of a loved one, is the place to declare it—that God in His supreme wisdom created nothing that dies. The body may crumble to dust, go back to its original parts and again renew its offices under the laws of God, and the soul will live, as eternal life is taught by everything around us that has been made indestructible to teach us that men are immortal and never die.

And so of his achievements. The sun passes beyond your mountains, sets in the far West and we call it night. The night has come, but throughout its long watches the God of Day throws back his refulgence upon the stars and his light is eternal. It is so of a life like that of Governor Curtin. We bear his body to the tomb to-day, but we bury not his memory, we bury not his achievements, his records, his example. They will remain to us, lustrous as the silver stars of the night that never permit darkness to come upon the earth. So from generation to generation will his memory endure and will the love for him be cherished. As those who come generation after generation to hear the story of his greatness, of his

devotion, his heroism, his humanity, he will be as the bright stars of the night, eternal in the sweet memories of Pennsylvania; and while the rugged cliffs of his mountain home shall stand sentinels around his tomb, wherever there shall be the altars and worshipers of freedom and humanity there will be the lovers and worshipers of the memory of Andrew G. Curtin.

FAREWELL TO THE SENATE.*

MR. SPEAKER :—In seconding the resolution commending the intelligent and impartial administration of the Chair by the distinguished Senator from Tioga (Mr. Strang), I do not discharge a merely formal or conventional duty. While the Chair may have been as worthily and as well filled in past sessions, it is but the tribute of justice to say that this body has never had a more efficient and faithful presiding officer than the gentleman who has just retired.

This is the ninth time, during a period of sixteen years, that I have participated in the closing scenes of sessions of the Legislature, and I welcome it as the last. And, in retiring, it is a profound satisfaction to be able to say that at no time during the present generation have the deliberations of this body been so marked for the honest, dispassionate, and faithful consideration of public questions as during the session just about to close. At times, as must be inevitable under our political system, partisan control has arbitrarily and unjustly asserted its authority; but, upon the whole, our proceedings have been exceptionally pleasant and creditable.

Of all those who sat in this body in 1860, when I first entered it, not one remains in the Legislature but myself; and of all those who sat with me in the House two years before, there is not one to answer in either branch. Of the thirty-three who entered this body in the memorable session of 1860, fourteen have gone to their final account: It seems but yesterday when I turned to the seat on my

* Delivered on seconding the motion of thanks to Speaker Strang of the Pennsylvania Senate on the last day of the session of 1874.

right to receive the friendly greeting of the then Senator from Crawford, Mr. Finney, the ablest and the noblest of the whole Senatorial circle of that day. But from a strange land the sad story of his death has come, and only grateful memories remain of him, while his dust is treasured in the midst of his devoted constituents. And I almost involuntarily turn to the chair behind me to hear the voice of the then beloved and now lamented Penney. He was a great leader, and yet as unassuming as he was able. Across the narrow aisle from him it often seems that the eyes which there sparkled with unwonted brilliancy, and the cheeks which flushed so quickly when the battle of debate began, should flash upon us again, as Palmer came to quicken the Senate with his eloquence and logic. He had a long conflict with wasting disease, but his strong will had to bow at last to the great enemy, and he now sleeps in the monumentless ocean.

Hard by him were then heard the eloquent and often impassioned utterances of Bell, who had come from the first judicial tribunal of the State to shed the lustre of his learning to the enactment of our laws. Time had not spared him in its exactions, and he left us soon thereafter to be gathered to his fathers. With Connell I stood side by side when we were sworn as new Senators, and he alone, of all of us, remained, receiving at each re-election the evidence of increased public confidence, until he was called to answer the summons of the inexorable messenger. He had just been elected to the fifth consecutive term, and before the moon had filled her horns, he slept the sleep that can know no waking until the great day. Close by him would often rise the manly form of his colleague, Rush Smith, who was as generous in his friendship as he was faithful in his calling; but he, too, is no longer known among the living.

And near him would come up the voice of Nunemacher, but only when the yeas and nays were called. He was

conspicuous for his intelligence and his silence, for his fidelity to his constituents, and his negative votes. After many years of devoted service to his people, his well-spent time ripened into eternity. Close to him could be seen the deeply frosted head and genial face of Schindel, who came from the altar to serve the Commonwealth in the sorest trial of her history, and he now wears the stars he garnered for his crown as the teacher of men. Beside him was Crawford, brother of our later associate, and one of the most intelligent and modest members of the body. He was the lone representative of his party returned in the sweep of 1859, and soon after his retirement he fell, in the vigor of his life, before the arch enemy of man. Near him was Craig, beloved by all for his unobtrusive virtues and fidelity to public duties. He was racked by disease, and he had heeded the admonition to set his house in order for the coming of the destroyer.

Upon my left was Irish, the youthful, buoyant Senator from Allegheny. He was in advance of his generation and an enthusiast in supporting his convictions; but before the fruition of his teachings he had fallen in the race. And who of the survivors of that day do not miss the bright face and generous deeds of Schaffer, long a legislator from the Old Guard? But a few years after he left us he was stricken with blindness, and in darkness he patiently groped his way down to the shadowed valley that is before us all. And there was Gregg, the father of the Senate in years, and equaled by few in length of service. His eye was dimmed, his cheek furrowed and his form bowed by the infirmities of time, when he bade farewell to the Senate, and he soon fell, like the seared leaf that falls in the calm of the autumn morn, having well filled the measure of days allotted to mortals. But a little distance to the left could be heard the nervous but eloquent voice of Yardley, then scarcely in the noontide of life, but struggling with disease that has but lately called him from among us.

Thus we are passing away! We are now about to break up a circle that has cherished more of personal affection than any one I have ever participated in here, and we part to-day, as have all Senates and Houses before us, never, never to meet again. Each may meet the others in the journeyings and vicissitudes of life, but the men of this body who are now about to separate, will never again find their circle complete. As fragments of a broken brotherhood, we may cross each other's paths, and from time to time, as the swift days are numbered, tell the story of those of us who shall have fallen; but until the Great Judge shall summon all to the last account of their stewardship, this, Senators, is a final farewell.

CLOVER CLUB WELCOME.*

FRIENDS:—I am as yet much wanting in physical strength, and you must be content with a brief response to your more than generous welcome. For nearly seven months I have not been out of the sick-room except when I was brought to this city from Wallingford on a stretcher, and from such a siege of illness one does not rapidly regain strength. I recollect at one time at Wallingford Dr. White came to my bedside and asked me if I knew what day it was, and what the day meant. I told him that I did not; and he reminded me that the November dinner of the Clover Club was to be held in the evening. I instructed him to tell the boys how sorry I was that I could not be present, and to let them know that not later than January I would take my accustomed place at this table.

When the time for the December meeting came around I was still confined to my sick-room, and I obtained permission from Dr. White to write a letter to the club although he had most peremptorily forbidden me to write even an editorial paragraph.†

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*Delivered before the Clover Club, March 15, 1894.

†MY DEAR GOV. BUNN: DECEMBER 21, 1893.

It seems that when I gave the promise a month ago through Dr. White that I would join you to-night at the December dinner, I was off on a wandering mission, as was common with me about that time. I find myself still confined to my bed, and likely to remain in the house for some weeks to come.

I think I may safely say that I am the only member of the Clover Club who has survived the ministrations and carvings of six doctors, and as two of the chief offenders will be with you to-night, Doctors White and Andrews, I think it my duty to speak of them frankly, so that you may discipline them if you

That letter I am told was somewhat criticised by the doctors, although Dr. White relieved me from any strained relations resulting from it by a note thanking me for the postscript, which he regarded as altogether the best part of the letter. Three months have elapsed since then,

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think that you can find any measure of justice within your power equal to their deserts.

I was unfortunate enough to be taken ill when most of the people were out of town, and a number of the doctors, too, by the way, and the doctors who remained had little employment. I called in Dr. Andrews, and when he found a patient a convenient distance out of town, with easy railroad access, and a free lunch establishment at the end of it, he made up his mind that he had a cinch, and he decided to sit down on me for the remainder of the year. He was eminently successful in steadily intensifying my illness until he had such a soft snap that he decided to divide it with four or five other doctors.

Just then, unfortunately, Dr. White happened to come home from England, and as he had not had a chance to carve a man for four months you can conceive what an appetite he would have for swinging the scalpel, ramming the probes, and butchering generally. How artistically he plied his fiendish vocation will have abundant testimony in the tangled network of scars on my hand and foot, representing a perfect jam of Egyptian hieroglyphics. I presume that I owe my recovery chiefly to the fact that in the course of time he found other victims on whom to amuse himself, and that gave me a rest.

In order to have things entirely their own way the doctors side-tracked me in mental chaos, and for six weeks or two months, while they were reveling in their achievements, I was groping along the shivery shore of the dark river in that starless midnight of the mind that leaves no memories. But in spite of all of them I have somehow or other managed to worry through, and now, barring accidents, if I can be patient for gritty and secretionless joints to resume their functions, I may be with the dear boys of the Clover Club again. Say to them that I am with them to-night in spirit, and they doubtless all know that I would be there in person if it were possible.

Fraternally yours,

His
A. K + McCLURE.
mark.

P. S.—A truce to jest, for the Clover Club loves the variation. Soberly speaking, I shall ever cherish in grateful memory the consummate professional skill and personal devotion of the physicians who ministered to me during my illness; and let me here record my lasting gratitude to the Clover Club, for the very kind sentiments of sympathy and affection reported to me as expressed by its members; for the countless offices of friendship from political friend and foe, and from the close acquaintance and the stranger, which never ceased to send the silver lining to the clouds of the sick-room; and to the grand mountains of Pennsylvania which taught me from childhood that "hardness ever of hardiness is mother," and gave me an iron constitution and rugged faculties to resist the assaults of disease. And last, but far from least, I shall ever reverently and gratefully remember the many prayers for my recovery sent up to Him who notes even the fall of the sparrow. Good night.

McC.

and I appear to-night solely because it is the Clover Club, as no other occasion could have called me from my home to share the festivities of the hospitable board.

I have read with much interest and appreciation some accounts of my death, illustrated by portraits varying from fairly good to inexpressibly bad. As I take pleasure and pride in all newspaper enterprise I enjoyed reading these accounts of my taking off, as I did some letters of condolence which came by mail. While I am sincerely grateful for the apparently renewed lease of life, I regret that my newspaper friends who prepared portraits and elaborate obituaries have had so much labor in vain. I have not yet seen the elaborate obituary prepared for my own paper by one who is a member of this club, but he has informed me that if I shall ever read it he will certainly get a liberal raise of salary.

Afflictions have their uses as has been taught in all the varied history of mankind; and with my recovery from a most critical illness I will carry with me to the last hour of my existence the most grateful memories, not only of the personal devotion of physicians who were friends and of friends who were not physicians but of the many from whom I had no reason to expect such expressions of sympathy and interest. These things have come to me as the sweetest incense of my life. I have long striven to think well of mankind, but this lesson has taught me that I fell short of the full measure of justice. I must say that man is juster, kinder, better, nobler than I ever knew before, and we ought to forget the exceptions when inhumanity breaks the rule.

During my long illness every day brought new evidences of the ceaseless kindness of friends, and not only of friends but of many others whom I have not seen and may never know. In the conflicts of the world we often have earnest struggles over differences in politics, business, religion, and all the countless things of this material life,

but when sorrow comes to any the manly foe is ever kind and gentle, and performs all the offices of humanity which come from the better angels of our nature.

I know that I have been spared to you only to wait until the shadows are a little longer grown. I am not of those who struggle to lag superfluous on the stage. We often speak with sorrow of those who fall untimely, but we too often forget that many linger too long. It is not a question of years, for even the young may be old and the old may be young, but while there is warmth of heart and generous appreciation and enjoyment of home, of household gods, and of life, however silvered the crown, or bowed the form, or halting the step there is everything to live for. But life is ended when heart and hope are chilled, and the offices of love are stranger to the being. When such tarry until the light faintly flickers in the socket it is only adding weariness, sorrow and disappointment, for the dreaded end must come, and none the more welcome because it has been stayed by hapless days.

And it is best that the end should come or it would not be so. It is ordained by Him who doeth all things well, and all should accept the inexorable decree as dictated by mingled wisdom and mercy. The poet has well expressed it—"That must be somehow best that comes to all." This life is but the threshold or vestibule of the greater life that follows, and the ending of a well spent life is simply the promise of a better one beyond. I am glad indeed to be with you again to-night, and I shall feel hereafter when we are called upon to drink and sing to the memory of the last departed brother, that there is new meaning in our earnestness and good cheer.

HUMOROUS AND SATIRICAL.

Humorous and Satirical.

