

In Clives Dec 1899

“Ha!” said Bantison. “What more do you want, Molyneux? Fellow, do you deny that you came to London in the ambassador’s suite?”

“No, I do not deny.”

“He admits it! Didn’t you come as his barber?”

“Yes, monsieur, as his barber.”

Lady Mary cried out faintly, and, shuddering, put both hands over her eyes.

“I’m sorry,” said Molyneux. “You fight like a gentleman.”

“I thank you, monsieur.”

“You called yourself Beaucaire?”

“Yes, monsieur.” He was swaying to and fro; his servants ran to support him.

“I wish—” continued Molyneux awkwardly. “Evil take me!—but I’m sorry you’re hurt.”

“Assist Sir Hugh into my carriage,” said Lady Mary.

“Farewell, mademoiselle!” M. Beaucaire’s voice was very faint. His eyes were fixed upon her face. She did not look toward him.

They were propping Sir Hugh on the cushions. The Duke rode up close to Beaucaire. François seized his bridle fiercely, and forced

his horse back on its haunches. “The man’s servants worship him,” said Molyneux.

“Curse your insolence!” exclaimed the Duke. “How much am I to bear from this varlet and his varlets? Beaucaire, if you have not left Bath by to-morrow noon, you will be clapped into jail, and the lashing you escaped to-night shall be given you thrice tenfold!”

“I shall be—in the—Assembly—Rooms at nine—o’clock, one week—from—to-night,” answered the young man, smiling jauntily; his lips were colorless. The words cost him nearly all his breath and strength. “You mus’ keep—in the—backgroun’, monsieur. Ha, ha!”

The door of the coach closed with a slam.

“Mademoiselle—fare—well!”

“Drive on!” said Lady Mary.

M. Beaucaire followed the carriage with his eyes. As the noise of the wheels and the hoof-beats of the accompanying cavalcade grew fainter in the distance, the handkerchief he had held against his side dropped into the white dust, a heavy red splotch. “Only—roses,” he gasped, and fell back in the arms of his servants.

(To be concluded next month.)

THE IMPEACHMENT OF ANDREW JOHNSON.

FROM THE STANDPOINT OF ONE OF THE MANAGERS OF THE IMPEACHMENT TRIAL.

BY GEORGE S. BOUTWELL.



HE nomination of Andrew Johnson to the Vice-Presidency in 1864, by the Republican party, was a repetition of the error committed by the Whig party in 1840, in the nomination of John Tyler for the same office.

In each case the nomination was due to an attempt to secure the support of a body of men who were not in accord in all essential particulars with the party making the nomination.

John Tyler was opposed to the administration of Mr. Van Buren, but he was opposed also to a national bank, which was then an accepted idea and an assured public policy of

the Whig party. Hence, it happened that when Mr. Tyler came to the Presidency, he resisted the attempt of Congress to establish a national bank, and by the exercise of the veto power, on two occasions, he defeated the measure. This controversy caused the overthrow of the Whig party, and it ended the contest in behalf of a United States bank.

In the case of John Tyler and in the case of Andrew Johnson there was an application, in dangerous excess, of a policy that prevails in all national conventions. When the nomination of a candidate for the Presidency has been secured, the dominant wing of the party turns to the minority with a tender of the Vice-Presidency. In 1880, when the nomination of General Garfield had been made,

the selection of a candidate for the Vice-Presidency was tendered to the supporters of General Grant, and it was declined by more than one person.

JOHNSON'S POLITICAL OPINIONS AND SYMPATHIES.

Mr. Johnson never identified himself with the Republican party; and neither in June, 1864, nor at any other period of his life, had the Republican party a right to treat him as an associate member. He was, in fact, what he often proclaimed himself to be—a Jacksonian Democrat. He was a Southern Union Democrat. He was an opponent, and a bitter opponent, of the project for the dissolution of the Union, and a vindictive enemy of those who threatened its destruction.

His speeches in the Senate in the Thirty-sixth and the Thirty-seventh Congress were read and much approved throughout the North, and they prepared the way for the acceptance of his nomination as a candidate of the Republican party in 1864.

Mr. Johnson was an earnest supporter of the Crittenden Compromise. That measure originated in the House of Representatives. It was defeated in the Senate by seven votes, and six votes of the seven came from the South. The provisions of the bill were far away from the ideas of Republicans generally, although the measure was sustained by members of the party. By that scheme the Fugitive Slave Law was made less offensive in two particulars, but the United States was to pay for fugitives from slavery whenever a marshal failed to perform his duty. As an important limitation of the powers of Congress, the abolition of slavery in the District of Columbia was to be dependent upon the consent of the States of Maryland and Virginia.

Mr. Johnson gave voice to his indignation when he spoke of the Southern men whose votes contributed to the defeat of the Crittenden Compromise. "Who, then," said he, "has brought these evils upon the country? Whose fault was it? Who is responsible for it? With the help we had from the other side of the chamber, if all those on this side had been true to the Constitution and faithful to their constituents, and had acted with fidelity to the country, the amendment of the Senator from New Hampshire could have been voted down. Whose fault was it? Who did it? Southern traitors, as was said in the speech of the Senator from California. They did it. They wanted no compromise."

These extracts show the style of speech in which Mr. Johnson indulged, and they prove beyond question that in the winter of 1861 he had no sympathy with the Republican party of 1856 and 1860. These facts explain, and in some measure they may palliate, the peculiarities of his career, which provoked criticism and an adverse popular judgment when he came to the Presidency. Nor is there evidence within my knowledge that he ever denied the right of secession. However that may have been, he disapproved of the exercise of the right at all stages of the contest.

In the Thirty-sixth Congress Mr. Johnson proposed amendments to the Constitution which gave him consideration in the North. By his proposition the Fugitive Slave Law was to be repealed, and in its place the respective States were to return fugitives or to pay the value of those that might be retained.

Slavery was to be abolished in the District of Columbia with the consent of Maryland and upon payment of the full value of the slaves emancipated. The Territories were to be divided between freedom and slavery. His scheme contemplated other changes not connected necessarily with the system of slavery. Of these I mention the election of President, Vice-President, senators, and judges of the Supreme Court by the people, coupled with a limitation of the terms of the judges to twelve years.

The Crittenden Resolution contained these declarations of facts and policy:

1. The present deplorable war has been forced upon the country by the disunionists of the Southern States.

2. Congress has no purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the established rights of those States.

Upon a motion to include disunionists of the North under the first charge, Mr. Johnson voted in the negative with Sumner, Wilson, Wade, and other Republicans.

This brief survey of Mr. Johnson's Congressional career at the opening of the war may indicate the characteristics of his mind in controversy and debate, and furnish means for comprehending his actions in the troublous period of his administration.

Some conclusions are deducible from this survey. First of all it is to be said that he never assumed to be a member of the Republican party. Next, I do not find evidence which will justify the statement that he was a disbeliever in the right of a State to secede

from the Union. It is manifest that he was not an advocate of the doctrine of political equality as it came to be taught by the leaders of the Republican party. When he became President, he was an opponent of negro suffrage.

This record, though not concealed, was not understood by the members of the convention that placed him in nomination for the second office in the country.

This analysis prepares the way for an extract from the testimony of Mr. Stanley Matthews, who was afterwards a justice of the Supreme Court, and who was examined by the Judiciary Committee of the House of Representatives when engaged in investigating the doings of the President previous to his impeachment.

Mr. Johnson was appointed military governor of Tennessee the third day of March, 1862. Colonel Matthews was provost-marshal at Nashville, where Johnson resided during his term as governor. In that term Matthews and Johnson became acquainted.

When Johnson was on his way to Washington to take the oath of office, he stopped at the Burnet House in Cincinnati. Matthews called upon him. Matthews had been a Democrat until the troubles in Kansas. In the conversation at the Burnet House Mr. Johnson made these remarks, after some personal matters had been disposed of. I quote from the testimony of Judge Matthews :

"I inquired as to the state of public feeling on political matters in Tennessee at that time. He remarked that very great changes had taken place since I had been there, that many of those who at first were the best Union men had turned to be the worst rebels, and that many of those who had originally been the worst rebels were now the best Union men. I expressed surprise and regret at what he said in reference to the matter.

"We were sitting near each other on the sofa. He then turned to me and said, 'You and I were old Democrats.' I said, 'Yes.' He then said, '*I will tell you what it is, if the country is ever to be saved, it is to be done through the old Democratic party.*'

"I do not know whether I made any reply to that, or, if I did, what it was; and immediately afterwards I took my leave."

The larger part of this quotation is only important as leading up to the phrase that is emphasized, and which may throw light upon Mr. Johnson's policy and conduct when he came to the Presidency.

This conversation occurred in the month of

February, 1865, and it must be accepted as evidence, quite conclusive, that Mr. Johnson was then opposed to the policy of the Republican party, whose honors he had accepted. In a party sense Mr. Johnson was not a Republican: he was a Union Democrat. He was opposed to the dissolution of the Union, but not necessarily upon the ground that the Union had a supreme right to exist in defiance of what is called "State sovereignty." This with the Republican party was a fundamental principle. Under the influence of the principles of the old Democratic party Mr. Johnson advanced to the Vice-Presidency, and while under the influence of the same idea he became President.

When the Republican party came to power, the State of Maryland, that portion of Virginia now known as West Virginia, the State of Kentucky, and the State of Missouri were largely under the influence of sympathizers with the eleven seceding States of the South. It was necessary in Maryland, Kentucky, and Missouri to maintain the ascendancy of the National Government by the exhibition of physical force, and in some instances by its actual exercise. Mr. Lincoln's policy in regard to the question of slavery was controlled, up to the month of July, 1862, by the purpose to conciliate Union slave-holders in the States mentioned. Of his measures I may refer to the proposition to transfer the free negroes to Central America, for which an appropriation of \$25,000 was made by Congress. Next, Congress passed an act for the abolition of slavery in the District of Columbia upon the payment of three hundred dollars for each slave emancipated.