Mr. McClure's versatility as a popular speaker would be imperfectly presented if extracts were not given from a few of his many off-hand humorous and satirical addresses. There are only fragmentary records of them in newspaper reports, but they have preserved enough to show the keenness of his wit when occasion called for it. We have secured five extracts from such speeches and give them precisely as they are reported in the newspapers without any alteration other than the revision of accidental errors. Most of them are partisan in tone, and the asperities which inspired these flashes of humor and satire have long since perished, but the portions of the speeches given are well worth preserving in permanent form not only for the lustre of their pungency, but for the singular and now almost forgotten intensely partisan and personal issues which called out such expressions.

The address delivered before the House of Representatives in the early morning hours of April 10, 1873, attracted attention not only at home but abroad, the full text of it having been reprinted in the London *Times*. Mr. McClure was then a member of the Senate, elected as an Independent Reform Republican, and he did not affiliate with either of the old parties in that body. He passed many reform measures in the Senate, especially relating to Philadelphia, generally without opposition, as the opponents of reform in that body well knew that the

House would defeat them, and the discussion of them in the Senate was somewhat dangerous. As a rule, therefore, Mr. McClure's reform measures were passed in the Senate by a unanimous vote, and turned down in the Republican committees of the House by an equally unanimous vote. At the close of the session of 1873, after the midnight hour, when both branches were in session solely for the purpose of receiving conference reports, and when fun and frolic ruled among the gravest legislators, Mr. Brockway, a Democratic member of the House, offered a resolution in that body for the appointment of a committee to invite "Hon. A. K. McClure, the Reform Senator from the Fourth District, to address the House on the subject of reform." The resolution was passed with a hurrah, and Messrs. Brockway, Josephs and Tittermary were appointed a committee to proceed to the Senate and bring the Reform Senator before the Commoners. The Senate was then in session, but had no business before it, and Senator McClure had been called to the chair when the committee appeared in the Senate and announced its mission. The chairman of the committee announced its purpose to take possession of the Senator and bring him before the House, and the committee proceeded to the chair of the Senate without waiting for any response from the presiding officer. Senator McClure saw that he must either go or have a scene that might reflect on the dignity of the Senate, and without adjourning the body he rose and accompanied the committee to the House, and every member of the Senate followed, expecting that there would be an interesting entertainment. When Senator McClure appeared in

the House he was greeted with a volley of paper missiles and bill files, but he ran the gauntlet without flinching, and was delivered to Speaker Elliott, who was presiding over the House, and who received and introduced the Reform Senator. His speech is given precisely as it was delivered, having been taken stenographically, and it was listened to with the most profound silence, although the House had been riotous for hours before.

The speech delivered by Mr. McClure on the fifteenth of December, 1873, the night before the election by which the new Constitution was adopted, is worth preserving, as it presents with mingled humor and satire the attitude of party leaders in that memorable battle. Few of the present have any knowledge of the desperation of that contest and the means employed by the worst political elements to prevent the adoption of the new fundamental law.

The extract from the speech on the Union League and Grant, delivered on the twenty-sixth of June, 1872, is well worth preserving as a picture of the political situation at that time, as it presents a clear view of the inside political methods, and it also recalls the now almost forgotten issues which led to the Liberal Republican movement in 1872, that did so much to recall the Republican party to higher aims and efforts. It was in that campaign that Mr. McClure accepted the responsible position of chairman of the Liberal State Committee, and devoted his whole time to the contest although entirely without ambition for individual advancement. He believed Republican reform was a supreme necessity, and he battled for it with all the earnestness of his nature. He was not

among the disappointed when Greeley was overwhelmingly defeated, as he believed that the battle made by the Liberals in 1872 could not but be productive of the best results in elevating the standard of Republican faith and action. The speech delivered in Reading on the twelfth of September, 1872, was one of the happiest efforts of the campaign, in which he groups the bolters of that period in the most delightful free lance way, and none of the readers of to-day who can recall that memorable campaign will complain that the picture is overdrawn.

The last of these extracts given is his defiant answer to the political leaders of Philadelphia who, but a few days before the election, published a formal charge against him and the late Samuel J. Randall, who was chairman of the Democratic State Committee, accusing them of complicity in the distribution of false naturalizations. That the charge was made with the entire knowledge of its falsity was not doubted by any intelligent person, but it was made chiefly to cover contemplated frauds by the opposition. As the charge made against Mr. McClure, if true, exposed him to severe penalties as a criminal, his answer was naturally looked for with interest after the accusation had been made public. It is simply in harmony with all his public addresses when called upon to meet an emergency. It furnishes a complete mingling of the most manly defiance and pittiless invective, and his challenge to his accusers, who controlled every channel for the punishment of crime, could not have been more heroic. It is needless to say that after the election no attempt was ever made to sustain the grave charges, and one of the Philadelphia journals that had sanctioned the

accusations when first made public, was sued for libel by Mr. Randall, and finally escaped punishment by an unqualified retraction of the falsehood. This speech is worthy of record, not only because it shows the aggressive methods of Mr. McClure on all public occasions, but because it presents the peculiar condition of political authority in Philadelphia at that time. The fact that these addresses are all partisan does not detract from their interest at this time. On the contrary it increases their value, as they preserve a record of political conditions which are now almost forgotten.

THE HOUSE ADDRESSED ON REFORM.*

MR. SPEAKER AND COMMONERS OF THE STATE OF PENNSYLVANIA :—I thank you for the distinction you have conferred upon me by your invitation to address you on the subject of reform. I know of no other body of men, either of the present or past, that needed instruction on the necessity of both public and private morality so much as the House of Representatives of this State now before me, or that has so broadly or deeply experimented in the line of individual and official profligacy.

I am not surprised, however, that it is so when I consider that of the members serving in this House from my immediate locality many were not even nominated, and few, if any, were ever elected. I sent you reform bills which cost me many days of anxious thought and labor to perfect, but you danced not when I piped to you, neither did you weep responsive to my mourning over the degeneracy of the body politic. I must admit, however, that you were prompt executioners, for every bill that looked toward reform was negatived with a yell as fast as the rules would allow.

But in political, as often in moral and religious cycles, the darkest hour is just before the dawn of day, and it is gratifying that after you have consummated all the harm you can possibly inflict upon the State, you have by a unanimous resolution called the confessor. It was well to pause thus, just for the sake of novelty or reference, so

* Delivered before the House of Representatives, Harrisburg, April 10, 1873.

that when the tempest breaks you can point to this becoming act of contrition for the wrongs done to your constituents and to the Commonwealth.

Most of you who have for three months been serving in the places to which other persons were elected by the people, have discounted the retributive wave of popular reprobation by creating offices by legislative enactments to which you hope to retire, and those unprovided for hope to be placed on the indefinite pay-roll of the pasters and folders of the House, in accordance with the prevalent custom here to pension decayed statesmen. That you seek liberal counsels to have good sown in the chaos of virtue that confronts you is a hopeful sign of the times, and if you do not cheat us more than 30,000 in Philadelphia next fall, the places that know you now will know most of you no more forever.

But I turn to the faint silver lining on the deep cloud of your record. One act of this House gladdened the hearts of the whole people of the State and reinspired hope throughout the length and breadth of the Commonwealth. I refer to your vote in the midst of disorder, that at a Philadelphia fire would be called a riot, on Monday evening last, fixing an early day for your final adjournment. I have heard of no citizen of the State who did not heartily approve of that act. I am happy to point it out as the oasis in the withered desert that you have made about you, and to accord you credit for it. Hoping, gentlemen, if I may be pardoned the use of the term, that the length of your lives may correspond with the measure of your virtues and that you will be succeeded by better men than yourselves, I bid you good night.

WHO OPPOSE THE CONSTITUTION?*

Who oppose the new Constitution? Mr. Gibbons finding it impossible to defeat the Constitution among the living, was wandering among the graveyards, when last heard from, invoking the ghosts to join in the crusade against reform. He has discovered that a railroad will run through every cemetery if the new Constitution is accepted, and he rattles the dry bones and ghastly skulls of the charnel-house to inspire his death-stricken followers. The man who said he had sixteen reasons why his witness was not in court, the first of which was that the witness had died, was told that he might omit the others. Had Mr. Gibbons just mentioned the one fact that he is the author of the registry law, his other half score of reasons for opposing the Constitution could readily have been dispensed with. The one reason, and the only one he was most careful to suppress, would have told the whole story, and made him consistent, if nothing more. Kemble insists that the new Constitution will tax everything, from the Lord's prayer to a pike-staff, and writes jolly letters now and then to give any other than the real purpose he has in opposing it. Thirty lawyers, most of them mourning over the dissolving view of fat audits: a few office-holders whose names could be ventured before the public; publishers who contract their political opinions for the patronage of Row offices and allow a liberal drawback to their employers, and several others who are always in favor of reform but opposed to its execution, have signed an address appealing to the people to vote

* Delivered at Holmesburg, December 15, 1873.

against the new Constitution. It was a huge task to get up the seventy-odd names, and it required City Solicitor Collis and his assistants two weeks to get the paper in a presentable shape. It involved two difficulties—first, to get respectable names on it, and second, to restrain the ardor of the reliable opponents of the Constitution and keep their names off it. An hundred names could have been had in an hour at the "Pig and Whistle" or at any of its kindred political headquarters, but they are not gunning for that kind of game, and the supply from which a selection could be made was exceedingly limited.

The signers admit that the new Constitution "may contain many wise reforms," but as they have only had a "few weeks" to pass upon it, and as they looked only for its "serious defects, inconsistencies and omissions," they do not believe that they will have time to look into its advantages until after the election. I am most happy to assure them that they will have ample time to examine the good features of the instrument after the election, for it will be adopted by an overwhelming majority, and they can have an average lifetime to consider and enjoy its beneficent reforms. Of course my esteemed old friend Eli K. Price is in the front of this movement. The rings were short in figure-heads, and they took him. The man who read his numerous letters against the Constitution is reported to have died under the operation, and Mr. Price had to resort to associated effort to get his seventeenthly before the public, with the hope of having it read by any one but himself. He has a right to oppose the new Constitution, for the good reason that he did not make it. He came very nearly being its father, but in a capricious moment Dame Democracy married the other fellow, even after friend Price had the Reform wedding garment on; and, under the circumstances, he is entirely right in refusing to be kissing other people's children, which should have been his own, no matter how comely

they may be. When he got the Reform nomination for delegate to the convention, in the First District, he was in favor of honest elections, of restricting our disgraceful legislation, and of regenerating our municipal authorities; but when the Democracy refused to ratify the nomination, and the veteran Reformer who went wooling came home sheared, the case being altered, altered the case, and now he won't take the new Constitution from alien hands—not if he can help it.

With him, in close order, are our highly respectable fellow-citizen, Mr. John Welsh, and that gallant old tar, Mr. A. E. Borie. They are the front of the motley throng that is worshiping at the shrine of opposition to the new Constitution, while "Bunn's Election Circus" is the bone and sinew of the movement. It will exhibit to-morrow in this city as a great moral show, underwritten by these reputable names, and return an immense fraudulent majority against reform. These excellent gentlemen have in times past volunteered to teach us that reform was a paramount necessity; that election frauds had become intolerable; that dishonest and incompetent men had usurped our political control. They are all sufficiently intelligent to know, and the whole community will note the fact, that their reputations are flung out by bad men as a shield for a fresh and perhaps an unexampled pollution of the ballot in Philadelphia. When the soldier and the chaplain met in an army groggery down South during the late war, the chaplain asked: "To what command do you belong?" The soldier answered: "To the Twentieth New York—to what do you belong?" The parson, assuming all possible clerical dignity, said: "I belong to the Army of the Lord." "Well," said the soldier, "it seems to me that you have got a mighty distance from your army headquarters." Considering the purpose to which the names of our respectable citizens are to be prostituted to-morrow, will not the people think that, as

Reformers, they have got a mighty distance from their army headquarters? They are but the "Quaker guns" of this battle, and are allowed to display a little on the outposts, but the real battle of to-morrow will be fought behind them by systematic pollution and fraud.

Has it ever occurred to these gentlemen that the people of Philadelphia are turning their eyes from the miserable hired ballot-stuffers and forgers of returns to the men who shield crime with reputable names, and pay the price of our degradation? Will they not learn, until the evil day comes upon them, that when the aroused majesty of the people arms itself to destroy those who have defied the public will and mocked the laws, the most pitiless contempt of the community will be reserved for those who lent honored names to protect dishonored power. True, the Union League may be counted on for certificates of character to such unfortunate brethren, but it is not the Union League of other days, when the most beneficent and patriotic deeds were to be performed. The Mysterious Pilgrims have come upon it, as the unknown barbarians swarmed from the Northern forests upon Rome, and they have erected their strange altar in the inner temple. "John P. Verree went back on us!" was the Pilgrim battle-cry. He had refused to appoint any but honest election officers, and that was an offence for which there could be no forgiveness. They therefore invaded the League, erected their whipping-post, and, in presence of the dumb multitude, lashed him out of the organization because he dared to be just. Whether the Pilgrims have swallowed the League, or whether the League has swallowed the Pilgrims, or whether both are engaged in the laudable effort to swallow each other is a problem I cannot solve; but certain it is that the League can now soar no higher than the Pilgrims, and the Pilgrims cannot get below the level of the League. Every foe of the new Constitution has been met and vanquished, excepting fraud, and it will die only in the midst of its fallen worshipers.