Without representing in his history or in his person the slave-holding interests of the South, Mr. Johnson was yet a Southern man with Union sentiments. The impression was received therefrom that his influence would be considerable in restraining, if not in conciliating, slave-holders in what were called the "border States." These facts tended to his nomination for the Vice-Presidency. I have no means for forming an opinion that is trustworthy as to the position of Mr. Lincoln in reference to the nomination of Mr. Johnson. His nomination may justify the impression that the Republican party was in doubt as to its ability to reëlect Mr. Lincoln in 1864. From the month of July, 1862, to the nomination in 1864, I had frequent interviews with Mr. Lincoln, and I can only say that, during the period when the result of the election was a subject of thought, he gave no intimation in the conversations that I had

with him that the element of doubt as to the result existed in his mind.

From what has been said, the inference may be drawn that Mr. Johnson came to the Vice-Presidency in the absence of any considerable degree of confidence on the part of the Republican party, although there were no manifestations of serious doubt as to his fitness for the place, or as to his fidelity to the principles of the party.

JOHNSON'S FIRST RECONSTRUCTION MEASURES.

The incidents of the inauguration of Mr. Johnson in the Senate Chamber, and especially his speech on the occasion, which was directed, apparently, to the Diplomatic Corps, excited apprehensions in those who were present, and the confidence of the country was diminished materially concerning his qualifications for the office to which he had been elected. Without delay these apprehensions circulated widely, and they were deepened in the public mind by the assassination of Mr. Lincoln and the elevation of Mr. Johnson to the Presidency.

The public confidence received a further serious shock by his proclamation of May 29, 1865, for the organization of a State government in North Carolina. That proclamation contained provisions in harmony with what has been set forth in this paper concerning the political principles of Mr. Johnson. First of all, he limited the franchise to persons "qualified as prescribed by the constitution and laws of the State of North Carolina in force immediately before the 20th day of May, 1861, the date of the so-called Ordinance of Secession." This provision was a limitation of the suffrage, and it excluded necessarily the negro population of the State. It was also a recognition of the right of the State to reappear as a State in the Union. It was, indeed, an early assertion of the phrase which afterwards became controlling with many persons—"Once a State, always a State." He further recognized the right of the State to reappear as a State in the organization and powers of the convention which was to be called under the proclamation. As to that he said: "The convention when convened, or the legislature which may be thereafter assembled, will prescribe the qualification of electors and the eligibility of persons to hold office under the constitution and laws of the State, a power the people of the several States composing the Union have rightfully exercised from the origin of the government to the present time." There

were further instructions given in the proclamation as to the duties of various officers of the United States to aid Governor Holden, who, by the same proclamation, was appointed "provisional governor of the State of North Carolina."

AN INTERVIEW WITH PRESIDENT JOHNSON REGARDING HIS POLICY.

Upon the publication of this proclamation I was so much disturbed that I proceeded at once to Washington, but without any definite idea as to what could be done to arrest the step which seemed to me a dangerous step towards the reorganization of the government upon an unsound basis. At that time I had had no conversation with Mr. Johnson, either before or after he came to the Presidency, upon any subject whatever. The interview which I secured upon that visit was the sole personal interview that ever occurred between us. I called upon Senator Morrill of Vermont, and together we made a visit to the President. I spoke of the features of the proclamation that seemed to me objectionable. He said that "the measure was tentative" only, and that until the experiment had been tried no other proclamation would be issued. Upon that I said in substance that the Republican party might accept the proclamation as an experiment, but that it was contrary to the ideas of the party, and that a continuance of the policy would work a disruption of the party. He assured us that nothing further would be done until the experiment had been tested. With that assurance we left the Executive Mansion.

On the thirteenth day of June, 1865, a similar proclamation was issued in reference to the State of Mississippi, and on the 17th of June, the 21st and 30th of June, and the thirteenth day of July, corresponding proclamations were issued in reference to the States of Georgia, Texas, Alabama, South Carolina, and Florida. In each State a person was named as provisional governor. This action led to a division of the party and to its subsequent reorganization against the President's policy.

In his letter of acceptance of the nomination made by the Union Convention, Mr. Johnson endorsed, without reserve, the platform that had been adopted. The declarations of the platform did not contain a reference to the reorganization of the government in the event of the success of the Union arms. The declarations were enumerated in this order: the Union was to be

maintained; the war was to be prosecuted upon the basis of an unconditional surrender of the rebels; and slavery, as the cause of the war, was to be abolished. The added resolutions related to the services of the soldiers and sailors, and to the policy of Abraham Lincoln as President. It was further declared that the public credit should be maintained, that there should be a vigorous and just system of taxes, and that the people would view with "extreme jealousy," and as enemies to the peace and independence of the country, the efforts of any power to obtain new footholds for monarchical government on this continent. Such being the character of the platform, it cannot be said that Mr. Johnson challenged its declarations in the policy on which he entered for the reorganization of the government. In Mr. Johnson's letter of acceptance he preserved his relations to the Democrats by the use of this phrase: "I cannot forego the opportunity of saying to my old friends of the Democratic party proper, with whom I have so long and pleasantly been associated, that the hour has come when that great party can justly indicate its devotion to the Democratic policy in measures of expediency."

THE CONTROVERSY BETWEEN THE PRESIDENT AND CONGRESS.

The controversy with Mr. Johnson had its origin in the difference of opinion as to the nature of the government. That difference led him to the conclusion that the Rebellion had not worked any change in the legal relations of the seceding States to the National Government. His motto was this: "Once a State, always a State," whatever might be its conduct either of peace or of war. There were, however, differences of opinion among those who adhered to the Republican party. Mr. Stevens, who was a recognized, if not the recognized, leader of the Republican party, advocated the doctrine that the eleven States were to be treated as enemy's territories, and to be governed upon whatever system might be acceptable to the States that had remained true to the Union. Mr. Sumner maintained the doctrine that the eleven States were Territories, and that they were to be subject to the general Government until Congress should admit the several Territories as State organizations. The fourth day of May, 1864, I presented a series of resolutions in the House of Representatives, in which I asserted

this doctrine: The communities that have been in rebellion can be organized into States only by the will of the loyal people expressed freely and in the absence of all coercion; that States so organized can become States of the American Union only when they shall have applied for admission and their admission shall have been authorized by the existing National Government. A small number of persons who were identified with the Republican party sustained the policy of Mr. Johnson. Others were of the opinion that the eleven States were out of their proper relation to the Union, as was declared by Mr. Lincoln in his last speech, and that they could become members of the American Union only by the organized action of each, and the concurrent action of the existing National Government. The Government was reorganized without any distinct declaration upon the question whether the States that had been in rebellion were to be treated as enemy's territory, or as Territories according to the usage of former times. The difference of opinion was a vital one with Mr. Johnson. Whatever view may be taken of his moral qualities, it is to be said that he was not deficient in intellectual ability, that his courage passed far beyond the line of obstinacy, and that from first to last he was prepared to resist the claims of the large majority of the Republican party. The issue began with his proclamation of May, 1865, and the contest continued to the end of his term. The nature of the issue explains the character and violence of his speeches, especially that of the twenty-second day of February, 1866, when he spoke of Congress as a "body hanging on the verge of the Government."

In the many speeches which he delivered in his trip through the West, he made distinct charges against Congress. He was accompanied by Mr. Seward, General Grant, Admiral Farragut, and some others. In a speech at Cleveland, Ohio, he said, among other things, "I have called upon your Congress, which has tried to break up the Government." Again, in the same speech, he said, "I tell you, my countrymen, that although the powers of Thad Stevens and his gang were by, they could not turn me from my purpose. There is no power that can turn me, except you and the God who put me into existence." He charged, also, that Congress had taken great pains to poison their constituents against him. "What had Congress done? Had they done anything to restore the Union in those States?"

No; on the contrary, they had done everything to prevent it."

In a speech made at St. Louis, Missouri, September 8, 1866, Mr. Johnson discussed the riot at New Orleans.* In that speech he said, "If you will take up the riot in New Orleans, and trace it back to its source, or its immediate cause, you will find out who was responsible for the blood that was shed there. If you will take up the riot at New Orleans and trace it back to the radical Congress, you will find that the riot at New Orleans was substantially planned." After some further observations, he says: "Yes, you will find that another Rebellion was commenced, having its origin in the radical Congress."

These extracts from Mr. Johnson's speeches should be considered in connection with his proclamations of May, June, and July, 1865. They are conclusive to this point: that he had determined to reconstruct the government upon the basis of the return of the States that had been engaged in the Rebellion without the imposition of any conditions whatsoever, except such as he had imposed upon them in his proclamations. In fine, that the government was to be reëstablished without the authority or even the assent of the Congress of the United States. In his proclamations he made provision for the framing of constitutions in the respective States, their ratification by the people, excluding all those who were not voters in April, 1861, and for the election of Senators and Representatives to the Congress of the United States without the assent of the representatives of the existing States.

AN INTERVIEW WITH SECRETARY STANTON.

When I arrived in Washington to attend the meeting of Congress at the December session, 1866, I received a note from Mr. Stanton asking me to meet him at the War Office with as little delay as might be practicable. When I called at the War Office, he beckoned me to retire to his private room, where he soon met me. He then said that he had been more disturbed by the condition of affairs in the preceding weeks and months than he had been at any time during the war. He gave me to understand that orders had been issued to the army of which neither he nor General Grant had any knowledge. He further gave me to understand also that he apprehended an attempt by the President to

* This was a race riot, which occurred July 30, 1866, and in which many negroes were killed.—EDITH.

reorganize the Government by the assembling of a Congress in which the members from the seceding States and the Democratic members from the North might obtain control through the aid of the Executive. He then said that he thought it necessary that some act should be passed by which the power of the President might be limited. Under his dictation, and after such consultation as seemed to be required, I drafted amendments to the Appropriation Bill for the Support of the Army which contained the following provisions: The headquarters of the General of the Army were fixed at Washington, where he was to remain unless transferred to duty elsewhere by his own consent or by the consent of the Senate. Next, it was made a misdemeanor for the President to transmit orders to any officer of the army except through the General of the Army. It was also made a misdemeanor for any officer to obey orders issued in any other way than through the General of the Army, knowing that the same had been so issued. These provisions were taken by me to Mr. Stevens, the chairman of the Committee on Appropriations. After some explanation, the measure was accepted by the Committee and incorporated in the Army Appropriation Bill. The bill was approved by the President the second day of March, 1867. His approval was accompanied by a protest on his part that the provision was unconstitutional, and by the statement that he approved the bill only because it was necessary for the support of the army.