THE UNION LEAGUE AND GRANT.*

FELLOW-CITIZENS:—I learn from the newspapers that I am partly or fractionally committed to the support of Grant in this campaign, and that I owe divided or double political allegiance. I am a long time member of the Union League, and I see by an account of what purports to be the action of that body, that we are unanimously for Grant. Hundreds of its members will be surprised to find that they do not know their own political convictions or their Presidential preferences, and they may be amused as well when they understand that less than one in thirty of the members participated in that momentous deliverance. It was a happy imitation of the two celebrated tailors of Tooley street, London, who held a mass meeting and prefaced their resolutions with "We, the people of England," etc. I would not speak irreverently of this important organization, part of which I am myself. We, of the League, do not speak as common men, nor do we pass common resolutions—in our own estimation. It is wonderful how we have directed great events, particularly after their inevitable direction was palpable. We declared for the renomination of Lincoln whenever his renomination was secured beyond a reasonable doubt, and thereby Lincoln was made our candidate in 1864. When Johnson's betrayal of the Republicans was pronounced perfidious by the unanimous vote of the Republicans in Congress, we unanimously resolved that the country was betrayed. When Grant, after much hesitation, decided that he would prefer the Republican to the

* Delivered in Morton Hall, Philadelphia, June 26, 1872.

Democratic nomination for President, and his nomination was so clearly accomplished that he was without a competitor, we solemnly declared for Grant, and thereby nominated Grant in 1868. It was therefore eminently proper, and due to our own consistency, that as soon as thirty of thirty-seven States had unanimously instructed for Grant's renomination, we should at once give proper direction to public sentiment on that subject by unanimously declaring that Grant should be renominated. We did so, and the question was settled—Grant is the Republican candidate for 1872.

It is true that in some of our deliverances we have not been altogether fortunate. We once tried to do and say something original in politics, and it was a misventure. But what great warrior did not lose some battles? What statesman has not sometimes erred? What great element of power has not now and then failed in omnipotence? After contributing largely for a long time to debauch our politics, we resolved to regenerate and rejuvenate our political system. We marshaled our committee of fifty in battle array, and notified the scurvy politicians by solemn proclamation that we would smash their slates and rings, and hereafter make only respectability, according to our own high standard, eligible to office. We proclamated, carved our canvas-backs, and flashed our wine over the victory we had achieved over the small politicians, but by some remarkable oversight the rings went on, and the slates went through just as before. We then unanimously resolved that politics was no longer our mission, the good sense of which startled the community; but as we have now unanimously resolved that we were then unanimously mistaken, we have justly escaped the hasty suspicion that years and experience had brought us wisdom.

We had great expectations from the present administration. We had given freely of our money and respectability —what we most possessed—for houses, endowments and

status for the President, and not less than a score of us expected to go into the Cabinet, and as many were confident of Foreign Missions. We dined the man we had made President in our inner circle, but he was unappreciative. He appointed the only one of us who felt and frankly admitted that he had no fitness for the place, and our expected missions wandered hither and thither, flitting by us like the mists of the morning. But we were not always to be neglected. After everybody else had got what they wanted, a second-class mission was awarded us, and the winter of our discontent was made glorious summer. We banqueted, resolved and proclaimed that, while none of us wanted office, we were nevertheless most thankful for any small favors in that line, and hopeful that they would multiply. We now favor a reorganization of the Cabinet and diplomatic corps under the next term, and will be likely to hit the mark about where we missed it before.

And we have even gone farther. We proposed to take the Vice-Presidency, but our slate never reached the measure of importance that entitled it to be smashed. We had a very classical essay prepared, and published in the journal of our honored President, demonstrating to a mathematical certainty, I am told, that Pennsylvania must have the candidate for Vice-President. In order that the public might ascertain that such an essay had been printed, it was carefully advertised by abstract through the Associated Press. It is said that it did not name the honored son of our State who should go on the ticket to carry Grant through—the constitutional modesty of the president of our League forbidding that the name should be given in full in his own paper. When the rumor reached the people that the second office was to be claimed for Pennsylvania, but one name leaped from their hearts to their lips, and that was an unwelcome one. Absence and distance had failed to make them forgetful

of the cherished leader whose tall plume had been their battle flag when they struggled for their soldiers, their homes and their country. Finding that we could not get the Vice-Presidency, we unanimously resolved not to take it, and the convention very cordially agreed not to give it to us. The Pennsylvania delegation to the convention was subjected to various pressures of venality and ambition on the Vice-Presidency, but the only thing they could agree upon was that her delegation was eminent mainly for befouling her own people. In caucus Mr. McMichael recited his newspaper essay in favor of a Pennsylvanian, but again forgot to name the man, and a remarkable coincidence was that everybody else forgot to name the man he expected to have named. My worthy friend McMichael forgot to suggest McMichael, and the name seems not to have occurred to anybody else. Finally, in despair, the delegation resolved to go for Wilson. Our justly honored president of the League made a speech reflecting the decision of the delegation. It was as logical as brilliant. Its eloquent and impassioned sentences proved conclusively that Pennsylvania should have the Vice-Presidency, and could have the Vice-Presidency, and that only in Boston had the proposition been met with sneers and derision; therefore, in vindication of the conceded claims of Pennsylvania, and to resent the insolence of Boston newspapers, he nominated Henry Wilson, of Massachusetts, for the position. It was once said that the two greatest men Pennsylvania had ever produced were Benjamin Franklin, of Boston, and Albert Gallatin, of Geneva; and Mr. McMichael had doubtless remembered it, and as Pennsylvania was now undisputably entitled to the Vice-Presidency, he borrowed a Massachusetts statesman to fill the bill. Of course he complained about it, as he had a right to do, and as our wounded League pride required; but his complaints were confined solely to the strictly confidential columns of his own journal. "The

petty selfishness of factious cliques" was declared to be the great obstacle to our "more honorable ambition" in the matter, and, of course, we of the League had to defer. The "factious cliques" rule our roast, our "more honorable ambition" must foot the bills, and the rings will get away with the honors, as heretofore.

The National Convention came and was well attended. Every leading department at Washington, every revenue district, and every prominent post-office were faithfully represented. The carpet-baggers came fresh from the States they had confiscated and desolated, under the protection of enforcement bills, martial law, and bayonets, and were enthusiastic for Grant. One term more of centralized government at Washington will satiate their appetites, for when the credit and resources of the South are devoured, their mission will be ended. The colored carpet-baggers who came in loving embrace with their pale-faced tutors in debauchery, pledged the enfranchised race to sustain them in their work of impoverishing the home of the colored laborer. Cameron sent his delegation from Pennsylvania, Conkling sent his from New York, and Morton sent his from Indiana, and they were all for Grant. Butler marshaled New England, and Chandler and Carpenter issued their orders to the office-holders of the West, and all were for Grant. Each left smothered volcanoes at home, and the feast was more notable for the absent than for the present. There was no one from New England to speak for Sumner; there was none from New York to speak for Fenton; none from the West to speak for Schurz and Trumbull and Palmer; there was none from Pennsylvania to speak for Curtin; and there was none from the whole South to speak for the Southern people. The work assigned to the convention by the administration was promptly done, and a platform, mainly of double-faced generalities, was devised and adopted. It will be proclaimed as for Protection in Pennsylvania and

as for Free Trade in the West, and each will be equally well sustained by the resolution. They eulogized the "glorious record of the past" made by the Republican party, and in the name of the imperishable monuments reared by its honest men in its honest days, they ask that the corruptionists who now rule it shall be perpetuated in power. They declare for political equality which none now dispute, and for civil service reform which they persistently and boastingly repudiate in practice. They denounce grants to corporations, in the face of the continued passage of such measures by a Republican Congress, and their approval by the President they nominated for re-election. They promise additional bounties to soldiers, but with supreme power in all the departments of the Government, they have not granted them. They pronounce in favor of protecting American citizenship everywhere, just what the administration has obstinately refused to do until Congress compelled it; and the franking privilege is denounced in a platform by men who steadily defeat its abolition in Congress. They insult labor and capital by a meaningless declaration that is "good God, good devil," so that they vote right, and they made the plundering adventurers who are now sojourning in the South jubilant by a square approval of bayonet rule and the suspension of civil authority. They recommend the revival of American commerce and ship-building, in the face of the fact that the policy of the administration has destroyed both. It was natural that they should try to defraud protectionists and free-traders, soldiers, citizens of foreign birth, labor and capital, but they should have spared their mothers, wives and sisters from an awkward insult and attempted fraud. They view with satisfaction the "admission to wider fields of usefulness" of the loyal women of the country, and promise to treat with "respectful consideration" the "honest demands of any class of citizens for additional

rights." They certainly calculated that such a resolution would never get through the chignons of the ladies, and that they must accept it as they would a "duck of a bonnet."

If they meant that women should vote, it would have been honest to say so. If they meant that she should have equal claims upon the various official positions for which she is confessedly adapted, and that fair wages should be paid for an honest day's work without discrimination of sex, it would have been manly to speak the truth. But all that struggling, earnest, honest women want is omitted, and all that is given could be said by the Sultan of Turkey as truthfully as it was said by the convention. If there is anything that the platform don't try to cheat, I cannot just now recall it, and if it succeeds in its chief purpose of cheating the people of the Union, they must have "learned dumber" with astonishing rapidity within the last year or two.

With the delegates who came to do the bidding of power, came also the distinguished orators of the party, and they were certainly all scriptural in one respect, for all with one accord began to make excuses for the administration. Morton was assigned the Herculean task of defending or excusing the shameless nepotism of the President, and he did as well as could be expected under the circumstances. He reasoned hypothetically on the principle that a battery that can't be stormed must be flanked, if possible. He supposed an unsupposable case, and then reared his apologetic argument upon the false premises. He indignantly asked why a competent, and worthy, and needy relative of the President might not be appointed to office, as well as the relative of somebody else, but he forgot to mention the particular relative of the President who is competent and worthy. It was the play of Hamlet with Hamlet left out. The omission of the distinguished Senator was certainly not for want of numbers

of the President's relatives in office, for if there are any left out, the nation has never heard of them. I judge that the list of known relatives must have been exhausted when we wanted the President to give us a day to the unveiling of the statue of Lincoln in the park. He answered from Lebanon that he would have been most happy to visit Philadelphia to do honor to the memory of Lincoln, but for the fact that he was just then in search of some relatives he had not seen for thirty-five years. I infer that the search was unsuccessful, for I do not know of any important appointments conferred upon the family since that time. He wanted no platform, renewed his apology or excuse for martial law and bayonet rule in time of peace, and returned to Washington to find that a Republican Congress was ready to repudiate the imperialism he had crowded through a convention of dependents. But he did not return from the convention without his trophies. He bore with him the scalp of Colfax, the rival whom he would destroy because Indiana has ever sustained him; and with bayonets triumphant in the platform, and his dangerous rival slain, he hastened back to the capital to find his bayonets rejected by Congress, his State alienated from his cause, and his own high office hurled beyond his reach by his victory of despotism, jealousy and hate.

Logan came fiery as the untamed steed, and with martial bearings and studied eloquence he boldly defied his consistent utterances of the last two years. Washington has resounded with his tireless denunciation of the nepotism, incompetency and vindictive malice of the President; and thousands, more slow to believe, but more faithful to themselves and to truth, have learned from him that only by a change of administration can we secure an honest and honored government. The President accused him of ambition beyond his merits when a candidate for Senator before the Illinois Legislature, and opposed his election. Logan accused the President of unfitness for

power, and defeated the administration by his triumph. I concede that both were probably right, and I will do both the justice to say that neither has changed his opinion, however they may appear in the play. Logan taught Republicans that the Cincinnati Convention was a necessity, and until it nominated another than Logan, his wrath was directed solely against Grant. But a few weeks before he came here with his series of apologies for the President, he had aided in preparing an appeal to the soldiers of the country to resist Grant's election. His brave companions of the field who started with him in the effort to redeem a nation from despotic misrule are still at the front, while he has gone to the rear to revel in the baggage train. Has Grant, in so short a period, become a better man? or has Logan fallen to the low estate of his despised ruler? That he should have ready excuses for his newly accepted chieftain will surprise no one. He apologized, defended and extenuated with the ardor of the orator; but who believed the teacher or accepted his faith? The brilliant Oglesby gave us polished rhetoric with all of Western earnestness and skill, but while he promised success, he trembled for his own candidacy and State—until now the banner Republican State west of the Alleghenies. With them were lesser lights of every shade and type, from the heroes of New York Custom frauds, to those who spoke for the skeletons of States they are still dissecting in the South, and when all had made their excuses, their work was finished.