JOHNSON'S DIFFICULTIES WITH GRANT AND THE ARMY.

At the time of my interview with Mr. Stanton, I was not informed fully as to the events that had transpired in the preceding months, nor can I now say that everything which had transpired of importance was then known to Mr. Stanton. The statement that I am now to make was derived from conversations with General Grant. At a time previous to the December session of 1866, the President said to General Grant, "I may wish to send you on a mission to Mexico." General Grant replied, "It may not be convenient for me to go to Mexico." Little, if anything, further was said between the President and General Grant. At a subsequent time General Grant was invited to a cabinet meeting. At that meeting Mr. Seward read a paper of instructions to General Grant as Minister of some degree to Mexico. The contents of the paper did not impress General Grant very seriously,

for in the communication that he made to me he said that "the instructions came out very near where they went in." At the end of the reading General Grant said, "You recollect, Mr. President, I said it would not be convenient for me to go to Mexico." Upon that a conversation followed, when the President became heated, and rising from his seat, and striking the table with some force, he said, "Is there an officer of the army who will not obey my instructions?" General Grant took his hat in his hand, and said, "I am an officer of the army, but I am a citizen also; and this is a civil service that you require of me. I decline it." He then left the meeting. It happened also that previous to this conversation the President had ordered General Sherman, who was in command at Fort Leavenworth, to report at Washington. General Sherman obeyed the order, came to Washington, and had a conference with General Grant before he reported to the President. In that situation of affairs General Sherman was sent to Mexico upon the mission which had been prepared for General Grant.

The suggestion that Mr. Johnson contemplated the reorganization of the Government by the admission of the States that had been in rebellion, and by the recognition of senators and representatives that might be assigned from those States, received support from the testimony given by Major-General William H. Emery, and also from the testimony of General Grant. In the latter part of the year 1867 and the first part of the year 1868, General Emery was in command of the Department of Washington. When he entered upon the command, he called upon the President. A conversation, apparently not very important, occurred between them, as to the military forces then in that department. In February, 1868, the President directed his secretary to ask General Emery to call upon him as early as practicable. In obedience to that request General Emery called on the twenty-second day of February. The President referred to the former conversation, and then inquired whether any changes had been made, and especially within the recent days, in the military forces under Emery's command. In the course of the conversation growing out of these requests for information, General Emery referred to an order which had then been recently issued which embodied the provisions of the Act of March, 1867, in regard to the command of the army and the transmission of orders. The President then said to Emery :

"What order do you refer to?"

In reply Emery said :

"Order No. 17 of the Series of 1867."

The order was produced and read by the President, who said :

"This is not in conformity with the Constitution of the United States, that makes me commander-in-chief, or with the terms of your commission."

General Emery said :

"That is the order which you have approved and issued to the army for our government."

The President then said :

"Am I to understand that the President of the United States cannot give an order except through the head of the army, or General Grant?"

In the course of the conversation General Emery informed the President that eminent lawyers had been consulted, that he had consulted Robert J. Walker, and that all of the lawyers consulted had expressed the opinion that the officers of the army were bound by the order whether the statute was constitutional or unconstitutional.

When General Grant was before the Judiciary Committee of the House of Representatives during the impeachment investigation, this question was put to him :

"Have you at any time heard the President make any remark in regard to the admission of members of Congress from rebel States in either House?"

"I cannot say positively what I have heard him say. I have heard him say as much in his public speeches as anywhere else. I have heard him say twice in his speeches that if the North carried the election by members enough to give them, with the Southern members, the majority, why should they not be the Congress of the United States? I have heard him say that several times."

That answer was followed by this question :

"When you say the North, you mean the Democratic party of the North, or, in other words, the party advocating his policy?"

General Grant replied :

"I meant if the North carried enough members in favor of the admission of the South. I did not hear him say that he would recognize them as the Congress, I merely heard him ask the question, 'Why would they not be the Congress?'"

At this point, and without further discussion of the purpose of Mr. Johnson in regard to the reorganization of the Government, I think it may be stated without injustice to

him, that while he was opposed to secession at the time the Confederate Government was organized, and thenceforward and always without change of opinion, yet he was also of opinion that the act of secession by the several States had not disturbed their legal relations to the National Government. Acting upon that opinion, he proceeded to reorganize the State governments, and with the purpose of securing the admission of their senators and representatives without seeking or accepting the judgment of Congress upon the questions involved in the proceeding. On one vital point he erred seriously and fundamentally as to the authority of the President in the matter. From the nature of our government there could be no escape in a legal point of view from the conclusion that, whatever the relations were of the seceding States to the General Government, the method of restoration was to be ascertained and determined by Congress, and not by the President acting as the chief executive authority of the nation. In a legal and constitutional view, that act on his part, although resting upon opinions which he had long entertained, and which were entertained by many others, must be treated as an act of usurpation.