THE GRANT INVESTMENT IN BOLTERS.*

This is a healthy year for bolters, and as bolting is always healthy for the body politic, the signs of the times are most propitious. A whole national convention, with delegates from every State, and many of the ablest statesmen of the nation, bolted from the Grant party at Cincinnati. They did not bolt from their Republican convictions, but they bolted from the personal rule that has so deformed Republicanism that independent and honest men cannot recognize it as the same party whose noble achievements of the past have written the brightest pages of our history,

With them, as of old, came Satan also. Men with dreams of ambition, or personal ends to serve, found that they had mistaken the purpose of the body, and they bolted a bolting convention. One who presided and made the first utterance, informed the delegates that "in every department of the Government the slow poison of corruption seems to have pervaded the whole civil and political administration of the country from head to foot." But the idol of his faith was free trade, and, as the convention bolted free trade, he was left shivering outside, and he bolted by the mere force of political gravitation. Having thus bolted, he at once became a patriot in the estimation of the administration he had just denounced as a running sore of corruption, and his professional services just then happened to be needed by the Government. Thus persuaded, professional gravitation landed him in the arms of Grant. Before the Cincinnati Convention

*Delivered in Reading, September 12, 1872.

met he stated in a letter to a friend that he would cordially support Mr. Greeley if nominated. After the convention he went wooling, and was met with plentiful flocks. Judge Stanley Matthews, of Ohio, will recognize this portrait.

But the great Cincinnati outburst of bolters, like the outbreak of long-smothered currents, sent petty streams and sprays in all manner of odd directions away from the tidal wave, and each one seems to have become ambitious to be a flood of its own. Cameron and Tweed, and Morton and "Brick" Pomeroy, and Butler and Mosby, and others of like pronounced patriotism, hastened to water the multitude of infantile floods that have jetted off from Cincinnati, and they were finally all turned toward Gotham. Many were the prayers and tender was the solicitude that came from Administration circles in behalf of the bolting political waters. But there was one grave miscalculation made by the Grant leaders. There were some honest bolters from the Cincinnati bolt, and all men were not for sale. The result was that honesty bolted again from the bolting bolters, and the remnant again bolted from each other. One distinguished bolter bolted off and gave out a platform of his own. Mr. Godwin started in his bolt against brave odds—something over six millions to one—and naturally enough, he finally bolted from himself. A small remnant made a declaration of principles and nominated Mr. Groesbeck for President; I forget who for Vice-President. A committee was appointed to notify the nominees, but the committee bolted before they found the candidates, and the candidates bolted over to Greeley. So ended the bolt from the Cincinnati bolters. The Grant party came out minus all the capital and trouble it put into the concern, and it needs no figures beyond a cipher to state its profits.

But the Grant leaders would not be discouraged. Cameron and Morton and Butler, in their early religious

studies, had read in "Pilgrim's Progress," or in their primers, that in some lexicon there is no such word as fail, and they resolved not to fail. They had contracted for a bolt; they had paid for a bolt; and a bolt they must have. If not a Liberal bolt they must have a Democratic bolt, and thereupon Mosby was welcomed to the hospitality of the White House. The warriors met and were fraternal. Mosby differed from his brother hero in that he was honest. He went home for Grant and told his people that he preferred to deal for immediate delivery, and that Grant was his man. Mosby bolted, and the first fruits of the weary efforts of the Administration were gathered in unspeakable joy. The antediluvian Wise bolted with him for the one hundred and nineteenth time in his life, and will bolt every fortnight until the election; but it was an emergency that forbade ceremony or inquiry, and he was welcomed.

Then came my old friend Blanton Duncan. His contract was stupendous. He had made a mistake in Kentucky and got on the wrong side of the war. He was so defiantly and offensively rebel that his fine estate was confiscated under the laws, and he had to choose between supporting Grant or bankruptcy. Not that he loved Grant more, but that he loved poverty less, decided his political status, and he assumed the contract of defeating Mr. Greeley at Baltimore. He got his estate back through Butler's championship in the House, and Grant's approval, but neither floods of franked circulars, nor ceaseless importunities, nor prayers, nor tears, nor offices, nor contracts, nor all together could turn the Democratic Convention from its purpose. Brick Pomeroy was by his side, and he blasphemed boldly, while Duncan begged piteously; but none trembled or followed him. Not a delegate from any State could be got to bolt, and Duncan and Pomeroy, and a half score more employed with them to divide the convention, had to improvise a bolt of their

own to make the appearance of earning their pay. They met and stared at each other, and soon bolted over to the next day to hire recruits from idlers and boys. Again they met, and finding that they would soon all bolt from each other, like a grindstone shivered by a lightning-stroke, they called the Louisville Convention, and then bolted back to the Administration for reinforcements of money and men. The Grant leaders at once gave notice that the weary and laden of Bourbon Democracy can now find rest. That bankrupts in politics and property can meet with a profitable welcome, and that those who are still unrepentant rebels, and who protest against the surrender of the issues of the war, can find genial fellowship and encouragement in the Administration ranks. Murphy bargained with Tweed, Connolly and O'Brien for safety to the first and honors for the last, and they bolted to Grant. The rebel General Pillow's mules taken in war were bolted into a claim against the Government, and Pillow bolted the Baltimore ticket, after which they bolted on his mules. Harris, of Maryland, who was censured by a Republican Congress for disloyalty while a member of the House, bolted for Grant because disloyalty was not maintained at Baltimore; and Brick Pomeroy and Wendell Phillips bolted together for Grant, and for the same reason. Both are lawless and revolutionary, and neither has supported a successful candidate within my recollection. Pomeroy blasphemed Lincoln and Grant when candidates before, and Phillips with equal fervor blasphemed the constitution and the laws under which they were elected. Both stumped the country, declaring Grant's intellectual and moral unfitness for the Presidency, and as usual with such chaotic agitators, when the country has reached the same conviction, they bolt in passion from themselves. And Toombs bolts and is made welcome; and Stevens bolts and is invited to the Grant feast. They bolt because Greeley was for the emancipation and

enfranchisement of the slaves, and Garrison and Douglass bolt to Grant, because Grant is more for the emancipation and enfranchisement of the blacks than Greeley is.

And we have bolters in Philadelphia, nearly one-half of one for every thousand Democratic votes in the city. They are professionals, and should be encouraged, and as they will probably bolt from and to each other forty times between this and the election, it would be unjust to them and to the public to name them now. The Administration next turned in quest of needy and seedy adventurers to hire for the bolt to Louisville. The postmaster at Washington, Mr. J. M. Edmunds, who is also Secretary of the Grant Congressional Committee, issued the following circular, and sent it out to Grant postmasters, under frank, to be delivered to any one who would go to Louisville and accept pay for his services :

WASHINGTON, D. C., July 30, 1872.

DEAR SIR :—Please send the enclosed circular to active Democrats in your district who do not support Mr. Greeley and will co-operate in the Louisville Convention. Send me a list of such men in your county immediately.

J. M. EDMUNDS, Secretary.

By some mistake one of the circulars came to me and I concluded that, as looking after political conventions this year is my business, I would help Grant's postmaster and secretary to distribute his documents for the Grant side-show at Louisville. I accordingly sent a gentleman to see Mr. Edmunds, and to inquire how the Louisville movement might be promoted. As it had no party at all to back it, it was exceeding sickly and needed nursing. Mr. Edmunds was waited upon at the Grant Committee headquarters in Washington, and "he smiled so childlike and bland," that my friend was for a time bothered whether Grant was to be for the Louisville ticket, or whether the Louisville ticket was to be for Grant. The

valiant postmaster had documents by the thousand, teaching the true Democratic pathway, and he gave them out with a lavish hand.

Here are two of them. These two documents, (the speaker presented two franked envelopes) were received by my friend from Mr. Edmunds in person, at the Grant Committee headquarters in Washington, and the pamphlets now in them were in them when Mr. Edmunds delivered them. You will observe (holding up the envelopes), that one is franked by Senator Harlan, of Iowa, and the other by Mr. Foster, of Ohio. I will read you the first paragraph of the pamphlet the envelopes cover. It is as follows:

DEAR SIR:—Will you be kind enough to place this circular in the hands of active Democrats in your county, who will at once commence an organization for the purpose of supporting the principles of our party, as they will be proclaimed by the convention at Louisville, September 3d.

It is a long circular, and is signed Blanton Duncan. His circulars were printed by the Administration, at the Government Printing Office, folded by Government officers, franked by clerks who forge the names of Senators and members by contract, and circulated by postmasters. All that could be done on paper was thus done for the Louisville Grant show by Government clerks and dependents. But there were other and mightier duties to be performed to make the show prosper. It must have money, it must have banners, it must have bands, it must have transportation and it must have bummers hired to swagger and swear that the Democracy can't be sold out to Greeley. It required a Grant quartermaster, a commissary officer and a paymaster.

Notwithstanding General Cameron's unsophisticated habits and tastes touching quartermasters, paymasters and baggage masters, he was selected to run the several

departments of this State. He called Revenue Officer Errett, the chairman of the Cameron-Grant party of this State, and gave him general command, with instructions to enlist all stragglers about every camp, and to send them free to Louisville. Mr. Errett answered his chief that tickets cost money, and he had not the cash just at hand. He reported that he had a delegation mustered in for ten days, and as long thereafter as pay and rations could be kept up, but that they must have transportation. It was promptly furnished by Cameron. A relative of President Grant engaged a band, and all went to Louisville merry as a marriage bell.

The convention at Louisville opened rather inauspiciously. Instead of beginning with prayer, as is usually done, Mr. Blanton Duncan opened it with a bar-room brawl, in which he probably would have whipped the other fellow if the other fellow had not very promptly whipped him. And while the chivalrous Duncan was accepting a flogging in Louisville, one of the hopeful brothers-in-law of the President opened the ball at the other end of the line by clubbing an editor who was bowed by the frosts of sixty winters. The preliminary skirmishes being over, the immortal Duncan called his warriors into council and informed them of their duty. He told them how much he had not received for not selling out to Greeley, and how many millions it would require to transfer his Falstaffian army to either side.

A Virginia antediluvian, who had been tenderly rocked in the resolutions of '98, presided, and the program was proceeded with according to contract, as rapidly as could be done, with some appearance of deliberation. Now and then a delegate who had been captured and enrolled without bounty would attempt to speak his own thoughts, but he was out of order. Train flashed upon the gathering like a full moon upon a pile of stale mackerel, and not being commercial in politics, he was driven from the body.

Finally, the ticket contracted and paid for by Cameron, Tweed, Morton & Co., was nominated and it would not stand. O'Connor had convictions of his own, but he was not for sale, and Adams would die only in the arms of O'Connor. As there were no residuary legatees contracted for in the shape of candidates, the contractors were brought to a stand. It was O'Connor and cash, or nobody and nothing and the convention broke into disorder at the prospect of losing their wages.

In a lucid interval the venerable antediluvian from Virginia, who was in the chair, was unanimously declared nominated for President; but there was nothing in it, and it was called a joke. It was natural that so serious a calm as followed the declination of the candidates contracted for should be succeeded by comedy. If cash was to be denied them, they would have their fun, and they joked Lyons on the ticket. But men cannot always joke. Jokes won't pay grocery bills or clothe the baby, and soberness returned to the remnant of the contractors. Many left in disgust to save hotel bills and gave their proxies to Duncan; but the convention, finding that the contract was about to fail, avenged themselves on their chief contractor by denying him the right to cast votes for those who had concluded they were missed at home.

Finally, in utter desperation, the contractors again nominated the only two men they knew would not accept, and in haste rushed for their homes and the paymasters. A convention of employed adventurers without a constituency, fitly closed without candidates, and now it has dissolved among the people, and is like a twice-told tale. It has made all previous bread-and-butter conventions and brigades measurably respectable, and has given the country the lowest depth of political chicanery that has ever been sounded.

The country will well note the fact that from but one source does encouragement come to the restless, faithless

men who refuse obedience to the now irrevocably settled issues of the war. When all parties and all sections have yielded a sincere obedience to the logical results of our late conflict, the Grant administration has the only proffer of welcome and encouragement for unrepentant rebels. Toombs, Stevens, Wise, Harris, and their few associates, who continue the war against fate, are flaunted before the public through Grant journals, with editorial plaudits, and they are cheered in their professed devotion to the "Lost Cause" only by the Grant party, and none have been deceived by the enlistment of Tweed, Pomeroy, Connolly and O'Brien in the grand Louisville movement.

It was as much the movement of Cameron, Morton, Conkling, Chandler and Butler as was the Philadelphia Convention, and Grant managers undisguisedly drummed up its pretended delegates and paid the bills. It is a fitting crown to the bold monument of Administration debauchery, that the few blatant traitors of the South and the discarded Tammany municipal harlots of the North should rush to the Grant ranks to find genial and abundant championship in death.

DEFIANCE TO RING POWER.*

Just as this fierce contest against unexampled fraud is about to close; just when we had for months given our undivided energies to arrest the pollution of the ballot-box, we are met with the accusation that I have been planning a campaign of fraud myself, and have been conspiring with Mr. Randall and Alderman McMullin to circulate, for fraudulent use, false naturalization papers. When it is considered that every department of power—police, political and judicial—is in accord with the Republican organization; that it has boundless means and numberless experts to shield itself from fraud; that it has usurped and monopolized every channel through which illegal votes can be polled, and that it jealously guards its peculiar prerogatives, it will require very conclusive evidence to convince the public that counter frauds have been attempted by those in responsible position on the Liberal side. They must in this case first prove conclusively that I am a fool before they can get a foothold to prove that I am a scoundrel. I don't think that any of my accusers, all of whom got into uncomfortably close quarters with me in the skirmish in the Fourth District last winter, will insist that they can establish the first proposition—indeed, most of them, in this age of forced certificates of character have voluntarily testified otherwise, and the bungling way in which they try to prove me a conspirator to pollute the election would disgrace the school boys of the Ring repeaters. Here is the basis

* Delivered in Germantown October 5, 1872.

of the charge, in shape of what purports to be a letter addressed to me by Mr. Randall:

A. K. McC.:

See McMullin to-day. He has all the naturalization papers. It is vital they should be in hand at once. Meet me to-night.

SAM. J. RANDALL.

If this was a genuine letter, it would not even give reasonable evidence of intended wrong, but as it is a deliberate forgery, I don't know whether most to complain of the forgery itself or of the stupidity with which it has been fashioned. It would have been no worse to make a plausible, ingenious falsehood, than to make a bungling one, and I must confess that it is the best evidence I have had lately that the Ring leaders in their trepidation have lost their cunning. The pardon of Yerkes by contract, to procure a certificate of honesty for their candidate was, I thought, the sublimity of stupidity; but to forge a meaningless letter, without proof to connect it with actual or intended frauds, is the last confession of the demoralized Ring that their cunning has forsaken them in their dire extremity.

Let me say here, that every material part of the address issued from the Hartranft Club yesterday, so far as it relates to myself, is wholly false, and I am compelled to say more—the men who issued it must have known that it was false. If they even believed the letter genuine, they stated what they knew to be untrue when they proclaimed that they had "positive proof" that two others and myself had "planned" a "conspiracy" to circulate and use fraudulent naturalization papers. The address is, therefore, so far as I am concerned, false in every accusation, and the letter on which it was founded never was received or heard of by me. Had I received such a note from Mr. Randall, I would not have understood it; for we never, either directly or indirectly, conferred on

the subject of naturalization papers of any kind, and I have not had any communication with McMullin on politics since the campaign opened, excepting once, when he came with a committee to arrange for a meeting at Concert Hall. And Mr. Randall is equally emphatic in his denial that he ever wrote, or conferred with, me on the subject. The letter is given without heading or date, and lacks even the ordinary marks of genuineness. It has the appearance of having been hurriedly or carelessly written, while it is claimed as the key to a stupendous fraud.

I might say here confidentially that both Mr. Randall and myself have understood from the start that thieves beset us in the pay of the Rings; that forgery was at hand whenever needed by the Rings, and that perjury can be had by contract at any time to serve their purposes. When we have had anything of moment to consult about in this campaign, we have consulted personally, often meeting half a dozen times a day for the purpose, and both have had trusty messengers to deliver verbal communications besides. We knew that we were well watched by men who know all about frauds, from personal and long practice, and we did not correspond on any matters of moment.

But who makes the accusation? When evidence is doubtful the people look to the source of the accusation and to the possibility and probability of the accused doing what is charged. The address comes from the headquarters of the "Hartranft Central Club," just where the repeaters came from in the special Senatorial election last winter. And who have assumed to investigate and accuse? Let us look at the names: Tax Collector John L. Hill, High Sheriff William R. Leeds, City Solicitor Major-General Charles H. T. Collis, United States Marshal James N. Kerns, and District Attorney William B. Mann. These men sat in grave council yesterday,

with Mayor Stokley, and deliberated most of the day how to avert this stupendous fraud.

Of course the public will know that such a body of men, closeted a few days before the election, could mean nothing else than to defeat fraud, for any and all of them would recoil from fraud as they would recoil from pestilence. Mayor Stokley is an honest man, for he has said so himself, and he ought to know, and no one would for a moment suppose that the others would tolerate a fraud upon the ballot-box. Indeed, the wonder is, that this conclave of election "innocents," the wonder is, I say, that these models of unsophisticated political purity ever got election frauds into their minds. Certainly Tim Reilly or Dan Redding must have told them that the letter meant to pollute the election, or they would doubtless have thought of anything but that. How the public will rejoice to learn that this committee of stainless office-holders, who perform the most arduous duties with little or no pay, "have taken measures to thwart the operations of these conspirators," and are "making preparations to arrest the progress of this nefarious work." The broad shield of these faithful officials has been thrown over the purity of the ballot-box, and the people must, of course, rest in undisturbed security.

It is true that they are not as prompt in "arresting the progress of this nefarious work" as they might have been, but that must be attributed to the unsophisticated inexperience of the men. They have in their possession the "positive proof" of the guilt of Randall, McMullin and myself. Of course, they must have it, for they all say so. They doubtless would have arrested the nefarious work at once, but they did not know how it could be done. There are but two lawyers in the list of names appended to the address, and of course they did not know anything about the law applicable to frauds, as they have never had any experience in that line. Collis is City Solicitor,

and, like the doctor who could only cure fits, he could apply the law only when it comes to issuing bonds to contractors. He was, therefore, a stranger to the law of this novel case. Colonel Mann has only had a brief experience of some fifteen years as public prosecutor in our criminal courts, and he could not be expected, in that short time, to comprehend a case so exceptional as the "positive proof" of a conspiracy to pollute an election. He was confused, and with "positive proof" in his possession, his untutored innocence of the law misled him to "making preparation to arrest the progress of this nefarious work," instead of at once handing the guilty parties over to the law and employing the "positive proof" to convict and punish them.

Of course none of this committee understood that the alleged offence is one that is amply provided for by our State laws, and that the United States authorities can punish only when we have Congressmen to elect. They therefore hand the case over to the United States courts, and lose four days' time, when the election is only five days distant. They lay the evidence formally before the immaculate Stokley; his honest bosom heaves with unspeakable emotions at the thought of stuffing the ballot-box with illegal votes. He, too, is ignorant of the law that could have been employed on Friday last, to arrest, convict, and punish the conspirators, and in despair he hastens to transmit the evidence to United States District Attorney Smith. The evidence that was "positive proof" in the hands of Mann, Collis & Co. on Friday became questionable in the hands of Stokley on Saturday, and he informs United States Attorney Smith: "I *hope* to be able to furnish you, *in a day or two*," the names, etc., of the guilty parties whose movements he has, as he says, "closely watched."

A day or two is very indefinite—most likely in this case it would carry Mr. Stokley over the election, and

then what? I would not intimate such a thing myself, but there are obstinate men who will insist that Mr. Stokley is not particularly desirable that this evidence should get out until after the election, and then everybody knows that it won't come out for the good reason that there never was any to come out. If there is such "positive proof" against anybody it must be against me, and I beg Mayor Stokley not to wait a day or two, but to bring it out now. Instead of doing so, he bombards me with harmless letters to all sorts of officials, when he should arrest me at once, if he has evidence to warrant it. But Mann hands the "positive proof" over to Stokley, Stokley transmits it to United States Attorney Smith, and then innocently announces that "as these contemplated frauds have been concocted here, I *intend* to lay the communication before the District Attorney of the county." And who is the District Attorney of the county? Colonel Mann, who had just prepared the communication and handed it to Stokley. But Stokley doesn't hand it back to Mann; he only declares his intention to do so; but he forgets to say just when he will do it. I beg to suggest to him that if he has evidence of intended election frauds, might it not be just as well to lock the stable door before the horse is stolen? If I am conspiring to commit election frauds, would not the interests of public justice be rather better served by arresting both me and the frauds before the election than afterwards?

It will inspire our citizens with confidence in their authorities to find their Chief Magistrate so prompt to denounce fraud. He wants only a day or two for the investigation of evidence that is certified to him as "positive proof," and some time, probably when the swallows homeward fly, he intends to notify the District Attorney that he should take notice of what the District Attorney had just asked the Mayor to take notice of. He is furnished with a letter to the United States District

Attorney, and he signs it. He is furnished with a telegram to Judge McKennan, and he signs it. It is transmitted, and Judge McKennan honestly supposing that these men really mean something more than to hide their frauds behind the smoke of their blank cartridges fired at me, starts post haste for Philadelphia. He will be here Monday, the day before the election—too late to make such investigation as will expose their falsehoods until after the people have voted. Somebody must be arrested Monday, or some others must stand self-convicted as falsifiers. I beg to say that I am ready for my part of the play.

I want them to open the way for judicial inquiry into election frauds in Philadelphia. I want them to start the cloud that may become a tempest and a deluge. I want every man who is guilty of polluting the ballot honestly convicted and justly punished, and I implore the accusers in this instance to fulfill their promise. They know that I am guiltless. I have been associated with some of the men who signed the address for years in political operations—with one of them most intimately. Colonel Mann was on the confidential committee when I conducted the Lincoln campaign in 1860. He knows that I never proposed, approved, or in any way aided or abetted an election fraud in this city. He knows that in 1860, when a fraud was perpetrated here by my political friends to return a Republican elected to Congress, I denounced it, and certified to Republican Congressmen that the return was dishonest. He knows that I have protested against the registry law from the date of its enactment, because it was a deliberate appeal from the intelligence and patriotism of the people to systematic fraud to maintain Republican supremacy. He knows that in every party council on the subject, here and in Harrisburg, I pleaded for honest laws to enforce good nominations, and honest popular support of the Republican organization. He knows that if I have offended against the laws I need not

be tracked or guarded against escape; that officers need not hunt for me; that a request in any form from him will at any time bring me within the jurisdiction of his court, or of any other court, to answer the accusations made against me.

And there is not one whose name is to the address, nor is there any man living, who can say that I ever advised or aided in the pollution of the ballot-box. They know that on this issue we separated, for systematic fraud made a Republican control that I could not and would not support. I therefore challenge them, one and all, not to trifle with a profoundly moved public sentiment, but let us have justice and punishment. If the stroke falls on me, I am ready for it; if upon them, they should not complain. They know, as I know, that the punishment of those who are guilty of election frauds in this city, would bring chaos upon Philadelphia, for we would be without a ruler and almost without public officers. The Row would be like some banquet hall deserted, for there would not be one left to tell the story of retribution. The court would sit, but without officers to record its decrees or to enforce its judgment. The Council halls would be the home of solitude, and the tax gatherers and financial receivers would be in just the position to give the next candidate for Governor a good certificate of character. Philadelphia would be almost voiceless in the popular branch of the Legislature, for the merry song of the "rooster" would be subdued and chastened by prison bars. I beg my accusers to join me in a field-day hunt after ballot-box stuffers, repeaters, rounders and forgers of returns, and let us have justice, even though it should make official desolation in our city. Let this mockery cease; it deceives nobody, intimidates nobody. Law is for crime—not to be bound in leading-strings by men who have usurped its high prerogatives. Let the accusers now come to the front, and let justice be done though the heavens fall!

APPENDIX.

PREFACE.

Soon after the last form of the present volume had been closed and gone to press, both branches of the Legislature unanimously adopted a resolution inviting Mr. McClure to deliver an address before the Legislature upon the life, character and public services of the late Andrew G. Curtin. The resolution was as follows:

No. I.

IN THE HOUSE OF REPRESENTATIVES.

January 10, 1895.

Resolved (if the Senate concur), That the Hon. A. K. McClure, of Philadelphia, be invited to deliver an address in the Hall of the House of Representatives on the life and public services of ex-Governor Andrew G Curtin, deceased;

And that a committee, to consist of three members of the House and three members of the Senate, together with the President *pro tem.* of the Senate, and Speaker of the House of Representatives, be appointed to confer with Colonel McClure and make the necessary arrangements to carry out the object of this resolution.

Extract from the Journal of the House of Representatives.

A. D. FETTEROLF.
Chief Clerk of the House of Representatives.

IN THE SENATE.

January 14, 1895.

The foregoing resolution concurred in.

E. W. SMILEY,
Chief Clerk of the Senate.

Approved the eighteenth day of January, A. D. 1895.