DIFFICULTY IN FRAMING THE CHARGES AGAINST JOHNSON.

The facts embodied in the charges on which Mr. Johnson was impeached by the House and arraigned before the Senate were not open to doubt, but legal proof was wanting in regard to the exact language of his speeches. The charges were in substance these: That he had attacked the integrity and the lawful authority of the Congress of the United States in public speeches made in the presence of the country. The second charge was that he had attempted the removal of Mr. Stanton from the office of Secretary of War, and that without the concurrence of the Senate he had so removed him, contrary to the Act of Congress known as the "Tenure of Office Act." In the first investigation into the conduct of Andrew Johnson, he was described in the resolution as "Vice-President of the United States, discharging at present the duties of President of the United States." The resolution was adopted by the House of Representatives the seventh day of March, 1867. A large amount of testimony was taken, and the report of the Committee, in three parts, by the different members, was submitted to the House the

fourth day of the following December. The majority of the Committee, consisting of George S. Boutwell, Francis Thomas, Thomas Williams, William Lawrence, and John C. Churchill, reported a resolution providing for the impeachment of the President of the United States, in these words: "Resolved, that Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors." It will be observed that in the resolution for his impeachment he is described as "President of the United States," while in the resolution authorizing the inquiry into his conduct he is described as "Vice-President, discharging at present the duties of the President of the United States." This question received very careful consideration by the Committee, and the conclusion was reached that he was the President of the United States, although he had been elected only to the office of Vice-President. As that question was not raised at the trial by demurrer or motion, it may now be accepted as the established doctrine that the Vice-President, when he enters upon the duties of President, becomes President of the United States. The extended report that was made by the majority of the Committee was written by Mr. Williams. The summary, which was in the nature of charges, was written by myself. That summary set forth twenty-eight specifications of misconduct on the part of the President, many of which, however, were abandoned when the articles of impeachment were prepared in February, 1868.

In the discussions of the Committee there were serious differences of opinion upon provisions of law. The minority of the Committee, consisting of James F. Wilson, who was Chairman of the Judiciary Committee, Frederick E. Woodbridge, S. S. Marshall, and Charles A. Eldridge, maintained the doctrine that a civil officer under the Constitution of the United States was not liable to impeachment except for the commission of an indictable offense. This doctrine had very large support in the legal profession, resting on remarks found in Blackstone. On the other hand, Chancellor Kent, in his Commentaries, had given support to the doctrine that a civil officer was liable to impeachment who misdemeaned himself in his office. The provision of the Constitution is in these words:

"The President, Vice-President, and all Civil Officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

The majority of the Judiciary Committee, in the controversy which arose in the Committee and in the House of Representatives, maintained that the word "misdemeanors" was used in a political sense, and not in the sense in which it is used in the criminal law. In support of this view attention was called to the fact that the party convicted was liable only to removal from office, and therefore that the object of the process of impeachment was the purification and preservation of the Civil Service. In the opinion of the majority, it was the necessity of the situation that the power of impeachment should extend to acts and offenses that were not indictable by statute nor at common law. The report of the Judiciary Committee, made the twenty-fifth day of November, was rejected by the House of Representatives.

The attempt of the President to remove Mr. Stanton from the office of Secretary for the Department of War revived the question of impeachment, and on Monday, the twenty-fourth day of February, 1868, the House of Representatives "resolved to impeach Andrew Johnson, President of the United States, of high crimes and misdemeanors." The articles of impeachment were acted on by the House of Representatives the second day of March, and on the fourth day of March they were presented to the Senate through Mr. Bingham, Chairman of the Managers, who was designated for that duty.

The articles were directed to the following points, namely: That the President, by his speeches, had attempted "to set aside the rightful authority and powers of Congress;" that he had attempted "to bring into disgrace, ridicule, hatred, contempt, and reproach the Congress of the United States and the several branches thereof;" and "that he had attempted to incite the odium and resentment of all the good people of the United States against Congress and the laws by them duly and constitutionally enacted." Further, it was alleged that he had declared in speeches that the "Thirty-ninth Congress of the United States was not a Congress of the United States authorized by the Constitution of the United States to exercise legislative power in the same."