DANIEL H. HASTINGS.

In pursuance of the foregoing resolution, Speaker Walton, of the House, appointed Representatives Lawrence, Niles and Fow, and President Thomas, of the Senate, appointed Senators McCreary, Keefer and Cochran to serve on the committee. They waited upon Mr. McClure, and arranged for the delivery of his address in the Hall of the House, on Wednesday evening, January 30, 1895.

The occasion was one of the most notable ever had in the Hall of the House of Representatives. The House, gallery and aisles were densely crowded to hear the address, and among those present were the Governor and Cabinet, with their wives, and other State officials, with many prominent men from different sections of the State. Immediately behind the Speaker's stand was a large oil painting of Governor Curtin, fringed with massive plants. Speaker Walton introduced Representative George V. Lawrence, of Washington, the Father of the House, as the presiding officer, who in turn introduced Mr. McClure. The importance given to this occasion by the action of the Legislature, and Mr. McClure's known intimate relations with Mr. Curtin during nearly fifty years of public life, give this address an interest that warrants its preservation in this volume as an appendix.

ORATION ON CURTIN.*

MR. PRESIDENT, SENATORS, REPRESENTATIVES, LADIES AND GENTLEMEN: Heroic epochs are essential to the development and preservation of the best civilization in any people. Montesquieu, a distinguished writer and historian of the last century, said: "Happy the people whose annals are blank in history's book." He was in error. The people whose annals are unnoted in history achieve nothing for the world or for themselves. No advancement in literature, in art, in statesmanship, in philosophy, in heroism, or in any other attribute that ennobles mankind, has ever been made by a nation whose records lack heroic epochs.

History is full of pointed examples teaching that the nation that has outlived heroism has ever dated its decline and fall. After a thousand years of Roman greatness, the mistress of the world struggled in the agonies of death for two centuries, and regardless of its matchless record of distinction in every quality of human achievement, during the two hundred years of its decay it did not produce a single great hero, statesman, philosopher, poet, sculptor, or painter. When heroism perished in Rome, Rome perished; and the barbarian from the Northern forests swarmed upon her hills, vanquished her enfeebled legions, reveled in the halls of the Cæsars, razed her monuments of mastery to the earth, and the God of nations seemed to have given over the once ruler of empire to "the lines of confusion and the stones of emptiness."

* Delivered in the Hall of the House of Representatives, Harrisburg, Pa., January 30, 1895.

It is true that our more advanced and enlightened civilization is unlike the civilization of the great nations which ruled the world in olden times. They ruled by conquest and grew rich by spoliation. With such people heroism was the vital inspiration of their greatness; but when we had reached the noonday of the nineteenth century with peace and its victories welcomed as the jewels of progress, heroic epochs of different times became blended with our more beneficent civilization.

The people of this land exhibited more heroism in laying the foundations of our peaceful civilization than ever did the armies of Alexander, of Cæsar, or of Hannibal. They founded their settlements in the wilderness, erected their rude homes and churches and relied upon their Bible and their rifle for the protection of themselves and their household gods. For nearly a century after the pale-faced Quaker, Puritan and Cavalier made their homes in the New World we have one unbroken record of heroism that was never surpassed by any people. Our forefathers were not only heroic in battle for their liberties and in defence of their homes against the savage, but they were born and schooled to heroism, from the mother's lap to the altar, in maintaining their faith, in vindicating their government and in advancing every attribute of civilization. Of all the peoples of the earth the Americans to-day have the most heroic ancestry, and they have proved, even after generations of peaceful pursuits, that when their faith, their homes, or their free institutions are threatened, heroic epochs spring up spontaneously from the sturdy sons of the Republic.

It was by the development of one of the most heroic epochs of human history that the noblest government of the earth, now enjoyed by 70,000,000 of people, was preserved from overthrow by civil war. It was the most heroic conflict of any period of the world's history, and it was so because the conflict was fraternal. Men born to

the same great inheritance, worshiping the same proud traditions, developing the same great attributes of manhood, trained to their opposing convictions by the same type of statesmen, pulpits and schools, could not but be equally heroic in defence of their convictions. It was because the North and South were peopled by Americans of the same heroic mould that the civil war could not be averted when great issues, that had been discussed for three-quarters of a century, demanded final solution and defied the skill of statesmen.

Had either section been less heroic, war might have been averted; the sad story of our struggle might have been untold; but the period had arrived when manhood confronted compromise, and how heroic were both the blue and the gray in the bloody drama, is told in the deeply crimsoned annals of the conflict. It was the great heroic epoch of the century, and it was the second grand illustration of the heroism of the American people in man's greatest battle for man.

Such opportunities come to all nations, and when they are equal to the heroic epoch that is necessary to advance their civilization, the occasion always creates great leaders. Abraham Lincoln might have served as an average President and retired without exceptional fame in the list of our Chief Magistrates, had not civil war called out the marvelous qualities he possessed as patriot and statesman. It was the heroic epoch of 1860 that called him to leadership, that made his name immortal, and that will make his memory worshiped in every clime where liberty has votaries. Grant, Sherman, Sheridan, Meade, Thomas, Hancock, and many others who attained fame during the rebellion, would have lived and died almost unknown but for the heroic epoch that called them to their country's service. They commanded great armies, and after four years of bloody war made Appomattox historic, for it was there determined that "government of the people, by the

people, and for the people should not perish from the earth."

During long weary months and years, involving countless cost and fearful sacrifice, with bereavement shadowing almost every home, the conflict continued, and the American student of to-day who reads the history of that struggle sees only the records of its victories and defeats, but knows little of the heroic efforts which were necessary in the State to maintain great armies and to uphold the cause of the Union. The War Governors of the North were the source of the military power of the nation, and they stand out to-day single over all the thousands of brave men, outside of the army, in the lustre of their achievement in behalf of the assailed Republic.

It was this heroic epoch that called Andrew G. Curtin to what proved to be the most responsible civil trust held by any man, with the single exception of Abraham Lincoln. His State was greatest in peril of all the Northern Commonwealths. It was second to but one in physical strength; it was second to none in resources to maintain free government and in moral power to shape the issues of the conflict. Like Abraham Lincoln, he was not made the leader to meet civil war, for it was not then expected; but the men who made both these leaders in the great battle of 1860 builded wiser than they knew, and each fulfilled his great destiny by achievements unexampled in the records of their respective positions.

Forty-one years ago I sat in this Hall with Curtin as a member of the convention whose action called him into public life. He had been named for the position of Governor himself, but he was young and heartily yielded to the Whig sentiment that pointed to the late Governor James Pollock as the man to lead the party in the contest. When the campaign was about to be opened Pollock summoned Curtin to lead his forces in the severe battle upon which they were about to enter and he conducted it with

masterly skill and energy, resulting in the election of Pollock by an overwhelming majority. When the victory was won but one name was seriously thought of to take the chief position in the Cabinet of the new Governor, and Curtin was called as Secretary of the Commonwealth with the universal approval of his party.

While few to-day turn to his record as Secretary of the Commonwealth to illustrate the distinguished services he has given to his State, the thoughtful student of our history will learn that it was under his administration as Secretary of the Commonwealth that the foundations were laid for our present free school system, that is now the most liberal and beneficent in the world. When he entered Pollock's Cabinet our school system was not dignified as a department of the State. Its direction was one of the secondary duties of the Secretary of the Commonwealth, and he was the first incumbent of that office who systematically organized the free schools on the broadest basis, and with the efficient aid of his Deputy Secretary, Henry C. Hickok, opened the way for the universal education of the children of the State. Later, as Governor, he was enabled to build the grand structure upon the foundations he had laid. Next to Thaddeus Stevens, the author of the free school law, and to George Wolf, the heroic German Governor who approved the measure, our grand system of free education of to-day is more indebted to Andrew G. Curtin than to any other of our public men.

The year 1860 gave birth to the heroic epoch of our century. Few who were enlisted in the cause of redeeming the Republic to a nationalized freedom had any conception of the gravity of the issue, or the violent throes through which the cause must triumph. A new party had entered the field of national politics. It was unlike all parties that had confronted the dominant political power of the nation since the triumph of Jefferson

in 1800. There were various party organizations during the sixty years in which the Jeffersonian Democracy maintained ascendancy, but they never established a national policy, never reversed the rule of the party over which they occasionally triumphed, and all must go into history simply as the Opposition, but the national contest of 1856 developed, in crude form but mighty proportions, the new political faith that was to reach its culminating point in 1860.

It was not a mere opposition; it was a party of conviction, of aggression, of resolute purpose, and defeat could not make it falter nor the temptation of power shatter its ranks. It was organized for one great purpose —to halt the aggressive encroachments of slavery. Its platform was formed within the lines of the national constitution, and while revolutionary in its aim, obedience to law was one of the cardinal features of its faith. At no time in the history of political action did any party ever display more disinterested devotion to its convictions or more complete regard to the fitness of its chosen leaders. The issue rose high above all considerations of the spoilsmen, and in sober, unflinching earnestness it marshaled its hosts for the mighty conflict that revolutionized the policy of the government that had nationalized bondage, and it thus dedicated a continent to freedom.

On the twenty-third and twenty-fourth of February, 1860, I again sat in this Hall and was an humble participant in one of the most important political State Conventions ever held in our history. The more heroic element of the new party that was about to make its great struggle for State and national supremacy, had but one candidate in that convention for Governor, and that man was Andrew G. Curtin. Had there been no issue but that of choosing a leader for the State contest, he would have been chosen without serious opposition; but the conflicts of ambition, which are felt in all parties, and

which are often to be commended as vastly more beneficial than hurtful in obtaining good political results, were disturbing in that body. It was the ablest convention of the kind I have ever seen in Pennsylvania, and from the beginning through the two days of its session, it was a battle of giants; but on the second ballot Curtin was made the candidate by a decided majority, although seven other names, some of great prominence, were presented and earnestly pressed against him.

Curtin was chosen because of the general belief in his pre-eminent fitness for the high trust to be awarded. He was regarded as not only the most available as a campaigner, but as the best equipped for the successful discharge of his public duties, however grave they might become. When summoned to the convention to respond to its command to take the flag of his party and lead it in the conflict, I can recall him distinctly, as if it were but yesterday, as he appeared in this forum to declare that he would bear the banner of his faith from Lake Erie to the Delaware and return it in triumph if human efforts made it possible, but never with dishonor.

No man ever inspired his followers with greater confidence and enthusiasm than did Curtin when he stood here and accepted the leadership in the pivotal battle of the national revolution, for upon his election or defeat in October depended the election or defeat of Lincoln in November. He was a perfect Apollo in form and feature as he stood before his wildly enthusiastic supporters, and his brilliant oratory, ever varying from sober logic to the keenest invective or resistless humor, told how masterful were his qualities for leadership in the great struggle.

The most that the friends of Curtin could say when they presented him as a candidate for Governor was that the battle was a hopeful one. With great reluctance I obeyed his command to take the chairmanship of the State committee and the direction of the contest. There

was then but one organized and disciplined political party in existence, and that was the Democracy. There were the old Whigs, Americans, Republicans and Independents, but there was no cohesion, no organization and no hope of success save by crystallizing all these varied and more or less incongruous elements into a great party. It was a task of no common magnitude, and it would have been beyond the power of the most sagacious political management but for the trust and enthusiasm inspired by Curtin in his canvass.

He more than fulfilled his promise to bear the banner of his cause into every section of the State. For three months he spoke almost daily, at times twice or thrice a day, and often when delivering an address he did not know until he closed where he was to fill his next appointment. Railroads did not then reach every county of the State as they do now, but he had no care as to his movements, for when his address was finished a committee was always waiting to take him in charge. So exacting were his labors that all the hundreds of letters sent to him, save those which came from his own home, were forwarded unopened to the State committee for answer.

The Democrats nominated against him Henry D. Foster, one of the ablest and most popular leaders of that party, and Pennsylvania has never before or since witnessed a State political contest that was so ably conducted by the opposing leaders, or that enlisted such universal interest amongst the people. The result is one of the memorable landmarks of the political history of the nation. Curtin was chosen Governor by over 32,000 majority, and his election practically declared Abraham Lincoln the next President of the United States.

Before Curtin was inaugurated as Governor of the State, in January, 1861, evidence of the settled purpose of the South to attempt the violent disruption of the States was given in many sections. States had formally seceded from

the Union; forts, arsenals, arms and custom houses belonging to the government had been seized by the authority of the seceding States, and civil war seemed inevitable unless the border States could be held to their allegiance. Never before in the history of our statesmanship did such momentous problems call for solution, and Pennsylvania being the most important of all the Northern States, in view of her Southern border and the moral and physical power of the Commonwealth, was looked to from every section of the country, both North and South, with intensest anxiety. To have faltered in the faith of the people who had called the new party to power would have made rebellion only the more defiant; to have answered madness in passion would have weakened every friend of the Union in the South, and probably decided the destiny of many against the maintenance of the Republic.

President-elect Lincoln could not be inaugurated for nearly three months, and no declaration could come from the National Government to guide the States in declaring their relations to each other and to the Republic. There was no precedent in all history to dictate the utterances of the man who was to speak not only for the most important Northern Commonwealth, but whose deliverance would be accepted as defining the attitude of the entire loyal North on the issue of war or peace. The men of to-day who believe that they have to grapple with great problems of statesmanship know nothing of the fearful responsibilities which had to be assumed in defining the position of Pennsylvania at the threshold of civil strife.

Governor Curtin came to this capital not to receive the ovations of welcome to a conqueror, although his inauguration was a most imposing ceremony, but he came profoundly impressed with the common peril to his State and country, and gave his efforts solely to wield the power of his great State for the preservation of peace, if peace could be maintained with honor, and to prepare for war if rebellion

would accept no other arbitrament. His inaugural address, carefully prepared by himself in his mountain home, was an easy talk on all the ordinary political issues, but he summoned the most intelligent and considerate counsels and gave almost ceaseless labors for several days and nights, to the declaration of the position of Pennsylvania on the then threatened rebellion of the South. How wisely he performed that duty is told in the fact that throughout four years of civil war every attitude he assumed in that address was maintained, and it now stands fully vindicated alike in statesmanship and prophecy.

I need not detail the arduous and responsible duties imposed upon Governor Curtin at the outset of the war. They are well understood by this intelligent audience. The annals of our history tell how the State credit was maintained, how every quota of troops called for was promptly filled, how the soldiers were cared for, how the sick were ministered to, and the dying brought home for sepulchre, and all under the inspiration of Governor Curtin's liberal and patriotic policy.

When his first term was about to close he gave the highest evidence of his unselfish devotion to the great conflict in which the life of the nation trembled. The ceaseless exactions of his official duties had left him broken in health, but he never ceased in the performance of his great work. I was present when to several trusted friends he declared it the duty of his party to select General William B. Franklin, a gallant Pennsylvania soldier and a Democrat, as the candidate of the loyal people of every political faith to succeed him in the gubernatorial chair.

He did this when he knew that his renomination would be nearly or quite unanimous if he were willing to accept it, but he believed that individual ambition should ever yield to the public welfare, and he sought thus to unify all political parties in our State in support of the war, and weaken the hopes of the insurgents by the great State of

Pennsylvania having effaced party lines to sustain the Union of our fathers. In this recommendation to unite the whole loyal people of the State on General Franklin for Governor the friends of Curtin heartily acquiesced, and I simply vindicate the truth of history when I say that had General Franklin been nominated on a war platform by his own party, that nominated its candidate in this forum on the sixteenth of June, 1863, he would have been enthusiastically accepted by the Republican organization and elected by practically a unanimous vote. There were political leaders of that day in both parties, and they dominated the party opposed to Governor Curtin, who did not believe that the interests of an imperiled country were paramount, and they suffered defeat as they deserved.

The Republican convention to nominate Governor Curtin's successor met in Pittsburg on the fifth of August, nearly two months after the action of his political opponents. He felt that in justice to himself and to his family he should not be a candidate for re-election, and under any circumstances not involving the existence of free government, his declination would have been peremptory. He felt, as did many of his closest friends, that the care and labors of another campaign would be a sacrifice of his life to public duty.

If he had simply desired political honors they were freely proffered to him. On the thirteenth of April, of that year, I bore to him from President Lincoln an autograph letter voluntarily tendering him a first-class foreign mission at the expiration of his gubernatorial term, if he were willing to accept it. That would have been an inviting compliment for one who sought only political advancement, and it promised rest for the weary and broken Governor ; but when it was announced that he had been tendered a mission, and that he would probably withdraw from the gubernatorial contest, the response came from half a dozen of the leading counties of the State within a

week, unanimously instructing for his renomination, and demanding that he should be made the candidate.

Curtin's apparent retirement as a candidate in 1863, naturally brought into the field men of high position and attainments, who sought the honors he had worn so worthily, but before the meeting of the convention the patriotic sentiment of the State was expressed with such emphasis in his favor that he was compelled to bow to it and accept a contest that seemed more than doubtful in its issue, and continued responsibilities to which he seemed physically unequal. A single ballot determined the choice of the convention, and he was chosen as a candidate to succeed himself by an overwhelming majority.

While the battle of 1860 presented many elements of doubt because of the want of unity and organization of those who were partially or wholly in accord with the party that Curtin represented, the struggle for his re-election presented even greater elements of doubt. It was one of the most memorable political conflicts in the records of the State. More than 75,000 sons of Pennsylvania were in the army and without the right of suffrage. They could not be furloughed to participate in the election, and it was not until a year later that our amended fundamental law gave them right of holding elections in the field. That four-fifths of these soldiers would have voted for Curtin's re-election could they have reached the polls was not doubted, and with them practically denied suffrage, and with partisan feeling greatly intensified and party lines drawn with the utmost severity of political discipline, his defeat seemed inevitable at the outset.

It was not merely a contest for the election of a Governor; it was the one political battle of Pennsylvania that was the crucial test of the purpose of her people to sustain the administration of Lincoln and the prosecution of the causeless war that shadowed the land until the Union should be fully restored. It was the most sober, the most

earnest and the most aggressive political campaign that I can recall in fifty years' observation of our political contests. In every section of the State the people gathered to hear the orators on the hustings, but instead of the boisterous cheers that usually mark such demonstrations, men listened with bated breath as the issues of the war were discussed.

The tall plume of our great leader was seen here and there as the battle progressed, but the bright genial face was pinched with care, and the brilliant, inspiring oratory he infused into the contest of three years before gave place to the solemn utterances of one whose life seemed to be trembling in the balance as he bowed to the command of patriotism. He was saved from defeat by loyal men breaking party lines, and by the constant appeals from the army which came into almost every home of the Commonwealth, to re-elect Andrew G. Curtin, the Soldier's Friend. It was the mute eloquence of the brave warriors of the Union that came from their camp-fires and their hospitals that reached the hearts of fathers and brothers and sons at home, gentle as the dews which jewel the flowers in the morning and as fragrant in every home where there was sorrow for loved ones fallen, or anxiety for those who survived the tempest of battle. There was but a single issue in that contest and the victory was for positive loyalty, as Curtin was re-elected by over 15,000 majority.

Curtin emerged from that desperate but glorious contest utterly broken in health and suffering from serious nervous and mental prostration ; and soon after his re-inauguration he was compelled to leave the Legislature in session and journey to sunnier lands to restore his shattered system. I cannot forget the day when many devoted friends who had been by his side in sunshine and storm, bade him farewell as he sailed from Philadelphia in search of health. None dared to cherish with any confidence the hope that

he could return alive, but his vigorous constitution enabled him to rally with quiet and rest, and although he never recovered his full vigor, he was enabled to perform his official duties without interruption until the close of his term, and to enjoy life until he was bowed beneath the frosts of nearly fourscore years.

Two years after he retired from the Gubernatorial office I was assigned the grateful task of presenting to the Republican National Convention of 1868 his name as a candidate for Vice-President and to cast the united vote of Pennsylvania in his favor. Pennsylvania was not then a doubtful State, while Indiana was regarded as debatable between the great parties, and it was this consideration that largely if not wholly dominated the action of the convention that chose Schuyler Colfax over the War Governor of Pennsylvania.

One of the earliest appointments made by President Grant after his inauguration was the voluntary nomination of Curtin for the Russian Mission. It was entirely unsought, but coming as a generous tribute from the head of the national government he accepted it, and was more cordially welcomed at the Court of the Czar than were any of his predecessors, as is testified by the beautiful portrait of the Russian Emperor that adorns the now desolate home of Curtin as the gift of the Czar himself.

Immediately after his resignation and return from Russia, Curtin was chosen as a delegate-at-large to the convention to revise our State Constitution, and he was not only the author of many of the most beneficent reforms introduced into that instrument, but he was one of the most useful of the members of the convention in hindering many of the more dangerous features sought to be engrafted upon it. His ripe experience in the government of Pennsylvania, and his intimate familiarity with all the vast and varied interests of our people, equipped him to render most conspicuous service in shaping the new organic law.

A few years thereafter he was called to the popular branch of Congress by the people of his district, and twice re-elected. He had then outlived the conflicts and resentments of his many desperate political battles, and not only as a Representative but in every social circle of Washington every face smiled at his coming. When he retired from Congress his public life closed ; his work was finished.

To say that Curtin was ambitious is only to state what must be told of every man who has ever been noted in achievement. He was at times involved in the bitterest conflicts of ambition with men who were struggling for the political favors within the gift of his successful party. I twice witnessed in these Legislative halls contests of intensest bitterness between him and others who were battling for the highest honors of the State. The first was as early as 1855 ; the last in 1867, and both left political sores which never healed until the conflicts of ambition were ended and time had mellowed the gladiators into gentleness.

I speak of these simply as part of the history of the man, not to revive bitter memories. Such contests are but the natural outgrowth of our free institutions, and the ambition that calls gifted men to seek the honors of free government is in every way commendable. That few succeed and many fail is only the inevitable, and that merit is often outstripped in the race is the history of every political age. But it is none the less the truth that greatness can ever assert itself in this land of freedom, and that the highest tributes paid to it are in the appreciation of those who are the sovereign power of the government. He and those who struggled with him have passed away, and there are none but the kindest memories for all.

One of the first acts of Governor Curtin after he was inaugurated in January, 1861, was to organize a complete

system of investigation into the actual condition of the South. The strictest secrecy was observed, and I doubt whether any officer of the government at Washington had the same accurate and practical information as to the real purposes of the seceding States. His agents were in every State in the South, some as telegraph operators, others as commercial men, and yet others as accidental sojourners, and the information that came to him from these sources thoroughly convinced him that the South was terribly in earnest; that her people were substantially united, and that civil war was inevitable. This information was known to a very narrow circle of those around him, and while he knew how fearful the peril was, the general conviction of members of the Legislature and of the many visitors who came here to discuss the issue, was that those who were moving for war in the South were simply bombasts and would never meet the North in deadly conflict.

A pointed illustration of this sentiment I recall, for its impress can never be effaced. On the night after the surrender of Sumter a caucus of the majority party of the Senate and House was held in this hall, and I attended as a member of the Senate. Civil war was upon us, and the most fearful problem of our history was presented for solution. How should it be met? Speech after speech was made in that caucus denouncing the Southern agitators as cowards, and one going so far as to declare that the women of the North could sweep them from the Potomac with their brooms. Advised of Curtin's complete and accurate information as to the attitude of the South, I appealed to the caucus of the party that was charged with the responsible action of the State, to realize the fact that we were upon the threshold of war, and that the South, being of our own blood and lineage, if plunged into a struggle with the North, would make one of the bloodiest wars of history. For this utterance I was hissed

in every part of the hall. Alas, how fearfully was that prophecy fulfilled.

It was this knowledge of Curtin of the inner movements of the Southern people that made him ever prepared for every emergency that arose early in the war. The first bill to arm the State was passed in this Capitol in one evening, and its discussion was interrupted in both Senate and House by the clerks reading the appalling dispatches from Charleston, telling of the hot shot hurled against the helpless and starving garrison of Major Anderson.

The next fearful lesson in the war was when the disloyal eruption in Baltimore severed the telegraphs and railways between Washington and the North, and stopped all communication for several days. General Patterson was here as commander of the department comprising Pennsylvania, Maryland and Delaware, and Colonel Fitz John Porter was here representing General Scott, the commander-in-chief. With them were a number of gentlemen whose services were volunteered to aid the Executive and the government to the fullest extent of their ability, and when I recall the conferences held in the executive chamber during those times, I recall the memories of the darkest of all the dark days of the history of our State.

Those around Curtin could advise, but he alone could act. It was theirs to counsel, it was his to assume the responsibility, and it was by his final request to General Patterson, that could be accepted only as a command, that the requisition was made upon him by the commander of the department for 25,000 additional troops to serve for three years or during the war. No advices could be had from Washington. For aught we knew the victorious army of Beauregard had already besieged or captured the capital of the Republic.

The Governor issued his call for volunteers, and it was telegraphed to every part of the State. Long before the

mails could carry it to the people it was known in every centre of population and the patriotic sons of the State were volunteering by thousands. It was the most spontaneous overflow of patriotic purpose that I have ever witnessed, or indeed have ever read of. As soon as communication could be had with Washington the call for troops and the action of the Governor were officially transmitted, and the first answer that came revoked the order for the troops and refused to accept them.