A further charge, and on which greater reliance was placed, was set forth in these words: "That he had denied and intended to deny the power of the Thirty-ninth Congress to propose amendments to the Constitution of the United States." These articles were in substance the articles that had been rejected by the House of Representatives in

1867. Finally, as the most important averment of all, the President was charged with an "attempt to prevent the execution of the act entitled 'An Act Regulating the Tenure of Certain Civil Offices,' passed March 2, 1867, by unlawfully devising and contriving and attempting to devise and contrive means by which he could prevent Edwin M. Stanton from forthwith resuming the functions of the office of the Secretary for the Department of War, notwithstanding the refusal of the Senate to concur in the suspension theretofore made by said Andrew Johnson of the said Edwin M. Stanton from said office of Secretary for the Department of War." In various forms of language these several charges were set forth in the different articles of impeachment—eleven in all. The eleventh article, which was prepared by Mr. Stevens, embodied the summary of all the charges mentioned. It is to be observed that in the eleventh article there is no allegation that the President had committed an offense that was indictable under any statute of the United States or that would have been indictable in common law. It may be assumed, I think, that for this country, at least, the question that was raised at the beginning and argued with great force, and by which possibly the House of Representatives may have been influenced in the year 1867, has been settled in accord with the report of the majority of the Judiciary Committee. The House decided that the President was impeachable for misdemeanors in office. With stronger reason it may be said that every other civil officer is bound to behave himself well in his office. He cannot do any act which impairs his standing in the place which he holds, or which may bring discredit upon the public, and especially he may not do any act in disregard of his oath to obey the laws and to support the Constitution of the country. The eleventh article was the only article that was submitted to a vote in the Senate. The question raised by that article was this in substance: Is the President of the United States guilty in manner and form as set forth in this article? On that question thirty-five Senators voted that he was guilty, and nineteen Senators voted that he was not guilty. Under the Constitution the President was found not guilty of the offenses charged, but the majority given may be accepted, and probably will be accepted, as the judgment of the Senate that the President of the United States was liable to impeachment and removal from office for acts and conduct that do not subject him to the process of indictment and

trial in the criminal courts. At this point I express the opinion that something has been gained, indeed that much has been gained, by the decision of the House of Representatives, supported by the opinions of a large majority in the Senate.

THE PRESIDENT'S DEFENSE.

The answer of the respondent, considered in connection with the arguments that were made by his counsel, sets forth the ground upon which the Republican members of the Senate may have voted that the President was not guilty of the two principal offenses charged, viz. : that in his speeches he had denounced and brought into contempt, intentionally, the Congress of the United States ; and, second, that his attempted removal of Edwin M. Stanton was a violation of the Tenure of Office Act. In the President's answer to article ten, which contained the allegation that in his speech at St. Louis, in the year 1866, he had used certain language in derogation of the authority of the Congress of the United States, it was averred that the extracts did not present his speech or address accurately. Further than that, it was claimed that the allegation under that article was not "cognizable by the court as a high misdemeanor in office." Finally, it was claimed that proof should be made of the "actual" speech and address of the President on that occasion. The managers were not able to meet the demand for proof in a technical sense. The speech was reported in the ordinary way, and the proof was limited to the good faith of the reporters and the general accuracy of the printed report in the newspapers. In this situation as to the charges and the answer, it is not difficult to reach the conclusion that members of the Senate had ground for the vote of not guilty upon the several charges in regard to the speeches that were imputed to the President.

Judge Curtis, in his opening argument, furnished a technical answer to the article in which the President was charged with the violation of the Tenure of Office Act, in his attempt to remove Mr. Stanton from the office of Secretary of the Department of War. Judge Curtis gave to the proviso to that statute an interpretation corresponding to the interpretation given to criminal statutes. Mr. Stanton was appointed to the office in the first term of Mr. Lincoln's administration. The proviso of the statute was in these words : "Provided, that the Secretaries of State, of the Treasury, of

War, etc., shall hold their offices for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to their removal by and with the advice of the Senate." The proviso contained exceptions to the body of the statute, by which all civil officers who held appointments by and with the advice and consent of the Senate were secure in their places unless the Senate should assent to their removal. It was the object of the proviso to relieve an incoming President of secretaries who had been appointed by his predecessor. The construction of the proviso, as given by Judge Curtis, was fatal to the position taken by the managers. It was claimed by the managers that the sole object of the proviso was the relief of an incoming President from the continuance of a secretary in office beyond thirty days after the commencement of his term, and that it had no reference whatever to the right of the President to remove a secretary during his term.

SOME IMPORTANT INCIDENTS OF THE TRIAL.

There were incidents in the course of the proceedings that possess historical value. By the Constitution the Chief Justice of the Supreme Court is made the presiding officer in the Senate when the President is put upon trial on articles of impeachment. Chief Justice Chase claimed that he was to be addressed as "Chief Justice." That claim was recognized by the counsel for the President and by some members of the Senate. The managers claimed that he was there as the presiding officer, and not in his judicial capacity. He was addressed by the managers and by some of the Senators as "Mr. President."

There was a difference of opinion in the Senate, and a difference between the managers and the counsel for the respondent, as to the right of the presiding officer to rule upon questions of law and evidence arising in the course of the trial. Under the rule of the Senate as adopted, the rulings of the President were to stand unless a Senator should ask for the judgment of the Senate.