When that order was received several thousand volunteers were already in camp and every train that entered the capital was crowded with others who were hurrying to defend their country's flag. To disband them would have been to chill the patriotism of the State, to expose its borders to spoliation and to confess that the Executive did not comprehend the magnitude of the conflict. He summoned the Legislature in extraordinary session and in the boldest and one of the most dignified messages that ever came from a Northern Executive, he presented the perils to the State and nation and called upon this great commonwealth to do for the Republic what the Republic was unwilling to do for itself.

The Legislature promptly responded by providing for a loan of $3,000,000 and the organization of fifteen regiments of infantry, with artillery and cavalry, to be known as the Pennsylvania Reserves. They were mustered into the service of the State, but subject to the call of the national government at any time that an additional quota was to be filled. There was a sad sequel in the early vindication of the wisdom of our heroic Governor. Two of the regiments were called to the Maryland border soon after they had been organized, and when the bloody disaster at Bull Run appalled the country, the national authorities which had peremptorily refused to accept these regiments, crowded the wires with the most earnest telegrams begging to have the Pennsylvania Reserves hastened to

Washington; and on the next morning after the retreat of McDowell's shattered and demoralized forces into the Arlington intrenchments, was heard the step of the gallant Pennsylvania Reserves marching through the streets of the imperiled capital. When the first regiment arrived at Washington it was met by President Lincoln in person and his greeting was—"God bless Pennsylvania; God bless her loyal Governor."

In the reorganization of the army after that defeat, the Pennsylvania troops, by reason of the organized and drilled Reserve corps, became the nucleus of military discipline and efficiency, and from Drainsville, where it won the first victory of the Army of the Potomac, until the insurgents' flag was furled at Appomattox, the Reserves wrote their records of valor on every battle field. In this, as in every great emergency during the war, Curtin was heroic.

One of the important events of the war in which Governor Curtin played a most conspicuous part is little known in history, and but imperfectly known even by those who observed the great movements which have transpired. I refer to the Altoona conference of the Governors of the North. The reader of history will simply note the fact that the Governors of the loyal States met there, conferred, issued an address, presented it to President Lincoln, and called upon him to make requisition upon their respective States for fresh troops to strengthen our armies for victory; but who is there to-day, save a very few yet surviving, who knew the inner story of that conference? Who can tell why that conference was held?

The Army of the Potomac had been defeated in the seven days' battle in front of Richmond, and Pope had met with disaster on the plains of Manassas and had been driven into the defences of Washington. Volunteering had ceased; no national conscription law was then in existence, and there was distress bordering on despair in the

hearts of the loyal people of the North. Governor Curtin was in New York, an invalid in the care of his physician and surgeon, and forbidden to leave his sick-room, or to consider official affairs. Secretary Seward was in New York, apparently paralyzed by the darkness that enveloped the country. Governor Curtin, forgetting his illness and the admonitions of his physicians, accepted Seward's invitation to a conference, and Seward repeated to him only what he well knew before, that the depressed condition of the loyal people who supported the government was such that the President believed it to be perilous to issue a call for additional troops, which all knew were absolutely necessary to prosecute the war successfully.

It was at this conference that Curtin suggested a meeting of the loyal Governors at an early day, and that they, speaking for their States, should ask the President to issue a call for 300,000 men, with the assurance that the States would promptly respond to it. The despairing Secretary of State readily grasped so hopeful a proposition, and before they separated dispatches were sent to, and received from, nearly every Governor of the North, all of whom heartily joined in the movement. The conference was fixed at Altoona and was fully attended, and it was that conference and its heroic and patriotic utterance, penned by Andrew G. Curtin, and John A. Andrew, of Massachusetts, that inspired the nation afresh, that promptly filled up the shattered ranks of the armies, and thus saved the Republic.

In a conversation with the ex-Vice-President of the Southern Confederacy, some years after the war, he told me that the severest blow the South received in the early part of the conflict was the Altoona conference of the Northern Governors that rallied the patriotic people to the support of their armies when the South believed that they had won the decisive battle of the war. The author of that conference, the hero of that achievement, was Andrew G. Curtin.

Nor was he merely heroic in war; he was equally heroic in peace. I saw him when the thunders of the shotted guns of rebellion across in the Cumberland Valley reverberated around this capital, and when the archives of the State were gathered and loaded for flight, and I saw him day and night when the legions of Lee made the fate of battle tremble in the balance during the three bloody days at Gettysburg, but he ever rose in his appreciation of duty as perils rose before him.

He was ever at the post of duty, ever faithful, ever wise, and ever heroic, and when the news of Lee's surrender was flashed to the capital, and the armies of the rebellion furled their flags and sheathed their swords, from that day until the day of his death he sought to bind the bruised hearts of war, and to restore the North and South to union and fellowship. All brave men are heroic in war; all brave men are not heroic in peace, and I regard his efforts for reconciliation after the work of the reapers in the harvest of death had ended, as one of the brightest of all the bright stars in his crown.

Governor Curtin was not only heroic in war and heroic in peace, but he stands out single over all the rulers of the States or of the nation in his heroic humanity. He was the first of the loyal Governors to organize commissions to minister to the sick, to care for the wounded and to bring every son of Pennsylvania who had fallen in the conflict, home to his sorrowing friends for sepulchre. There was not a Pennsylvania command, even in the most distant part of the South, that did not feel the kind ministrations of the Governor of his State, and never did a letter come to him from a soldier in the ranks, however humble or however unreasonable its purport, that was not answered from the executive office.

He was called the Soldier's Friend, and the title was no invention of the demagogue. It was fashioned in the spontaneous gratitude of our gallant warriors, who knew

that when they entered battle the wounded would be cared for and the dead would be brought back to be entombed with their loved ones who had gone before. I have from time to time carefully examined the records of the different Northern States in their care of the solders during the war, and there is not one that approaches the record written by Governor Curtin, nor is there one that did not follow him instead of leading in the beneficent work. He was foremost and master of that achievement, and there is not a Pennsylvania soldier now living in any part of the Union who does not lisp with reverence the name of Andrew G. Curtin as the Soldier's Friend.

Governor Curtin's nature was heroically sympathetic. He was the author of the Soldiers' Orphans' Schools of Pennsylvania, the grandest benefaction in the history of any State or nation. It was on a bleak Thanksgiving Day that he was met upon the streets of Harrisburg by two ill-clad children begging for bread, and to their appeal was added, "Father was killed in the war." It was the eloquence of those hapless, helpless children that reared the great structure of philanthropy known as the Soldiers' Orphans' Schools of our State.

He had a desperate battle to secure the necessary legislation. With all his efforts the first bill was defeated, but he did not despair of success. At a later period he gathered a number of the orphans of soldiers, brought them to Harrisburg, entertained all who could find a place in the Executive Mansion and brought them into this hall to have their bright young faces, clouded by the sorrow of bereavement, plead their own cause. The result was the prompt passage of the bill, and almost before the ink of the certification of the Speakers' was dry, it had the approval of the Governor.

Who can measure such a benefaction? We know where it began, and what it has accomplished during the thirty years that it has been fulfilling its purpose, but who can

calculate its beneficence as generation after generation shall come to tell the story of their fathers who were made the wards of the Commonwealth when their homes were desolated by the sacrifices of war? Not only those who have been thus educated and cared for by the bounty of the State, but their children testify to the magnitude and grandeur of this unexampled philanthropy, as will their children's children for ages. It was wholly the creation of Andrew G. Curtin, and it will stand in history as one of the most heroic of his public acts.

Governor Curtin's heroism in every line of public duty, and in every illustration of the noblest characteristics of a ruler, called out the most heroic affections of the people of his State. We thoughtlessly speak of men as unappreciated because others have won and worn what are called higher political honors, but mere political position is not the true standard of individual worth or popular appreciation. It is the countless ways in which the love of the people expresses itself and makes it enduring, that tell the story of popular affection for public men. If you will turn to the records of your own Legislature you will find tributes paid to Curtin that are entirely exceptional in the history of our State. On the twelfth of April, 1866, when the last Legislature that served under his six years of executive duty was about to close, it made a record that is more expressive and quite as enduring as the monuments which will mark his tomb and grace our Capitol Hill.

A preamble and resolutions declaring that the Legislature could not "contemplate his course during the recent struggle of our country without admiration of the patriotism which made him one of the earliest, foremost and most constant supporters of the government, and without commendation of the spirit which prompted him, with an untiring energy and with the sacrifice of personal repose and health, to give to the soldier in the field and

in the hospital and to the cause for which the soldier fell and died the fullest sympathy and aid," and thanking him because "he has tempered dignity with kindness and won the high respect and confidence of the people," were proposed in the popular branch by Mr. Ruddiman, the Republican leader of the body, and passed by a vote of ninety-seven recorded ayes, being the entire membership but three, who were unavoidably absent. On the same day Senator Wallace, the Democratic leader of that body, moved the adoption of the resolutions, and the name of every Senator was recorded in favor of their passage.

Again on the sixth of April, 1869, when he had been appointed Minister to Russia, a Legislature with which he had never had official relation, adopted a resolution thanking the President of the United States for the compliment paid to Curtin and to Pennsylvania, and expressing the earnest wishes of the Legislators for his restoration to health, and it was passed by an absolutely unanimous vote in both Senate and House. No Governor of Pennsylvania, or other public servant either before or since, ever received such tributes from those who admittedly represented the whole people of the State in their appreciation of our great War Governor.

Wherever he went throughout the Commonwealth, he was ever greeted with a heartiness and enthusiasm that untold numbers have sought to win, but only he attained. He was alike the hero of his people whether in power or without sceptre, and every form of affectionate expression that could be given to a public man came like the perpetual bloom and fragrance of flowers upon his pathway.

I have witnessed great pomp and ceremony when men of distinction have filled their measured days and passed to the City of the Silent, but never was such an expressive pageant in our State as that presented when Andrew G. Curtin was borne to the grave. There were soldiers and associations in ranks to swell the marching column in its

solemn tread, but they were forgotten in the oppressive grief that told its sad story on every face, young and old, high and low. The very mountains which surround his desolated home seemed clad in the habiliments of woe, and the sturdy sons of toil who gather golden harvests in the valleys or wrest wealth from the hillsides, were there to mingle with every condition and class in the common bereavement that fell upon the community. Children who stood upon the wayside and silently and sadly noted the grief that none escaped, will remember to the latest periods of their lives the outpouring of the love of the people for their noblest hero; and with them were those who brought the richest jewels of human lamentation as the children of sorrow and want shed their tears upon his tomb.

He had disappointments; who has escaped them? They are the common inheritance of great and small from birth to death, and they are often exquisite in the chastening of heroic qualities and in strengthening men for their best achievements. There are many who are not great in prosperity, but there are few who are great in adversity. It is only the greatest and most heroic who meet the shock of disappointments with philosophy and start afresh in the battles of life, and Curtin was as heroic in disappointment as he was in triumph. Neither success nor failure could diminish the lustre of his grandeur. He was manly in conflict and ever generous and chivalrous to those who met him in the great struggles of his career.

Did he err? Yes; let the unerring accuse him. If only the sinless cast stones in political and personal conflict its pathway would not be so thickly strewn with mangled reputations. He was thoroughly human or he would not have been great. It is the inexorable decree of infinite wisdom that the judgment of man shall be fallible and that he must stumble in error, and it is best that it should be so or it would not be thus ordained.

Man is human and fallible to teach all that only God is God. But who of our public men, tempted and tried as was Curtin, left less of public error to be forgotten? There is not a citizen of Pennsylvania whose annals have been made so heroic by the record of Andrew G. Curtin, who would not join me to-night in saying of him that "the grave buries every error, covers every defect, extinguishes every resentment, and from its peaceful bosom spring none but fond regrets and tender recollections."

The Thracians brought tears to the birth couch and flowers to the tomb. They held that life was most blessed in its ending, but in that age there were few masters and many bondmen, and life was sorrowful in its burdens. In our happier and better civilization garlands come to the cradle and to the grave, and life may be blessed alike in its morning, its noonday and its evening time. The great life that illumines its pathway by achievement, however richly blessed in its career, is ever richly blessed when its work is finished.

I stood by the side of my fallen chief when his eyes were lustreless and his strong, beautiful features cold in death, and I could not but feel, even in the sorrow that bowed every heart, that a great heroic life was blessed in its ending when its task was fulfilled. He bore upon his breast the shield that inspired and protected him in his grandest efforts. It was the insignia of the Loyal Legion, and its motto of "*Lex Regit; Arma Tuenter*,"—Law rules; arms defend—had ever been his guiding star in his labors and sacrifices for the preservation of free government. In sweetly mellowed gentleness he had waited for the inexorable messenger, and when it came he was in readiness. Nature, kind mother of us all, in voice so soft that "there's nothing lives 'twixt it and silence," called to the heroic but weary child: The shadows of night have gathered; come to rest. Patriot, statesman, philanthropist, hero, friend; for a few swiftly fleeting days, farewell.

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