Other instances occurred which do not possess historical value, but were incidents unusual in judicial proceedings. When the Judiciary Committee of the House was entering upon the investigation of the conduct of President Johnson, General Butler expressed the opinion that upon the adoption of articles of impeachment by the House the President

would be suspended in his office until the verdict of the Senate. As this view was not accepted by the Committee, I made these remarks in my opening speech to the House after a review of the arguments for and against the proposition :

"I cannot doubt the soundness of the opinion that the President, even when impeached by the House, is entitled to his office until he has been convicted by the Senate."

This view was accepted.

At the first meeting of the managers I was elected chairman by the votes of Mr. Stevens,

person. The gentlemen who had given me their votes and support criticised my conduct with considerable freedom, and were by no means reconciled by the statement which I made to them. Having reference to the nature of the contest and the condition of public sentiment, I thought it important that the managers should avoid any controversy before the public, especially as to a matter of premiership in the conduct of the trial. It seemed to be important that the entire force of the House of Representatives should be directed to one object, the conviction of the

James F. Wilson,
Iowa.

George S. Boutwell,
Massachusetts.

Gen. John A. Logan,
Illinois.



Gen. B. F. Butler,
Massachusetts.

Thaddeus Stevens,
Pennsylvania.

Thomas Williams,
Michigan.

John A. Bingham,
Ohio.

THE MANAGERS OF THE IMPEACHMENT TRIAL OF ANDREW JOHNSON. THE MANAGERS WERE SPECIALLY APPOINTED FROM ITS OWN MEMBERS BY THE LOWER HOUSE OF CONGRESS.

General Logan, and General Butler. Mr. Bingham received the votes of Mr. Wilson and Mr. Williams. Upon the announcement of the vote, Mr. Bingham made remarks indicating serious disappointment and a purpose to retire from the Board of Managers. I accepted the election, and acted as chairman at the meeting. At the next meeting, and without consultation with my associates, I resigned the place and nominated Mr. Bingham. The nomination was not objected to, and Mr. Bingham took the chair without comment by himself, nor was there any comment by any other

accused. Beyond this, Mr. Bingham and Mr. Wilson had been opposed to the impeachment of Mr. Johnson when the attempt was first made in the House of Representatives. I thought it important to combine the strength that they represented in support of the proceeding in which we were then engaged. If Mr. Stevens had been in good health, he would have received my support and the support of General Butler and General Logan. At that time his health was much impaired, but his intellectual faculties were free from any cloud.

Another incident occurred which does not

require explanation, and which may not be open to any explanation. After the report of the Judiciary Committee, and its rejection by the House of Representatives, I was surprised to receive an invitation from the President to dine with him at what is known as a state dinner. I assumed that arrangements had been made for a series of such dinners, and that the invitations had been sent out by a clerk upon a prearranged plan as to the order of invitations. When the matter had passed out of my mind, but before the day named for the dinner, I received a call on the floor of the House from Mr. Cooper, son-in-law of the President and secretary in the Executive Mansion. He asked me if I had received an invitation to dine with the President. I said I had. Next he said, "Have you answered it?" I said, "No, I have not." That was followed by the further question, "Will you answer it?" I said, "No, I shall not." That ended the conversation.

After the decision in the Senate had been made, the managers proceeded under the order of the House to investigate the truthfulness of rumors that were afloat, that money and other valuable considerations had been used to secure the acquittal of the President. That investigation established the fact that money had been in the possession of persons who had been engaged in efforts to secure the acquittal of the President. Those persons, with perhaps a single exception, were persons who had no official connection with the Government, and none of them were connected with the Government at Washington. As to most of them, it appeared that they had no reasons, indeed no good cause, why they should have taken part either for the conviction of the President or in behalf of his acquittal. The sources from which funds were obtained did not appear, nor was there evidence indicating the amounts that had been used, nor the objects to which the money had been applied. It should be said as to Senators, that there was no evidence implicating them in the receipt of money or other valuable consideration. One

very important fact not then known to the managers appeared afterwards in the reports of the Treasury Department, showing a very large loss by the Government during the last eighteen months of Mr. Johnson's administration. In that period the total receipts from the duties on spirits amounted to \$41,678,684.34. During the first eighteen months of General Grant's administration, when the rates of duties and taxation remained the same, the total receipts of revenue from spirits amounted to \$82,417,419.85, showing a difference of \$40,738,735.51. It is not easy to explain in full this money loss in one branch of the public service. Something may be attributed to the fact that persons obtained nominations for office by representations to the President that they were his friends and supporters, and would continue to be so, under all circumstances. When their nominations came to the Senate, they made representations of an opposite character. When they had received their appointments, they very naturally allied themselves with the President's policy, inasmuch as they could not be easily removed except upon an initiative taken by him. This deficiency occurred in the States and districts in which the money should have been collected and through the agents employed there. In other words, no part of the deficiency ever passed into the Treasury of the United States.

It is not improbable that a majority of the people now entertain the opinion that the action of the House of Representatives in the attempt that was made to impeach President Johnson was an error.

It is not for me to engage in a discussion on that point. I end by the expression of the opinion that the vote of the House and the vote of the Senate, by which the doctrine was established that a civil officer in office, is a gain to the public that is full compensation for the undertaking, and that these proceedings against Mr. Johnson were free from any element or quality of injustice.

